



Portfolio Holder Report

The portfolio holder will make a decision on this item after seven days have elapsed (including the date of publication).

Report of:	Portfolio Holder	Date of publication
Mark Billington, Service Director People and Places	Councillor Lynne Bowen, Leisure, Health and Community Engagement Portfolio Holder	18 July 2019

Revised Cemetery Rules and Regulations

1. Purpose of report

- 1.1 To approve the revised cemetery rules and regulations and changes to the out of borough fees.

2. Outcomes

- 2.1 To ensure clarity of rules for all visitors, staff and contractors during business with the Wyre cemeteries.

3. Recommendation

- 3.1 That the revised cemetery rules and regulations are approved and that the changes to out of borough fees apply apart from where exemptions have been made.

4. Background

- 4.1
- A number of legal updates have occurred since the last revision of the rules and regulations in 2015: Fees and charges section 4 - Fees and charges are approved by the Portfolio Holder following an annual review. This process has been benchmarked through ICCM (Institute of Cemetery and Crematorium Management) and other authorities and is in line with accepted practice.
 - Dogs in cemeteries section 6- Further to the Public Space Protection Orders passed in 2017 ruling that dogs are permitted within the cemeteries but must be kept on a lead at all times. Any offences including fouling will be subject to a fixed penalty fine under the public space protection order

- Headstones and memorialisation's section 17 - The National Association of Memorial Masons released the updated code of practice in 2018 for memorial masons that include the new BS8415 standard required for memorial fixing.
- Exhumations section 23 - (change to Exhumation law) Section 25 of the Burial Act 1857, amended by the Church of England (Miscellaneous Provisions) Measure 2014, has updated the permissions required for exhumation.
- Assignment/Transfer of grave and memorial rights must now be completed following the death of the original owner. Probate or grant of letters of administration must be provided and a statutory declaration witnessed by a solicitor/commissioner of oaths or magistrate.

4.2 The provision of burial land by the council is discretionary. However, even when all identified land has been used and no further burial income is forthcoming, the council must still maintain all of the council owned burial land in the district.

4.3 Based on the concept that residents contribute to the council's funds during their residency and to reflect the ongoing maintenance costs of the cemetery to which the deceased has not contributed, any person who is not resident in the district at the time of their death will be charged a premium for their burial. This premium rate applies to all right of burial and interment fees. Resident and therefore single fees apply to;

- A person who lives in Wyre.
- New change: A person who may have moved directly from Wyre in the twelve months before they died owing to supported full time care being required.

4.4 The non-resident premium remains the same as specified in the regulations and table of fees and charges and is double that charged to residents.

4.5 On the establishment of Wyre Borough Council in 1974 it was agreed that an adjustment period should be permitted for residents at that time residing in the Staining area so that they would not incur non-resident fees. It is considered that a more than reasonable time for adjustment has passed and therefore this exemption is now removed.

5. Key issues and proposals

5.1 The change to fees and charges relating to out of borough grave right purchases and interments is to ensure they are fair and consistent across the borough to all residents and no equality issues arise.

- 5.2 Dogs under the consultation for the new Public Space Protection Orders are now permitted within the cemeteries but must be kept on a lead at all times. Offences are reported to the Enforcement officers and will incur a fixed penalty fine.
- 5.3 Wyre Council is registered as an authority on the British Register of Memorial Masons and a member of the National Association of Memorial Masons. We are implementing the government directive to ensure that all memorials comply with the BS8415 standard.
- 5.4 We ensure that all memorial masons operating within Wyre cemeteries are approved by BRAMM (British Register of Memorial Masons) or RQMF (Register of Qualified Memorial Fixers). These changes have already been implemented within the Memorial Management and Safety Policy as accepted in 2018.
- 5.5 The exhumation amendment now states that only approval from either the Ministry of Justice or Church of England is needed and not both, dependant on the current location of remains.
- 5.6 The legal transfer of grave and memorial rights is to safeguard the interests of the family and the council for future interments and any changes to memorials. A copy of probate or grant of letters of administration must be produced to transfer the rights. Alternatively, a form of assignment/form of assent of executor or statutory declaration must be completed and witnessed by a solicitor/commissioner of oaths or magistrate after the interment to establish the lawful owners of the rights. It is the responsibility of the family to prove their legal entitlement in order that further interments can be arranged or changes made to memorials/new memorials added.
- 5.7 The rules and regulations will continue to be reviewed every five years unless significant changes are required.

