

Equality Impact Assessment: Report and EIA Action Plan

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What is being reviewed?	<p>Section 3.12 BCP Bereavement Care Cemeteries Rules and Regulations</p> <p>Removal of the practice allowing the single or bulk purchase of graves by funeral directors/arrangers or religious or non-religious faith group representatives to their group members or families within BCP by faith and non-faith groups.</p> <p>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.</p>
Service Lead and Service Unit:	<p>Kate Langdown Director for Environment Ian Poultney – Head of Strategic Development</p>
People involved in EIA process:	<p>Ian Poultney – Head of Strategic Development & Bereavement Services Nicola Lynch – Bereavement Care Manager Vicky Edmonds – Policy & Performance Officer Gail Scholes – Interim Head of Policy, Community & Inclusion Kate Langdown – Director of Environment Liz Hall, Bereavement, Coroners & Mortuary Manager (left organisation during period of EIA review) Sam Johnson – Policy & Performance Manager (left organisation during period of EIA review)</p>
Date/s EIA started and reviewed:	<p>10 April 2024, 25 April 2024, 08 May 2024, 21 May 2024 14 Feb 2025, 18 March 2025</p>

Background

Reserving of Exclusive Rights of Burial is a purely discretionary service. The Rights do not have be offered in reserve and the decision to purchase in reserve is completely optional and is at the discretion of the burial authority/purchaser.

The management, regulation and control of cemeteries owned by BCP Council is governed in law by the Local Authorities Cemeteries Order 1977 (LACO) with general powers awarded under this piece of legislation to the burial authority to “*do all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery.*” subject to the provisions of the Order.

Whilst burial has declined in popularity in the last 10 years, with cremation the preferred choice, there still remains a demand for full coffin burials due to religious or cultural beliefs.

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In 2010 under legacy Bournemouth Borough Council it was agreed to implement a policy of allowing the bulk pre-purchase of graves to members of the Wessex Liberal Community, Chabad of Bournemouth, the Bournemouth Hebrew Congregation, the Bournemouth Reform Synagogue and the Bournemouth Islamic Centre & Central Mosque. The arrangement was also extended to the Romany travelling community. The pre-purchase of more than 3 graves at a time was permitted by these groups. This was permitted at a time when available new grave space was at more than 30% in Bournemouth providing approximately 50 years' burial capacity within the four Bournemouth Cemeteries.

There are currently maintained faith sections within our Kinson and Boscombe East Cemetery for the Jewish Reform, Jewish Orthodox, Chabad of Bournemouth and Muslim faith groups with Jewish and Muslim sections within North Cemetery. Pre-purchase of graves by individuals was permitted in all four cemeteries from this time up until its suspension on 01 September 2022.

In legacy Poole, the practice of allowing pre-purchasing of graves (both individual and bulk) was stopped in 2010 in view of limited new grave space availability. All Poole's four cemeteries are now closed to new full grave purchases with only limited capacity on cremated remains graves and reclaimed grave space available for purchase at point of need.

In legacy Christchurch, the practice of pre-purchasing of grave space continued up until 2020 when the practice was removed following the lack of identified new virgin burial space.

Clause 10 of LACO details the provisions for the granting of exclusive right of burial, to erect memorials and agreements for the maintenance of graves and memorials. This clause further confirms that the granting of exclusive rights on graves within a cemetery should be to a person. The owner of the exclusive right is further described as "*a relative of a person buried in the grave or vault, or is acting at the request of such relative.*". There is no clear provision advising that the granting of exclusive rights of burial can be given to a group or groups of representatives nor is there any clear provision on the bulk purchasing of graves in the Order.

BCP Council are critically low in grave space with approximately 10 years' of available grave space remaining in its cemeteries with new virgin full grave space limited to Bournemouth cemeteries only. Allowing the practice of pre-purchase will ensure that space will run out even more quickly than the 10 years envisaged with no current plan in place to extend or purchase additional land for cemetery provision. Additionally, the previous allocation of pre-purchased graves to faith groups within their designated cemetery sections has led to many of these graves remaining unallocated or not buried in. Despite this, the faith groups in question continue to request additional grave space in the designated areas which we are presently unable to agree to in view of the critical shortage of graves available for other faith or non-faith groups in the area who prefer burial and place them at a disadvantage.

Findings

The practice of allowing bulk pre-purchase of graves allowed for ad hoc bulk purchasing by some faith groups however most frequently involved faith representatives bulk purchasing the exclusive right of burial and then allocating the graves to their faith group members who pay a subscription to that faith group in agreement between the faith group and that member. By law the burial authority is required to register the name of the grave owner in the formal grave purchase register. This is required to be in the name of an individual who is intending to use the grave for the burial of a family member or members or is acting on behalf of the family.

