

## **Environment, Housing and Communities Scrutiny Board**

### **Review of Cemetery and Crematoria Horticultural Maintenance**

#### **Summary Note of the Working Group Meeting held on Wednesday 30<sup>th</sup> August 2017 and agreed recommendations.**

##### **Introduction.**

1. During 2010/11, the former City Development Scrutiny Board undertook an inquiry into the horticultural maintenance of the Council's cemeteries and crematoria following concerns that the level of maintenance was being impaired as a result of rules and regulations associated with grave conditions not being adhered to and appropriately enforced.
2. A key recommendation arising from this inquiry was to enforce grave conditions on all lawned and non-lawned areas in cemeteries managed by the Council. However, following referral to Executive Board in December 2011, the-then Director of City Development reported that a retrospective approach towards enforcing grave conditions would not be practical and that a preferable solution would be to enforce current conditions on cemetery extensions and new cemeteries. Approval was therefore given to enforce grave conditions on cemetery extensions and new cemeteries, following consultation on a site by site basis, in order to determine the proportion of lawned and non-lawned areas.
3. Such conditions have since been enforced with lawned areas established at the Garforth and Guiseley cemetery extensions and new cemetery at Kippax, and a non-lawned area has been applied at Whinmoor Cemetery.
4. However, at the beginning this municipal year, the Environment, Housing and Communities Scrutiny Board learned that a number of issues have come to light prompting a need to look again at the horticultural maintenance of the Council's cemetery and crematoria, with particular focus on the rules and regulations associated with the enforcement of grave conditions. The Scrutiny Board therefore agreed to undertake a review of this matter.
5. In view of the sensitivity and urgency of this matter being addressed, the Board agreed to undertake its review over the summer period and via a working group meeting. The Scrutiny Board held its working group meeting on 30<sup>th</sup> August 2017 and all members of the Board were invited to attend.
6. The working group meeting was attended by the following individuals:
  - Councillor Barry Anderson, Chair of the Scrutiny Board
  - Councillor Jonathan Bentley, Member of the Scrutiny Board
  - Councillor Ann Blackburn, Member of the Scrutiny Board
  - Councillor Dawn Collins, Member of the Scrutiny Board
  - Councillor Pauleen Grahame, Member of the Scrutiny Board
  - Councillor Gerald Harper, Member of the Scrutiny Board
  - Councillor Asghar Khan, Member of the Scrutiny Board
  - Councillor Mick Lyons, Member of the Scrutiny Board

- Councillor Gerard Wilkinson, Member of the Scrutiny Board
  - Councillor Lucinda Yeadon, Executive Member for Environment and Sustainability
  - Councillor Mark Dobson, originator of the request for Scrutiny
  - Angela Brogden, Principal Scrutiny Adviser
  - Harriet Speight, Project Support Officer (Scrutiny)
  - James Rogers, Director of Communities and Environment
  - Joanne Clough, Trading and Operational Support Manager
  - Chris Simpson, Bereavement Services Manager
7. This summary note sets out the key issues arising from the working group's discussion and the associated recommendations agreed by the Environment, Housing and Communities Scrutiny Board during its meeting on 9<sup>th</sup> October 2017.
- Summary of key issues.**
- Ensuring that the implications of selecting a particular grave option are communicated clearly and sensitively to bereaved families from the outset.
8. The working group acknowledged that under the Local Authorities' Cemeteries Order 1977 section 16, burial authorities may remove from the cemetery and destroy:
    - any tombstone or other memorial on a grave of which all material particulars are illegible or which is dilapidated by reason of long neglect
    - any kerbs surrounding a grave (whether containing any commemorative inscription or not) together with the foundation slabs of such kerbs
    - any flowering or other plants on a grave
    - any railings surrounding a grave, a tombstone or other memorial on a grave or a grave space
  9. In addition, the burial authority may level the surface of any grave to the level of the adjoining ground.
  10. In view of this, it was noted that local grave conditions aim to ensure that graves and memorials are laid out consistently. However, the working group also acknowledged that bereaved families are offered the choice of purchasing either a lawned or non-lawned area which have different grave conditions applied.
  11. In relation to lawned gardens, existing conditions do not permit any encroachment into the grave area (e.g. with ornaments or flowers). The working group acknowledged that this approach enables a consistent layout and also ensures that horticultural maintenance operations are undertaken in the most efficient and effective manner.
  12. In relation to non-lawned areas, authorised kerbstones are allowed to surround the full grave area and planting/ornaments are allowed within the kerb surrounds. Examples of authorised kerbstones were shared with the working group to demonstrate how this option still provides for appropriate access to grass cutting machinery without causing damage.