6. Delegated functions

- 6.1 The matters referred to in this report are considered under the following executive function delegated to the Leisure, Health and Community Engagement Portfolio Holder (as set out in Part 3 of the council's constitution): "To determine charges or fees for any relevant services operated within the Portfolio."

Financial and legal implications	
Finance	There are no financial implications arising directly from this report. Fees and Charges income will be monitored throughout the year and updated accordingly at Revised Estimates.

Legal	<p>Subject to the provisions of the Local Authorities Cemeteries Order 1977, a burial authority may do all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery and may charge such fees as they think proper for or in connection with burials.</p> <p>The revisions comply with the provisions of the Local Authorities Cemeteries Order 1977, as they are considered necessary to reflect changes made by legislation and the public spaces protection order. Also the amendment to fees is considered to be proper to ensure they are fair and consistent across the borough to all residents.</p>
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Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	x
equality and diversity	✓
sustainability	x
health and safety	✓

risks/implications	✓ / x
asset management	✓
climate change	x
ICT	x
data protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Anita Fish	01253887662	Anita.fish@wyre.gov.uk	19/06/2019

List of background papers:		
name of document	date	where available for inspection
Cemeteries Rules and Regulations	July 2019	www.wyre.gov.uk , Bereavement Office

List of appendices

Appendix 1 - Wyre Cemeteries Rules and Regulations (2019 update)

dem/ph/le/cr/19/1807af1



CEMETERIES



RULES AND REGULATIONS

Wyre Council www.wyre.gov.uk
Bereavement Services Office, Directorate of People and Places,
Wyre Civic Centre, Breck Road, Poulton-le-Fylde,
Lancashire, FY6 7PU
Tel. 01253 891000

PARKS & OPEN SPACES

CEMETERIES & BEREAVEMENT SERVICES

RULES & REGULATIONS

INDEX

1. Introduction to the Rules and Regulations
2. Cemeteries Locations and Opening Hours
3. Interpretation of Terms
4. Fees and Charges including Non-resident fees
5. Conduct within the Cemeteries
6. Dogs in Cemeteries
7. Pre-Selection of grave spaces
8. Cemetery Plans
9. Permissions for Interment
10. Production of Deeds
11. Transfer of Ownership
12. Procedure prior to and day of interment
13. Certification
14. Coffins
15. Poulton New Cemetery
16. Grave maintenance and aftercare
17. Headstones and memorialisations
18. Cremated Remains Graves
19. Columbariums
20. Woodland Burial Area
21. Cemetery general regulations
22. Exhumations

Appendix 1 Statutory Declaration/Form of Indemnity

Appendix 2 Transfer of Rights Form

1. Introduction to the Rules and Regulations

All local authority managed cemeteries are subject to standards and conditions known as Cemetery Rules and Regulations. These are designed to inform all cemetery users of the aspects of management of the cemeteries and reasonable requirements applicable to them.

The regulations are in accordance with the Local Government Act 1972 and the Local Authorities Cemeteries Order 1977, together with any relevant legislation that governs this service.

The rules and regulations made in 1974 are hereby rescinded and these regulations and management rules shall apply to the following Wyre Cemeteries which are at present operated and used by the council:

Fleetwood, Beach Road, Fleetwood, FY7 8PH
Poulton New Cemetery, Garstang Road East, Poulton-le-Fylde, FY6 8JH
Moorland Road Cemetery, Moorland Road, Poulton-le-Fylde, FY6 7EU
Preesall Cemetery, Cemetery Lane, Preesall, Poulton-le-Fylde, FY6 0JA

The rules and regulations will also apply to any cemetery hereafter established by the council or used or operated by them to be reviewed as and when required.

2. Cemetery Office Location and Opening Times

All enquiries should be made to:

People and Places, Bereavement Services Office, Wyre Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU

Monday – Friday 9.00 am – 4.00 pm
Saturday & Sunday CLOSED
Public Holidays CLOSED

The cemeteries will be open to the public during daylight hours Summer 8.00am to 6.00pm Monday to Sunday, Winter 9.00am to 4.30pm Monday to Sunday.

