

## Maidstone Borough Council Public Health Act Funeral Policy

### Help with Paying for Funerals

When someone dies it can be a very distressing time for those arranging a funeral, especially if there are concerns about how the funeral is to be paid for.

If you are concerned about how you are going to pay for a funeral, it is important that you discuss this with your chosen Funeral Director at an early stage in the arrangements. Please be aware that once you have entered into a contract with the funeral director you will be responsible for paying their costs.

### Public Health Funerals - The Law

Section 46 of the Public Health (Control of Disease) Act 1984 obliges local authorities to cause to be buried or cremated the body of a person who died or was found dead in the area where no other arrangements have been or are being made. Section 46 of the Act also states that the Council may recover all their costs incurred in making the funeral arrangements from the estate of the deceased (i.e. their property and possessions).

If the deceased died outside of the Maidstone Borough Council boundary, the funeral arrangements will be the responsibility of the local authority where they died, even if they had lived within Maidstone Borough boundaries.

Maidstone Borough Council will not be able to be involved if funeral arrangements have already been made, or if the funeral has already taken place.

### Interpretation

*The law does not require a local authority to make funeral arrangements but rather to dispose of a dead body by burial or cremation. The title of the Act indicates that this is a public health protection issue rather than a social care or welfare issues, i.e. it is*

*designed to ensure that any 'unclaimed' bodies are disposed of to prevent them becoming a threat to public health.*

*The law does not specify where in a local authority this function should sit. In some it is placed within an environmental health or environmental services department, and in other it is within a bereavement service. It can also sit within social services, legal or finance department. At Maidstone Borough Council it sits within Bereavement Services.*

*Each local authority can define its own policy and standards, and practices vary around the country.*

### Our Policy

Funeral Poverty is recognised and we are sympathetic to those affected by this, however, a Public Health funeral paid for by the local authority should not be used by families who can afford to make other arrangements but choose not to – it is not a free alternative to a family's moral responsibility to care for their own family member

If you or a partner is receiving certain benefits, such as Income Support, Income-based Jobseeker's Allowance, Income-related Employment and Support Allowance, Pension Credits, Housing Benefit, Council Tax Benefit, Working Tax Credits or Child Tax Credit, you may be entitled to a funeral payment from the Social Fund. Further information about Funeral Payments, including an application form, can be found on the Direct Gov. website at:

[http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Bereaved/DG\\_10018660](http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Bereaved/DG_10018660)

It is normally a partner, executor or other family member who would be responsible for making funeral arrangements for a deceased person, and they would also be responsible for the costs. Help is available from the Social Fund for those who are in receipt of certain benefits. For advice about receiving help towards funeral costs please see above website.

There are also a few charities that can be approached. The Funeral Funding Service on 0800 1777 288 or [info@funeralfundingservice.co.uk](mailto:info@funeralfundingservice.co.uk) .

If there is nobody willing or able to make the funeral arrangements, the case may be referred to Maidstone Borough Council, who will then be responsible for making the arrangements.

If the deceased had a family, the nearest surviving relative will be required to sign a form stating that they are willing for the Council to make the funeral arrangements, and understand that costs will be recovered from the deceased's estate. If the family have already removed any possessions from where the deceased lived, these may need to be returned to the Council to help offset the funeral costs. **If you are a Landlord, you should not enter or remove any items from the deceased's accommodation until after the house search has taken place.**

Once the Council has accepted a case, the Bereavement Services Team will deal with all aspects of the organisation of a funeral, including registering the death, dealing with the funeral directors to make the arrangements, and paying for the funeral. A cremation service will normally be held at the Vinters Park Crematorium, unless it is established that the deceased would have chosen burial for religious, cultural or personal reasons, or if a check of the Council's burial records reveals that the deceased owned a grave in the Sutton Road Cemetery and there is room for them to be buried in it. If a burial is required and the deceased did not own a grave, burial will take place in an unmarked public grave in the Sutton Road Cemetery.

The Council's contracted funeral directors will provide everything necessary for a simple but dignified service, including coffin, transport of the deceased to the Crematorium or Cemetery in a hearse, and sufficient bearers to transfer the coffin to the chapel, no flowers are included within the cost for a contract funeral. The funeral director will also arrange for a minister of religion or a representative of the faith of the deceased to lead the service. If a non-religious service is appropriate, a civil funeral celebrant will be used. Family and friends may attend the funeral service, but will have no choice as to where and when it is held. To the casual observer, the funeral will appear no different to a simple ceremony not arranged by the Council.

Following the cremation, the cremated remains will be strewn in the Gardens of Remembrance at Vinters Park Crematorium, two weeks after the service. In exceptional circumstances, cremated remains may be given into the care of a close family member or friend.

### Property Search

Prior to making the funeral arrangements, our Bereavement Services Team will search the last known address of the deceased. The search will focus on finding a will, evidence of family or friends, and any items that may be used to offset the funeral costs. This may entail removing personal possessions from the property, including address books, correspondence, legal documents, financial paperwork and possessions such as jewellery

that may be sold to raise money. Any items removed from the property will be retained under secure conditions at the Vinters Park Crematorium and Sutton Road Cemetery Administration Offices, Vinters Park Crematorium, Bearsted Road, Maidstone for a minimum of 6 months following the funeral.

Bereavement Services Officers are not responsible for clearing or cleaning the property. Following the completion of the search the property will be secured and the keys returned to the landlord. If the property was owned by the deceased, the case will be referred to the Treasure Solicitors and their instructions regarding the property will be followed, unless there is a living relative, an executor or a Will.

#### Executors of a Will

The Council will not make funeral arrangements in cases where the deceased left a will and the executor is traced; in these circumstances the executor would be expected to organise the funeral. If the executor wishes to revoke their duties, they must make a formal renunciation of the will and declare that they wish to have no further involvement in the funeral arrangements.

#### Estate Administration

Maidstone Borough Council is entitled to recover its costs when making funeral arrangements under S46 of the Public Health (Control of Disease) Act 1984. They are not, however, empowered to administer the estate. Where there is a surplus of over £500, once all costs incurred in making the funeral arrangements have been reimbursed, the Council will refer the case to the Treasury Solicitor under Bona Vacantia if there are no next of kin. Where there are known family members, however, the case cannot be referred to the Treasury Solicitor. Under such circumstances, the Council will hold all monies until a legally entitled person demonstrates their suitability to administer the estate through the holding of letters of administration from the courts. Under no circumstances will money or property from the estate be given to any family member without proper lawful authority.

#### Death in Hospital

If the deceased died as an in-patient in a hospital managed by an NHS Trust and there are no relatives, the NHS Trust may assume responsibility for funeral arrangements and recover their expenses from the deceased's estate.

## To summarise

If a Public Health Funeral is accepted by Maidstone Borough Council (MBC):-

- can choose the method of disposal (except that para 3 of Section 46 specifies that a burial must be arranged where cremation would be contrary to the wishes of the deceased), but should give due consideration to religious and cultural requirement where possible;
- can choose the time and date of the funeral;
- can choose whether a service is conducted and by who. Where a service is held, family or friends should be allowed to have input into the service, eg. choose music, provide details for the eulogy, where this does not result in extra cost for the authority. The religious and cultural beliefs should be respected as much as possible;
- is first creditor and can access the estate for payment before any other debt is paid
- MBC will not accept a Public Health funeral where a verbal agreement has been made with a funeral director and the deceased is in their care