

CABINET



Report subject	BCP Council Cemetery Rules and Regulations Amendment
Meeting date	2 April 2025
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 with wider updates approved in April 2024.</p> <p>Following notification by a religious faith group of a typing omission relating specifically to Regulation 3, Section 3.12 an amendment is proposed to ensure BCP Council adopts legally compliant and fair rules and regulations.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>a) Cabinet approves the amendment to Regulation 3, Section 3.12 – Proposed Modification Single or bulk purchase of graves by funeral director s/arrangers or religious or non-religious faith group representatives to their group members or families they represent will <u>not</u> be permitted.</p>
Reason for recommendations	<p>To provide correct and updated guidance to users of our cemeteries that align with legislative requirements and general industry practice.</p> <p>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.</p>
Portfolio Holder(s):	Councillor Sandra Moore, Portfolio Holder for Communities and Partnerships
Corporate Director	Glynn Barton, Chief Operations Officer
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Wards	Council-wide
Classification	For decision

Background

1. In June 2022 Cabinet approved the adoption of harmonised Cemeteries Rules and Regulations. Following notification by a religious faith group of a typing omission relating specifically to Regulation 3, Section 3.12 in April 2024 a further Cabinet report was presented recommending wider compliance updates and a modification to Section 3.12 presenting the report the then Deputy Leader proposed that recommendation (c) as below:

(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 not be permitted.

be deferred to enable consultation to take place with the faith groups to establish the impact this will have for them.

Legal review of proposed amendment

2. Ahead of meeting with representatives from those raising concern amongst impacted faith groups, Officers sought Kings Counsel advice on Bournemouth, Christchurch and Poole ("BCP"), acting in its capacity of a burial authority, on whether it has the legal power to allow the multiple or "bulk" purchasing of grave spaces in its cemeteries by individuals or their representatives for future use.
3. Summarising the advice given, Officers have been advised by Kings Counsel that Article 10 of the Local Authorities Cemeteries Order does not permit BCP Council to grant more than one burial "right" to any single person. Consideration has also been given as to whether the general power of competency under Sections 1 and 2 Localism Act 2011 could apply, however this is not applicable in this instance due to the intention and restrictions contained within Article 10.
4. The conclusion reached being religious groups or others cannot lawfully bulk purchase grave spaces in a local authority cemetery for future use and that, the proposed amendment to paragraph 3.12 of BCP's Cemetery Rules and Regulations would, if adopted, be lawful.

Industry adopted approach

5. The service as a member of the Institute of Cemetery & Crematorium Management (ICCM) (trade industry association that governs good practice in the industry and is also a training provider for crematorium and cemetery operations) requested information

on what the standard practice was nationally amongst its burial authority members. An online survey was sent out to all 201 of its local authority members on 10 May 2024 and closed on 20 May 2024

6. The response rate from the 201 members was 100% of which 87.06% of respondents advised that they did not allow bulk purchases of graves with further detail provided being due to grave space running out within their cemeteries.

Engagement with representatives from impacted faith groups

7. Officers have since offered and undertaken meetings with interested representatives from impacted faith groups to hear their thoughts, concerns and share the findings from both the legal advice obtained and comparative standard practices operated nationally amongst burial authorities.
8. Meetings were positive and helpful to understand positions regarding bulk purchasing and more keenly the underlying concern from impacted faith groups regarding future allocation of designated grave space given that the Local Authority is running low on available burial space with all Poole's cemeteries and Christchurch Cemetery now closed to new virgin grave space and two of Bournemouth Cemeteries at critically low levels of new virgin grave space. Combined it is anticipated BCP Council has capacity to provide for the next 10 years burial need only.
9. Officers advised that any remaining space would be prioritised for the use aligned with the adopted Section 3 Burials paragraph 3.13 Prepurchase of Grave Space. However, this includes a commitment that designated maintained faith sections within cemeteries would be proportionally allocated additional space within the total available allocation once existing pre purchased unallocated plots have been exhausted with records accordingly shared with the Burial Authority, and when remaining unpurchased burial plot numbers within a designated area are reduced to a point to make this appropriate.
10. Officers confirmed that the proposal to amend the Cemetery Rules & Regulations to stop the practice of pre-purchasing of graves in Bournemouth is being made in support of fairness and equality for all local residents and to enable the Council to effectively manage their burial spaces in accordance with LACO ensuring that provision of burial services is sustainable for residents in the future years, as laid out in Appendix One.
11. The information shared was acknowledged and no further subsequent representation from impacted faith groups on the matter of bulk purchasing has been received.
12. It was furthermore agreed that regular liaison meetings between BCP Bereavement Care and representative faith groups would be undertaken on an ongoing basis..

Summary of financial implications

13. N/A

Summary of legal implications

14. 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.
15. 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 legal implications are contained within the body of this report.

Summary of human resources implications

16. N/A

Summary of sustainability impact

17. 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

18. N/A

Summary of equality implications

19. A full Equalities Impact Assessment report and action plan has been completed. Refer to Appendix Two.
20. As a public authority, BCP Council carry out our functions having due regard to the need to:
 - eliminate unlawful discrimination
 - advance equality of opportunity between people who share a protected characteristic and those who do not
 - foster or encourage good relations between people who share a protected characteristic and those who do not.
21. To allow the continuance of bulk pre-purchasing of graves within our cemeteries will lead to grave space being fully exhausted sooner than currently envisaged thus increasing the possibility of denying local residents of faith or non-faith persuasion the opportunity of a burial close to where they live.
22. Whilst the proposed new practice will impact the current operating practices adopted by certain faith groups that have chosen to purchase graves in bulk on behalf of others it does not impact individual followers of these faiths from purchasing burial space. Officers have taken steps to engage with representatives of these faiths to explain the reasons for the changes to those who raised concerns. We hope this will foster good relationships and ensure our services are both fair and respectful of their needs.

23. Assurances have been given that proportionate expansions of designated faith sections within the overall finite available burial spaces within cemeteries will be facilitated once existing pre purchased unallocated plots have been exhausted, records accordingly shared with the Burial Authority and when remaining available unpurchased burial plot numbers within a designated area are reduced to a point to make this appropriate.
24. Officers have furthermore offered future regular liaison meetings with faith group representatives to discuss general Bereavement Services matters.
25. Officers have considered other protected characteristics and have identified no known impacts
26. There is no evidence to support that the suspension of this practice is discriminatory or unlawful as detailed in this Impact Assessment and is being requested to ensure fairness and equity of access for all and aligns with national practice.

Summary of risk assessment

27. 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.

Appendices

Appendix 1 – Draft amendment to BCP Cemeteries Rules and Regulations

Appendix 2 Equalities Impact Assessment

Background papers

BCP Council Cemeteries Rules & Regulations Cabinet Report June 2022

BCP Council Cemeteries Rules & Regulations Amendment Cabinet Report April 2024