The vehicle access gates at Poulton New Cemetery are open to the public;

April to September 7.30 am to 3.00pm Monday to Friday
October to March 8.30am to 3.00pm Monday to Friday

Access is available to pedestrians at all times while open to the public.

3. Interpretation of Terms

- a) The Council means Wyre Borough Council.
- b) The expression 'Registrar' means the registrar, bereavement services officer or manager of cemeteries for the time being of the council, or the person who shall be acting for him/her in their absence.

- c) The expression 'Grantee' and or 'Owner' means the person who has exclusive right of burial in a grave, or the person or person deriving title under him or her.
- d) Unless the context otherwise states the expression 'Burial' includes the interment of cremated remains and the expression 'Cemetery' includes any place set aside for the interment of cremated human remains.

4. Fees and Charges including Non-Resident Charges

The fees and charges in respect of interments, grave spaces, monuments, headstones, memorial stones, inscriptions and other matters in connection with the cemeteries shall be approved by the council from time to time and are payable in advance to the council unless agreed otherwise. Copies of such fees and charges are available on request from the Cemetery Office and to view on the council's website.

Residents contribute to the council's funding during their residency and in turn this contributes to the ongoing maintenance of the burial land and will continue to do so after they are full for burials. Any person who is not resident in the district at their time of death will be charged a premium. The premium is double the regular fee. The term resident to which single fees apply means;

- a) A person who lives in Wyre.
- b) A person who may have moved directly from Wyre into a nursing home, hospital or care givers home outside Wyre in the twelve months before their death owing to supported full time care requirements.

5. Conduct within Cemeteries

Attention is drawn to the Local Authorities Cemeteries Order 1977 (the Order) and any amendments thereto: -

(a) The Order provides that no person shall: -

- (i) wilfully create any disturbance in a cemetery
- (ii) commit any nuisance in a cemetery
- (iii) wilfully interfere with any burial taking place
- (iv) wilfully interfere with any grave or vault, any tombstone or other memorial, or any flowers or plants on any such matter
- (v) play at any game or sport in a cemetery, or
- (vi) enter or remain in a cemetery at any hour when it is closed to the public unless being a person so authorised by the burial authority

The Order also provides that every person who contravenes any prohibition specified in (a) above together with any prohibition specified in Article 19 of the order shall be liable on summary conviction to a fine.

Children under the age of 12 years will not be admitted into the cemeteries unless they are in the care of a responsible person.

All persons shall refrain from sitting, standing or climbing upon any gravestones, headstone, monument, palisade, gate, wall, fence or building belonging to the cemetery.

The registrar may at any time exclude from the cemeteries any person who shall conduct himself in a noisy, disorderly, or unseemly manner or who shall be intoxicated or shall use improper language, or shall trespass upon or refuse to quit any portion of the grounds, or enclosures when called to do so. No person shall be permitted to enter or leave the grounds except by the proper entrance gates.

6. Dogs in Cemeteries

Dogs must be kept on a lead at all times and dog faeces must be removed and deposited in an appropriate and responsible manner by the dog owner. Any offence will be subject to the fixed penalty notices as defined under the Public Open Space Protection Orders 2017.

7. Pre-Selection of Grave Spaces

Every interment shall take place either in a private grave or in a public grave that will be selected by the cemetery manager or other suitable officer.

Upon request families can choose, in agreement with the cemetery manager, a suitable plot for a burial. Arrangements must be made to meet the cemetery staff 5 days prior to burial. During busy periods or with short notice the plot may be chosen by the cemetery manager or other suitable officer.

On purchase of the exclusive right in a grave a form of Grant shall be issued to the person who, or on whose behalf, the exclusive right of burial is purchased. Such person shall be registered as owner of the grave in the records held by the council with the right to request a memorial for his or her named burial plot.

All new grave and memorial rights are purchased for a period of 50 years unless otherwise stated on the deed of right of burial.

The purchase is for the right to bury only, the council remains the land owner. A maximum of four names is permitted on the exclusive rights of burial.

8. Cemetery Plans

Plans of the cemeteries showing the layout of the grave spaces and vaults therein are kept at the cemetery office and may be inspected free of charge by persons making an application.

