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| Report subject | Modification to Cemetery Rules and Regulations |
| Meeting date | 10 April 2024 |
| Status | Public Report |
| Executive summary | <p>To seek approval for a modification to the BCP Council's Cemetery Rules and Regulations approved by Cabinet in June 2022 following notification by a religious faith group of a typing omission relating specifically to Regulation 3, Section 3.12 against the subsequently printed and published version dated 1 September 2022.</p> <p>Whilst requesting consideration for approval for this modification Officers have taken the opportunity to further enhance the Rules and Regulations providing additional information on exhumation practices subject to law provision and further minor changes to align with corporate financial regulations and corporate/national changes in circumstances.</p> |
| Recommendations | <p>It is RECOMMENDED that:</p> <p>Cabinet review and approve the following updated sections of the Cemetery Rules and Regulations:</p> <ul style="list-style-type: none"> (a) Regulation 3, Section 3.9 – changes to payment terms from 30 days to 7 days from date of invoice (b) Regulation 3, Section 3.9 – notification that cash or cheque payments will not be accepted. (c) Regulation 3, Section 3.12 – Single or bulk purchase of graves by funeral directors/arrangers or religious or non-religious faith group representatives to their group members or families they represent will <u>not</u> be permitted. (d) Regulation 3, Section 3.14 – Reclaimed graves, where available, are offered for purchase in our Cemeteries and are subject to the conditions of Regulation 3.13. (e) Regulation 7, Section 7.8 – Control of Dogs, previous reference to an Open Spaces Protection Order, removed. (f) Final paragraph, reference to Her Majesty's Secretary of State changes to His Majesty's Secretary of State. |

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| | (g) New addition of Regulation 5 relating to exhumation. |
| Reason for recommendations | To provide correct and updated guidance to users of our cemeteries that align with legislative requirements and corporate financial regulations. |

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| Portfolio Holder(s): | Councillor Millie Earl, Deputy Leader and Portfolio Holder for Connected Communities |
| Corporate Director | Jess Gibbons, Chief Operations Officer |
| Report Authors | Liz Hall, Bereavement, Coroners & Mortuary Manager |
| Wards | Council-wide |
| Classification | For Approval |

Background behind need for modification

1. BCP Council's Cemetery Rules and Regulations were approved by Cabinet on 22 June 2022. It has subsequently been brought to the Service's attention that the uploaded appendix to the Cabinet Report, specifically Regulation 3, Section 3.12 omitted to include the word 'not' in the final sentence of the second paragraph when it should have done.
2. A published version later circulated and made available to the public from 01 September 2022 included the word 'not'. The Service unaware of the original error within the appendix at the time of publication did not therefore seek revised Cabinet approval.
3. This error was brought to the services attention by a religious faith group affected by the change communicated within the 1 September 2022 document which states that *the bulk buying of pre-purchased graves are 'not' permitted*. The faith group concerned have made representation to question why this change from the adopted Cabinet document and to the informal legacy Bournemouth Borough Council practice is required.

Regulation 3, Section 3.12 – Proposed Modification

Single or bulk purchase of graves by funeral directors/arrangers or religious or non-religious faith group representatives to their group members or families they represent will not be permitted.

4. The service apologises for the original omission and associated confusion that has resulted amongst some faith groups. Cemetery Rules and Regulations are a statutory requirement governed by the Local Authority Cemetery Order (LACO) 1977, in which guidance on their content is issued on a regular basis. The adopted Cemetery Rules and Regulations with the proposed modification aim to

remove some customs and practices that have developed over time that would not comply with current LACO guidance.

5. The modification is required to protect the Council, faith groups and families against potential legal challenges being raised regarding legality of ownership. Previous practice of allowing the single and bulk pre-purchase of graves when ownership was recorded against a singular faith group representative on a number of graves which were then reallocated to faith group members led to inaccurate recording of correct ownership details. Burial law dictates that written consent must be given by the legally registered owner of a grave prior to any burial taking place in or memorial work taking place on the grave. Burial law is also clear on the transferring of ownership from one owner to another with a legal process required to be followed. Allowing purchases of graves by a faith group to later assign to members is not legally compliant with legislation.