13. The working group was informed that, on average, nearly 90% of grave owners<sup>1</sup> do comply with the grave conditions in place. In relation to those that do not comply, the working group was keen to establish whether the implications of selecting a particular grave option are being communicated clearly and sensitively to bereaved families from the outset.
14. In doing so, the working group acknowledged the vital role played by Funeral Directors and the expectations placed upon them to fully explain the implications associated with existing grave conditions and ensuring that applicants wishing to obtain grave burial rights also sign an agreement to comply with such conditions. A copy of the existing Lawn Garden Form was shared with the working group (see appendix A).
15. Interestingly the working group also noted the approach adopted by the Council's Bereavement Service in sending out a summary of the relevant rules and regulations with the grave grant around 1 month after the funeral in recognition that the time following bereavement and preparation for a funeral can be very difficult for families and therefore the full implications of what the grave owner had signed for may not have been fully understood. Whilst the working group appreciated the potential for this to happen under such difficult circumstances, it was also mindful of the reality of the situation in terms of not being able to offer the grave owner an alternative approach. As such, the working group again emphasised the importance of advising bereaved families from the outset and focused on the expectations placed upon Funeral Directors in this regard.
16. Linked to this, the working group learned that whilst training is offered to local Funeral Directors regarding the Council's grave conditions, there is often a heavy turnover of staff within the industry making it difficult to ensure that all staff are being kept up-to-date with current expectations. It was therefore acknowledged that more work is still needed to ensure that Funeral Directors are playing a proactive role in this regard. Linked to this, recognition was given to the potential role of national organisations, such as the National Federation of Funeral Directors (NFFD) and National Association of Funeral Directors (NAFD), in assisting to raise the importance of this matter across their full membership as well as being able to target local Funeral Directors.

#### Appreciating the challenges presented by non-compliance of grave conditions

17. The working group noted that non-compliance of conditions associated with lawned areas primarily relate to unauthorised planting and/or the laying of ornaments or flowers in the grave area thus preventing access for horticultural maintenance machinery. As a consequence, staff often have to resort to smaller machines and strimmers which are less efficient. The need to manoeuvre machinery around obstacles can also result in damage to grave features as well as being a potential health and safety risk.
18. Non-compliance of conditions in non-lawned areas primarily relate to unauthorised grave surrounds and the planting or placing of ornaments or flowers in the grave area where an authorised kerbstone has not been purchased. It was noted that such surrounds can easily be dislodged with ornaments likely to be damaged too.

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<sup>1</sup> The use of the term 'grave owner' refers to the person who has the exclusive right of burial for 50 years

19. It was also noted that any memorial must be carried out by a mason who has public liability insurance and is a member of the national association of memorial masons (NAMM) to ensure that materials and fixings proposed comply with the highest standards to ensure the safety of all those who visit the cemetery. This is linked to the Council's ongoing responsibility to ensure that any memorials are safe and these are both visually and mechanically inspected at periodic intervals.
20. The working group learned that a further issue that is common to both lawned areas and non-lawned areas is grave neglect whereby bereaved families will personalise the grave area and pay attention to it initially but over time the grave area gradually deteriorates.

#### Ensuring that enforcement measures are transparent and robust

21. In enforcing grave conditions, the working group noted that, in practice, enforcement action does not commence until at least six months after the date of burial to allow the ground to settle and enable a permanent memorial (usually a headstone) to be put in place. During this six month period temporary forms of memorialisation are permitted until the permanent memorial is in place and any land reinstatement to the grave surface has been carried out.
22. After this period, the enforcement process carried out in Leeds applies to both lawned and non-lawned areas and involves the following:
  - Following routine inspection, if issues have not been addressed, an informal letter sympathetic to the loss of the bereaved family will be sent to the grave owner to make them aware why they are not meeting the grave conditions, and politely requesting that they take action to put this right.
  - Following a subsequent inspection, if this action has not been taken a more formal letter will be issued that includes a copy of the regulations giving the family 1 month to ensure they are met.
  - If action is still not taken, a notice of removal will be issued informing the grave owner that any items that do not meet grave conditions will be removed in 1 month and stored awaiting collection.
  - Following this action a final letter will be issued informing the grave owner that the items have been removed and that they have 2 months to collect them otherwise the items will be disposed of.