9. Permission for Interment

No burial will take place, no cremated human remains shall be scattered and no tombstone or other remains shall be placed in a cemetery without the council's permission.

10. Production of Deeds

Whenever an interment takes place in a grave the form of grant and interment notice shall be produced at the cemetery office, to be endorsed with the date of such interment and the name of the person interred and the burial number.

No purchased grave, including walled graves or vaults, in which the exclusive right of burial has been purchased, shall be opened without the written consent of the grave rights owner. If the owner is deceased written consent from his or her legal representative family/solicitor/executor. Attached to the interment form must be a copy of probate or letter of administration if not available a statutory declaration. This must be witnessed by a Solicitor/Commissioner of Oaths or Magistrate.

11. Transfer of Ownership

Any transfer of the exclusive right of burial in any grave shall not be deemed valid unless such transfer has been previously registered at the cemetery office. Where the current grave owner is still alive and wishes to transfer ownership to another person an assignment form must be properly completed and returned to the cemetery office. If the grave rights owner is deceased the family must establish the legal entitled person to transfer the grave rights to. If interment has been carried out by a solicitor/executor a Form of Assent/Statutory declaration to transfer the rights to a living relative where necessary must be completed witnessed as stated above in section 10. A memorial application cannot be granted without the consent of the official grave rights owner.

12. Procedures prior to and on day of Interment

Application for interment forms should be submitted to the office no less than 48 hours (excluding Saturdays, Sundays and Bank Holidays) prior to the proposed burial date. All forms MUST be submitted with the exact coffin size included.

All Burials will take place between the hours of 9.30 am and 3.00 pm Monday to Thursday and between 9.30 am and 2.30 pm on Fridays. Burials may be accepted at other times at the discretion of the Cemetery Manager.

All funerals at the cemeteries are under the control and direction of the registrar or appointed representative, and all hearses and carriages must be taken to the places directed. Carriages and hearses accompanying funerals will be admitted to any area of the cemeteries as sanctioned by the registrar after application.

Visitors or persons attending funerals shall not interfere with the workmen at their duties, nor employ them to plant graves or execute any private work whatsoever within the cemeteries. No interment shall be allowed on any Bank Holiday or Sunday in any of the cemeteries.

If any alteration be made in the day or hour previously fixed for an interment to take place, notice therefore shall be given to the registrar not later than 9.00am on the day of the interment. An extra fee may be charged to the person having the conduct of any funeral, which arrives after the appointed time.

All grave spaces are excavated by trained cemetery personnel. No grave shall be dug or excavated by any person unless appointed by the council.

Adjacent graves affected by the interment will be reinstated to their original appearance as soon as possible after the interment has been completed.

The council reserves the right to delay or re-schedule a funeral if any part of the burial area or excavated grave becomes unstable or dangerous due to severe weather or other naturally occurring instances or acts of god.

13. Certification

No burial will be permitted unless correct and adequate paperwork has been received at the cemetery office and inspected by the appropriate officer. This also applies to official papers obtained from either the Registrar of Births and Deaths or the Coroner.

The Bereavement Services Officer must be informed of any bodies, which have died from an infectious disease. An up to date list of infectious diseases is available from the BMA or from the Crematorium Medical Referee.

14. Coffins

A body will not be accepted for interment at the cemetery unless it is enclosed within a suitable coffin. Alternative, cardboard, wicker or homemade coffins will be accepted provided that they have first been approved by the Bereavement Services Officer or other suitable officer.

Any coffin entering the cemetery must bear a nameplate or other suitable form of identification and must contain the name of the deceased.

It is the responsibility of the funeral director or other person conducting the funeral to ensure that enough people are available to assist in transporting the coffin to the graveside and to assist with its lowering.

No coffin will be permitted to be buried within less than 3 feet of ground level unless the Manager considers the soil to be of suitable character and the coffin made of perishable materials, which are suitable to be placed less than 2 feet below the level of any adjoining ground.

Every coffin placed in a walled grave or vault must be covered and sealed with a concrete slab of not less than 50mm (2 inches) and entombed in such a manner as to make the vault airtight.