Additional updates proposed to the BCP Council Cemetery Rules and Regulations

- **Regulation 3, Section 3.9 – changes to payment terms from 30 days to 7 days from date of invoice**
6. To ensure the service removes historical working practices and operates in alignment with Council Financial Regulations and Debt Management Policy.
 - **Regulation 3, Section 3.9 – notification that cash or cheque payments will not be accepted.**
 7. Aligned with other Council provided services payment methods Bereavement Care is moving to more efficient payment methods including direct debit, online transactions and card payments.
 8. Face-to-face cash and cheque transactions carry a potential exposure for fraud are expensive to process and deliver, and cost the Council considerably more than electronic transactions. By modernising services, the Council will remove risk, realise efficiencies whilst ensuring people remain at the heart of service delivery.
 - **Regulation 3, Section 3.14 – Reclaimed graves, where available, are offered for purchase in our Cemeteries and are subject to the conditions of Section 3.13.**
 9. Reclaimed graves are public grave spaces which contain a single coffin burial with capacity for further burials (one further coffin burial and up to six sets of cremated remains) to be used. The pre-existing burial would have taken place over 100 years ago with the location of the reclaimed graves in the older parts of the cemetery. In view of the critically low availability of new virgin grave space, a burial authority is permitted under LACO 1977 to offer reclaimed graves for exclusive right of burial as a purchased grave and in line with Regulation 3, Section 3.12 and 3.13 of the Cemetery Rules and Regulations.
 - **Regulation 7, Section 7.8 – Control of Dogs, previous reference to an Open Spaces Protection Order. removed.**
 10. A person shall not allow any dog belonging to them or in their charge to enter or remain in a Cemetery unless on a lead.

11. Officers will monitor cemeteries for evidence of increasing levels of dog fouling and in the event such evidence is found may seek to pursue the use of a Public Space Protection Order subject to necessary public consultation processes.
- **Final paragraph, reference to Her Majesty's Secretary of State changes to His Majesty's Secretary of State.**
12. Change reflects the passing of Her Majesty the Queen
- **New addition of Regulation 5 relating to exhumation.**
13. Following an increased number of family enquiries to BCP Bereavement Care, the purpose of the inclusion of Regulation 5 is to provide clear information on the exhumation of both coffined and cremated human remains to ensure family members and Funeral Directors are informed of the required practices to facilitate such undertakings legally and safely.
14. A copy of the full Cemetery Rules and Regulations including the proposed modifications as detailed above can be found in Appendix 1

Summary of financial implications

15. These rules and regulations are unlikely to realise any material increase in income but will make clear what activity is legally permitted within our cemeteries and what is charged for by BCP Council.

Summary of legal implications

16. There is no statutory duty on a local authority to provide burial or cremation facilities, but in doing so, they are governed by the Local Authorities' Cemeteries Order 1977 and the Cremation Regulations 2008. Local authorities are defined as burial authorities and/or cremation authorities and given the power to provide services by virtue of the Local Government Act 1972.
17. There is a statutory duty under the Public Health (Control of Diseases) Act 1984 to make funeral arrangements for a person who has died within the boundary lines of the authority where relatives are unwilling or unable to pay or where relatives cannot be found. A funeral under the Act can be a cremation or burial dependant on the deceased's wishes or religious beliefs if known.

Summary of human resources implications

18. There is no impact on staff resource as a result of this modification to the Cemetery Rules and Regulations.

Summary of sustainability impact

19. A full Decision Impact Assessment (ID: 419) was carried out in support of the original Cabinet Report for the June 2022 meeting. There is no requirement to update this DIA in view of this modification.

Summary of public health implications

20. The modification to the Cemetery Rules and Regulations will continue to enhance and support the work that BCP Bereavement Care undertakes within the community in delivering a range of services, which provides essential care and support in making arrangements for families at their time of need and beyond.

Summary of equality implications

21. A full Equality Impact Assessment was carried out in support of the original Cabinet Report for the June 2022 meeting.
22. No key significant impacts have been identified, by adopting the modified Cemetery Rules and Regulations the service can ensure it continues to treat all users fairly and equally.

Summary of risk assessment

23. Having a clear and updated set of Rules and Regulations will ensure that a more efficient and effective cemetery service is provided that is compliant with regulation in all areas of its service delivery now and in the future and will lead to a reduced risk of challenges made to the Council.

Background papers

24. June 2022 BCP Council Rules and Regulations Cabinet Report.

Appendices

25. Appendix 1 – draft changes to the current BCP Council Cemetery Rules and Regulations.