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ST HELENS
BOROUGH COUNCIL

Statutory Duties on Local Authorities for Arranging Funerals under Section 46 of the Public Health (Control of Disease) Act 1984 in England and Wales

Guidance



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Public health funerals under section 46 of the Public Health (Control of Disease) Act 1984.

1 Background

If a person who resides within St Helens Borough dies within the community and has no known next of kin to make the necessary arrangements it is the duty of the Council, section 46 of the Public Health (Control of Disease) Act 1984 to make the funeral arrangements.

If the death occurs in hospital, it is the responsibility of the Hospital to make the funeral arrangements, however the Council may need to assist in carrying out a Protection of Property – see separate procedures.

The deceased can be buried or cremated in a public funeral arranged by the appropriate organisation. In the case of a burial, there will be no headstone and future maintenance of the grave will not be a requirement. Consideration must be given to establishing if there is an existing family grave within the Borough.

An appointed funeral director in conjunction with the Partnership Funeral Service, will carry out arrangements for funerals. This service provides for a dignified funeral at a reasonable cost and is not means tested.

2 What is legally required of local authorities?

There is no legal requirement to locate next of kin, but it is good practice to try to do so in order to inform the bereaved that their relative has passed away, and to provide families with the option of organising the funeral themselves should they wish to.

The next of kin can also play an important role in advising authorities of the deceased's personal wishes, including any requirements they had in relation to their religion or beliefs, which can help to determine whether a burial or cremation is more appropriate.

Section 46, of the 'Burial and Cremation' Act requires that:

It shall be the duty of a local authority to cause to be buried or cremated the body of any person who has died or been found dead in their area, in any case where it appears to the authority that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the authority.

Local authorities, as defined in section 1 of the Act, are therefore responsible for arranging a burial or cremation where a person has died or who has been found dead in their area (though may not live there), and it is apparent that this will not be carried out otherwise. Local authorities also have responsibilities where the deceased were provided with accommodation in care settings:

The Act also stipulates:



- The deceased should not be cremated where the local authority **has reason to believe that would be contrary to the wishes of the deceased**. It is therefore important to be mindful of any indications of the deceased's preferred method for their final committal, including any requirements they had in relation to their religion or belief.
- **A local authority may recover, from the estate of the deceased person, the expenses incurred** in the provision of a public health funeral. The Act also stipulates that this is recoverable as civil debt by proceedings brought within 3 years after the sum becomes due.

3 Guiding Principles

- Ensure the deceased are treated with dignity and respect
- Ensuring dignity and respect of the deceased, regardless of their circumstances, is of the utmost importance when delivering public health funerals.
- Minimise public health risks; Public health funerals play a critical public health role, and it is important to keep public health considerations in mind when plans are developed.
- Be considerate of the bereaved; make efforts to find the next of kin and keep them informed of arrangements
- Wherever possible, take steps to locate the next of kin. Engaging with them sensitively and keeping them informed of arrangements is both important for them and for ensuring dignity and respect for the deceased.
- Recoup costs as far as possible; Wherever possible it is important to attempt to recover expenses for public health funerals to minimise costs to the taxpayer. Besides secured debts (e.g. mortgages), funeral costs are the first charge on an estate and the 1984 Act enables cost recovery.

4 Key roles: Public Health Funerals

Local authorities: Have a duty to cremate or bury the deceased in line with provisions of the Public Health (Control of Diseases) Act 1984.

Funeral directors: In most cases funeral directors will administer the public health funeral on behalf of the local authority. Funeral directors should notify local authorities as soon as possible if they think they have someone in their care who may require a public health funeral, for example if no next of kin have come forward.

NHS Trusts: For deaths that occur in a hospital, NHS Trusts should develop their own policy



which takes into account their LA protocol and work together to ensure a respectful burial or cremation is delivered as efficiently as possible.

Coroners: Will release the body to the next of kin when it is no longer required for their investigation. Where there is no identified next of kin or other person who will take responsibility for disposal, the coroner will refer the deceased to the local authority.

Care homes and nursing homes: Will refer the deceased to the local authority for a public health funeral where they have no known next of kin. It is helpful to inform local care and nursing homes if a contracted funeral director is in place for public health funerals.

Executors of the deceased's will: Administers the estate and is responsible for organising a funeral if there is a valid will and no next of kin.

5 Death where there is a Next of Kin

If there is a known and estranged next of kin and they are not in a position or unwilling to arrange a funeral, the Council is obliged under its duty to make the funeral arrangements. In these circumstances, the next of kin should complete the Next of Kin Consent and Agreement Form confirming their wish not to be involved and understand what is involved in a Public Health Funeral.

We will make 3 attempts to ensure completion of the form, all attempts at contact to be recorded. The funeral process will continue on failed engagement.

If the reason for the decision is financial, help towards funeral costs can be found vby contacting DWP to apply for a funeral grant by way of financial assistance, providing qualifying benefit are met. [Get help with funeral costs \(Funeral Expenses Payment\): How it works - GOV.UK \(www.gov.uk\)](https://www.gov.uk/get-help-with-funeral-costs)

Before any arrangements are made, authorisation from the Customer Finance Manager must be sought. It may be necessary to liaise with the Councils' Legal team before any arrangements are made.

6 Death where assets are available

If the deceased had funds, the funds can be used to arrange a funeral, taking into account any wishes expressed by the deceased.

If the deceased was under Corporate Appointeeship or Deputyship funds will be used to cover funeral costs if available.

If the deceased held private accounts, invoice can be raised to pay for funeral costs and sent directly to the Bank or Building Society

If funds exist that are being held by the Council, we will refer the deceased to genealogist , who will attempt to trace family members.



If there is an Executor and the balance is more than £5,000. It will be necessary for the Executor to apply for Probate. This can be done through a solicitor or by the Executor themselves.

Only where there are no relatives or an Executor should the funds be forwarded to the Duchy of Lancaster. In cases that have been referred to a genealogy company, this advice will be given by the company.

7 Making Funeral Arrangements

When the funeral arrangements have been authorised, the Finance Officer must take the following steps, with the guidance of the Customer Finance Manager.

The Finance Officer will arrange for the registration of death at the appropriate Registrars office. An appointment with the Registrar will have to be made to do this. All known information concerning the deceased will need to be taken to the appointment by the Finance Officer for the purpose of the registration.

The Finance Officer will determine if there will be a funeral service or a direct funeral.

7.1 Direct Funeral

St Helens Borough Council provides direct funeral arrangements in partnership with local Funeral Directors.

A direct cremation will be provided unless stated in the deceased wishes or any requirements they had in relation to their religion or belief.

Direct Cremation

- No funeral service as the cremation is unattended
- Help and support through the process
- Freedom to say goodbye in your own way

What a direct cremation includes:

- An unattended cremation
- Funeral Directors will look after them before taking them to the crematorium
- Basic coffin
- Ashes will be scattered in the garden of remembrance at the crematorium or can be collected directly from the crematorium or we can return ashes to the Funeral Directors



Direct Burial

- It's a straightforward burial with no service
- No mourners
- No ceremony

A Direct burial includes:

- A basic coffin
- A ceremonial vehicle
- Pallbearers at the burial

More Guidance can be found [Public health funerals: good practice guidance - GOV.UK](https://www.gov.uk/government/publications/public-health-funerals-good-practice-guidance)
(www.gov.uk)

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