15. Poulton New Cemetery Chapel

Services can be held prior to burial within Poulton cemetery chapel. There is no restriction on service length but in general 30 minutes is considered adequate. Any additional time requirement must be confirmed with the cemetery manager when making the provisional booking. Music facilities are available for CD/Tape. The funeral director is responsible for providing all music.

On arrival at the chapel the funeral director or person taking charge of the funeral must supply adequate bearers to transport the coffin from the hearse to the chapel.

Any person may inspect the chapel at any reasonable time while no services are taking place. Permission for this is granted exclusively by the cemetery manager who will make an appointment to meet those wishing to inspect the chapel.

16. Grave Maintenance and Aftercare

All Wyre cemeteries are lawned cemeteries. All new graves are sold for a maximum of two interments (not including cremated remains), including graves in the woodland burial area. However a maximum of three interments can be sold at Poulton New Cemetery ground in areas agreed with the bereavement services officer.

Following a burial all graves will be tidied up and left in an acceptable condition by the cemetery staff. The levelling of graves during the period of settlement will be carried out by the cemetery staff on a regular basis for a period of 6 months after the burial.

The council will undertake the turfing, seeding and maintenance of the lawn areas. No cost will be incurred to the owner of the right of burial.

Any planting is at the owners risk as weedspraying and strimming is used to maintain the cemetery.

The cemetery reserve the right to remove all funeral flowers and oasis displays when they become unsightly.

All Christmas wreaths will be removed by cemetery staff by the end of February.

The council has the right to remove from any grave any items that may interfere with the grounds maintenance of that area after serving notice to the registered grave owner. Any items seen to be causing an immediate hazard or danger will be removed immediately without notice.

17. Headstones and Memorialisations

A number marker is in place on all new burial sections and this will remain until it is replaced with a headstone or other suitable memorial by an approved memorial mason.

No memorials will be permitted on any unpurchased grave and nothing shall be placed upon such graves without the consent of the cemetery office. Only the grave/memorial rights owner can sign the application for erecting a memorial. See Section 11 for transferring of grave ownership.

No raised mounds, turfed banks, iron, plastic, wooden, brick or stonework or other material will be erected to provide a border or enclosure around a full grave space within any section designated as a lawned section. The council may remove any such unauthorised memorialisation without prior notification see the Grave Space Memorabilia Policy as approved 2017 for further information.

The council reserves the right to remove any headstone or other memorial stone erected without the approval of the council.

Only memorial masons approved on the British Register of Memorial Masons (BRAMM) or Register of Qualified Memorial Fixers will be allowed to carry out work in the cemetery. Inclusion onto the list of Approved Masons is subject to agreement to abide to the cemetery rules and regulations and agreement to the National Association of Memorial Masons (NAMM) Code of Working Practice for Stonemasons.

All new memorials will be erected to the BS8415 standard and in accordance to the NAMM code of practice and recommended fixing methods.

An application form supplied by the council must be properly completed and submitted to the Cemetery Office. Once the applicable fee paid and approved by the Bereavement Services Officer or authorised officer a permit to carry out work will be issued to the memorial mason who has applied to do the work.

It is the responsibility of the grave owner to keep any memorials or monuments in repair, good order and in a safe condition. In default of this regulation the council may remove the same at their discretion or after 3 months notice given in writing to the registered grave owner execute any necessary work and charge the owner with the cost thereof.

The council will carry out five yearly checks on all memorials in the cemetery and will temporarily make safe any memorial found to be in a dangerous condition (see Memorial Management and Safety Policy 2018 for further details).

If any memorial is laid down or otherwise made safe it is the responsibility of the grave owner to arrange for the appropriate work to be carried out by an approved memorial mason.

All permissions for the placing of any memorials of any type or description are so issued at the owner's risk and the council will accept no responsibility or claims for any damage or vandalism of any kind.

No new memorial exceeding 3'6" in height x 3' width x 1'2" depth (measured from ground level) will be permitted in the cemetery unless prior approved by the council.

Headstones being fixed to burial plots without concrete beams must have a base minimum 36inch x 15inch x 3 inch thickness and allow up to 6 months before being fixed, earlier fixings must be approved by the registrar or officer of the council.

The section number, letter and name of the monumental mason completing the work will be cut on the base of all new memorials.

Memorial masons will not tout for business within the cemetery.