23. Copies of the letter templates were shared with the working group and it was noted that whilst responses to such letters have been varied, they can be summarised as follows:

- Those who did not realise that they were breaching grave conditions and when this is brought to their attention respond and take appropriate action.
- Those who ignore correspondence but eventually take appropriate action.
- Those who take issue with the approach and feel that they should be allowed to place whatever they feel is appropriate within the grave area and protest when any suggestion is made that items will be removed.

24. The working group recognised that the process adopted in Leeds involves considerably more correspondence with grave owners than the approaches adopted by other core cities or neighbouring authorities. In addition to this, it was acknowledged that appropriate signage setting out the relevant rules is also included on each site where enforcement action could take place.
25. Whilst appreciating the efforts being made by the Council in dealing with such enforcement measures sensitively, the working group was mindful of the potential timescales involved in carrying out full enforcement action as this can take up to 10 months to work through the entire process and potentially become a source of complaint from other grave owners who see non-compliant graves and wonder why no action is being taken.
26. Whilst noting that the legal responsibility to comply with the grave conditions rests solely with the grave owner, the working group was also mindful of the Council being reliant on grave owners reporting any change of contact details as this could hinder the enforcement process. The working group also noted examples where other family members tend the graves but are not in communication with the grave owner and are therefore unaware of the enforcement action that is being taken until items are removed. A particular example was also shared involving an administrative error that resulted in enforcement letters not being delivered to the correct address.
27. In view of this, the working group recognised the urgent need to introduce appropriate measures that would help safeguard against such incidents happening in the future. In particular, it was noted that some other core and neighbouring local authorities leave notices on the specific grave as a way of notifying relevant visitors that action is needed.

#### Acknowledging the valuable role of 'friends of' groups

28. The working group echoed the positive recognition that was given by the former City Development Scrutiny Board in relation to 'friends of' groups, which had resulted in a specific recommendation to encourage the establishment of such groups at all the Council's cemeteries and crematoria. In particular, the working group acknowledged how this valuable additional resource helps to achieve well maintained cemeteries, particularly focusing on the maintenance of older neglected graves where family members are no longer living. This in turn encourages visitors and grave owners to also take a pride in the cemetery, making it easier to enforce grave conditions. Whilst the Council has not yet been able to establish a 'friends of' group in all of its cemeteries and crematoria, the working group reiterated the importance of the Council continuing to raise the profile of such groups in order generate greater interest.

#### A review of other potential options to manage issues associated with enforcing grave conditions

29. Further to its consideration of the key issues associated with enforcing grave conditions, the working group held a final discussion surrounding the advantages and disadvantages of the Council adopting the following options to help manage such issues:

- Option 1: Continue to enforce grave conditions as approved at Executive Board in December 2011.
- Option 2: Permit an area up to thirty centimetres in front of memorials at the head of the grave that could be tended by bereaved families.
- Option 3: Discontinue lawned areas and revert them all to non-lawned areas.

30. In appreciating the importance of families still being offered a choice, there was a consensus agreement by the working group that option 3 would not be an appropriate action to take.
31. However, there was support amongst some working group members in relation to option 2 in recognition that this could offer a compromise and allow greater opportunity for bereaved families to personalise grave areas in lawned gardens whilst still enabling suitable access for horticultural machinery. However, it was acknowledged that this option would need careful communication to ensure clear understanding of what is allowed as well as a proactive approach to enforcement in order to prevent non-compliance and further encroachment. As such, some concerns were raised regarding the potential for subjectivity when determining what is deemed ‘unsuitable’ when it was felt that there is no such ambiguity associated with the existing grave conditions for lawned areas.
32. In conclusion, the majority of working group members voted in favour of option 1 and to recommend to the full Scrutiny Board that it supports the continuation of enforcing existing grave conditions, as approved at Executive Board in December 2011, in conjunction with other recommended actions that were supported by the full working group.

### Scrutiny recommendations.

33. Reflecting on the above key issues, the following recommendations were agreed by the Environment, Housing and Communities Scrutiny Board during its meeting on 9<sup>th</sup> October 2017.

**Desired Outcome** – That existing grave conditions are enforced appropriately.

**Recommendation 1** – That the Director of Communities and Environment leads on ensuring that the existing grave conditions, as approved at Executive Board in December 2011, continue to be enforced appropriately.