The legacy practice has led to a number of graves purchased, being unallocated in our register with a Deed of Grant confirming the owner as that of the faith group and not the individual who is intending to use the grave. There is also concern/risk that the faith groups who have purchased the graves may be exercising rights not recognised in LACO to determine which of its members are granted a grave space for burial and

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which are not. As an example if a member has, in good faith, paid for a grave and have paid their fees directly to the faith group, they should then receive a Deed of Grant for that grave confirming them as the legally registered owner of that grave. The Deed of Grant is a legally recognised document and is required to be issued to the owner or person purchasing the grave and then recorded in the formal register of grave purchase. If that member is then no longer accepted as a member of that faith group, they are then prevented from using the grave space as they intended to exercise their right to burial. This is unlawful. With the legacy practice in place, this could be permitting such an unlawful act to take place with the full knowledge of the burial authority. Additionally, there is no measures in place to ensure that what is being charged by the faith group to its members of the grave purchase is at the level published in our price list. This can therefore provide an opportunity for over inflating the cost of the grave purchase to the faith group member with the faith group profiteering from the transaction. The service have no evidence of this happening, but the opportunity is there within the legacy practice for those who wish to exploit it.

At the time this practice was suspended, it is recognised that the legacy practice of allowing bulk pre-purchases within the Bournemouth cemeteries was not only outdated but potentially unlawful a position now shared by obtained Kings Counsel legal advice (Aug 2024). 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.

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.

No other protected characteristics such as Age, Disability, Sex, Gender reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Ethnicity and Race, Sexual Orientation or Care Experience would be impacted by the proposed change as there is no restriction on who can purchase an individual grave, so there is no impact identified. Whilst the proposed amendment would necessitate a change to current purchasing arrangements by some faith groups, however grave purchasing would remain available within the wider set adopted Rules and Regulations to all individuals regardless of faith or non-faith.

The proposal for the harmonised Cemetery Rules & Regulations to stop the practice of pre-purchasing of graves is 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 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) Information was requested 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. 3 questions were included in the survey asking the following:

- Q1. Do you charge a resident and non-resident fee for burials, grave purchases and memorial permit applications?
- Q2. Do you permit the bulk purchasing or pre-purchasing of graves by faith and non-faith groups?
- Q3. If you answer Yes to Q1 and No to Q2, can you confirm if a full equality impact assessment (EQIA) was completed by your authority in relation to this? If yes, are you willing to share a copy of the completed EQIA?

The response rate was 100% With regards to Q2 – 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.

Conclusion

Summary of Equality Implications

As a public authority, BCP Council carry out their 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.

To allow the continuance of bulk pre-purchasing of graves within our cemeteries will lead to BCP Council applying practices both outside of the legal advice obtained and that of practices largely applied across the industry and contribute 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.

The change to our practices is being carried out to eliminate unlawful practice. 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 and 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.

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 and records accordingly shared with the Burial Authority and when remaining available unpurchased plot numbers within a designated area are reduced to a point to make this appropriate.

Officers have furthermore offered future regular liaison meetings with faith group representatives to discuss Bereavement Services matters.

Officers have considered other protected characteristics and have identified no known impacts

There is no evidence to support that the suspension of this practice is discriminatory or unlawful as detailed in this Impact Assessment though both confirmed national industry standard practices across cemetery providers and the legal advice obtained and is being requested to ensure fairness and equity of access for all.

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Equality Impact Assessment Action Plan

Please complete this Action Plan for any negative or unknown impacts identified above. Use the table from the Capturing Evidence form to assist.

Issue identified	Action required to reduce impact	Timescale	Responsible officer
Reputation of the Council following change in legacy arrangement applied and now withdrawn if decision made to remove practice of allowing the bulk pre-purchasing of graves by faith and non-faith groups.	<p>Meet with faith group representatives to clearly explain the reasons for the removal and assess the impact of removal of this practice to ensure transparency and provide detailed guidance on what is required to ensure each grave purchase is recorded appropriately ensuring BCP Council comply with all requirements of LACO.</p> <p>Meetings have been undertaken with representatives of the Jewish and Muslim community representatives whom previously expressed concern including a site visit to evaluate future grave capacity and to summarise the Kings Counsel advice received and wider obtained national practice data. Both faiths expressed an understanding of the Councils position and acknowledged there is sufficient available space for the foreseeable future. The Bereavement Team have now undertaken to hold regular meetings with faith group representatives to support ongoing positive engagement and user satisfaction. Since sessions were undertaken no further representation has been received.</p>	<p>2024/25</p> <p>Dec 2024 & Feb 2025</p>	<p>Head of Strategic Development</p> <p>Bereavement Services Manager</p>

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Increased pressure on the Council in ensuring provision of burial services is economically sustainable for residents of BCP in future years if decision is made to support legacy arrangement.	<p>Assurances have been given that proportionate expansions of designated faith sections within the overall current finite available burial spaces within cemeteries will be facilitated once existing pre purchased unallocated plots have been exhausted and records accordingly updated.</p> <p>Scoping business case for additional land for future cemetery provision, noting there is no statutory duty on a local authority to provide burial facilities, but if they do so, the management is governed by the Local Authorities' Cemeteries Order 1977</p>	2026/27	Director of Environment Head of Strategic Development