All rubbish, materials, soil, old memorials or temporary markers being replaced must be removed from site by the memorial mason carrying out the work immediately after the completion of the work. All work is subject to checks by the Bereavement Services Officer.

Masons will be held responsible and charged for any damage done by them in the cemetery.

Plastic Memorials or any type of metal memorials will not be permitted. Wooden memorials will only be permitted as a temporary memorial and must be removed or replaced within 12 months of the burial date. If the grave owner does not remove these within this time the burial authority without prior notice being given may remove them.

The council recommends that any memorial being placed in its cemetery should be covered with insurance. Details can be obtained from the stonemason completing the work or directly from the cemetery office.

18. Cremated Remains Graves

The cremated remains sections within Wyre Cemeteries are for the interment of cremated human remains. Full details of memorials permitted can be obtained from the cemetery office, plots are available for the interment of between 2 and 4 caskets. Plots are also available for the scattering of cremated remains.

19. Columbariums

A columbarium is a wall structure of niches for the placing of cremated remains caskets and are located at Moorland Road Cemetery and Fleetwood Cemetery. Further information on their purchase, interments and inscription can be obtained from the bereavement services office or a funeral director. They are available for 1 to 4 cremated remains depending on location.

20. Woodland Burial Area

The woodland burial area is located in the Poulton New cemetery, Garstang Road East, Poulton-le-Fylde. All graves in this section can be for a single or double interment.

No memorialisation is permitted in this section except that provided by the burial authority. Namely; memorial mushroom or seat plaques within designated areas.

After burial, a tree will be planted within the woodland area and maintained by the burial authority. If purchased for two interments the tree will not be planted until after the final interment.

The person buying the grave can select the type of tree to be planted. English native trees will be permitted but the type will be at the discretion of the cemetery manager.

21. Cemetery General Regulations

No person shall intentionally obstruct any officer or contractor of the council in the proper execution of his/her duties.

No person shall intentionally obstruct any other person in the proper use of the grounds, or behave so as to give reasonable grounds for annoyance to other persons in the grounds.

Any officer of the council or a police constable may remove any person offending against any of these rules and regulations from the grounds.

Vehicles, their contents and any other items left in the grounds are at the owner's risk.

We believe that to keep the gardens in a clean and well ordered condition is the best mark of respect we can give and we ask that all visitors to the cemeteries help us to maintain this standard.

The council reserves the right to make alterations to these regulations consistent with the Acts referred to above.

22. Exhumations

The current law relating to the removal of individual buried human remains is contained in Section 25 of the Burial Act 1857 which states that it is not lawful to remove any body or the remains of any body, which have been interred in any place of burial, without a licence from the Secretary of State or, in certain circumstances, the Church of England.

From 1 January 2015 Section 25 of the Burial Act 1857 is amended by the Church of England (Miscellaneous Provisions) Measure 2014 and only approval from either the Ministry of Justice (Secretary of State) or Church of

England is needed and not both depending on the current location of the remains.

It is illegal to exhume any human remains without first obtaining the lawful authorities necessary. Contact the cemetery staff and they will provide you with the guidance on all aspects of the exhumation.

In addition to the exhumation fee, the following costs must be considered.

1. Cemetery fees for disinterment – including the removal of any memorials
 2. Funeral director charges including new coffin/casket and removal to new site
 3. Bishop's faculty if required
 4. The Home office do not charge for issuing a licence
- Complete a separate form for each set of remains
 - It takes approximately eight weeks for a licence to be issued if there are no problems

Exhumations are carried out with decency and decorum but you are not allowed to attend an exhumation.

Those present are:-

1. The funeral director – who is your representative
2. An Environmental Health Officer – who ensures there is no public health threat to the staff carrying out the exhumation and for subsequent visitors to the cemetery. An Environmental Health Officer does not have to be present for the exhumation of cremated remains.
3. The cemetery staff carrying out and supervising the exhumation.

There are conditions attached to the Home Office Licence and Bishop's Faculty, which must be adhered to. The cemetery staff will explain these to you.

Each exhumation is different, with its own set of circumstances, which often are not known until the day of the exhumation when the grave is opened.

An exhumation can be a distressing event and a decision should not be made lightly, please consider the emotional and financial implications with your family before making the decision.

By Order of the Council (Revised) July 2019

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