**Desired Outcome** – That local Funeral Directors are proactive in ensuring that the implications of selecting a particular grave option are being communicated clearly and sensitively to bereaved families from the outset.

**Recommendation 2** – That the Director of Communities and Environment leads on approaching and engaging national organisations, such as the National Federation of Funeral Directors (NFFD) and National Association of Funeral Directors (NAFD), to help engage local Funeral Directors in undertaking a more proactive role in ensuring that the implications of selecting a particular grave option are being communicated clearly and sensitively to bereaved families from the outset.

**Desired Outcome** – That notification of enforcement requirements and action is being clearly communicated to grave owners.

**Recommendation 3** – That the Director of Communities and Environment urgently seeks to introduce additional measures within the Council's enforcement process to help safeguard against relevant grave owners not being clearly notified of such enforcement requirements and any action due to be taken. In particular, consideration should be given to introducing notices on specific graves as a way of notifying all relevant visitors that action is needed.

**Desired Outcome** – That the valuable role of 'friends of' groups is being proactively promoted and encouraged across all of the Council's cemeteries and crematoria.

**Recommendation 4** – That the Director of Communities and Environment takes a lead role in working with the Bereavement Service and the Communities Team to explore opportunities for raising the profile of 'friends of' groups and generating greater interest within local communities as well as supporting the establishment of such groups across all of the Council's cemeteries and crematoria.

**LEEDS CITY COUNCIL  
BEREAVEMENT SERVICES SECTION**  
**Lawn Garden Form for Cemeteries where kerbs are strictly NOT allowed**

TO: THE DIVISIONAL SUPERINTENDENT FOR \_\_\_\_\_ CEMETERY  
 UNDERTAKING to be given when application is made to purchase GRAVE BURIAL RIGHTS in the above Cemetery.  
 I (Names in full) .....

of .....  
 Being the APPLICANT for the burial of  
 (Names of Deceased in full) .....  
 clearly understand that the GRAVE to be provided is of the LAWN TYPE to which the following conditions apply:

1. The whole of the grave surface will be turfed flat.  
**THE PLANTING OF FLOWERS, PLANTS AND SHRUBS IS STRICTLY PROHIBITED.**
2. No memorial will be allowed other than a perpendicular headstone with, if desired, a sunken vase at its foot for flowers. Such a memorial must be provided and maintained by the Grave Owner and must receive the approval of the Council before being fixed. The use of bottles, jam jars or other glass vases is strictly prohibited.
3. The whole of the Memorial must be best quarried material. Free Stone, soft York Stone, fireclay, composite materials, wood or metal will not be permitted to be fixed. However a temporary wooden cross may be used for a period not exceeding six months.
4. No memorial shall exceed four feet in height, three feet in width, or one foot eight inches in depth. (1200mm x 900mm x 500mm).
5. **Railings, footstones, kerb and border stones, chains or other structures enclosing graves or parts of graves, flags or chippings are not allowed.**
6. The Council reserves the right to object to an inscription which is in their opinion improper or undesirable. Where an inscription has been cut without the prior approval of the Councillor to whom the Council object as aforesaid, the grave owner shall, on being so ordered by the Council, cause the said inscription to be erased at his own expense and in a proper and workmanlike manner so that the appearance of the Memorial is not impaired.
7. No Memorial or any part or materials thereof shall be removed from a Cemetery except with the prior written approval of the Council. Any Memorial or any part or materials thereof removed or replaced in the process of opening a grave or vault shall be removed or replaced at the risk of the person requiring the grave or vault to be opened.
8. Owners of Graves and Vaults must keep the memorials erected thereon in good order and repair. Should they fail to do so, the Bereavement Services Manager may cause all necessary repairs to be effected at the expense of such Grave Owners, and may refuse to permit any such Grave or Vault to be opened until all sums due for such repairs are paid. The Council may take down and remove any Memorial which may have been placed within the Cemetery without the required authority from the Council, or which has become dangerous or unsightly.

(The owner is held responsible for any repairs to be carried out caused by vandalism that occurs to the memorial)

9. **LAWN GARDEN SECTIONS:** The type of Memorial allowed to be fixed must be in accordance with the design agreed by the Council for the particular section on which the Grave is situate. Full particulars may be obtained from the Divisional and Area Cemetery offices.

Dated..... Signed.....  
 (Applicant)