

Newark and Sherwood District Council

Public Health Act Funerals - Policy Statement

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. The cost of a funeral is usually met through the estate of the deceased. However, if there are insufficient funds, the executor is personally liable.

Where the deceased has not left a will, the person arranging the funeral (normally their next of kin) is liable to meet the funeral and burial/cremation costs.

In some cases, a person may die without having made such arrangements, having not left the financial resources or having no relatives in a position to pay for and arrange a funeral.

If you are concerned about how you are going to pay for the 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.

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 Credit, Housing Benefit, Council Tax Benefit, Working Tax Credit 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

Newark and Sherwood District Council is sympathetic to those affected by funeral poverty and understands there are occasions where families have no other option than approaching the council to make arrangements for them.

The local authority route 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 members.

The Law

In England and Wales Section 46 of the Public Health (Control of Disease) Act 1984 obliges local authorities to cause to be buried or cremated the body of any person who died or was found dead in their area where no other arrangements have been or are being made.

Therefore in some cases, the district council can take responsibility for the burial/cremation of a body, under the Public Health (Control of Diseases) Act 1984.

January 2019

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 issue, i.e. it is designed to ensure that any 'unclaimed' bodies are disposed of to prevent them becoming a threat to public health.

Where the Council makes such arrangements, the council will look to recover the funeral expenses from any Estate belonging to the deceased (where one exists). Where there are assets that exceed the cost of the funeral in the deceased's estate, the council will look to recover the cost to reduce the expense to the taxpayer. The authority is not empowered to recover costs from any source other than the deceased's estate.

Property and personal effects

The council will collect the deceased's personal effects and search a property to find any documents such as a will, or which indicate preferences or religious beliefs, or the existence of any relatives. This is a very important part of the service the council provides, carried out with care and consideration for the dignity of the deceased and their family.

If family and friends are traced, they will be invited to make the funeral arrangements. Relatives will also be asked to confirm in writing if they are not prepared to do this.

The council has no responsibility for clearing a property belonging to the deceased; however where there are saleable items, these will be collected for sale at auction. If sold, the money recovered will be used to offset the cost of the funeral. Personal items such as photographs will be offered to family. The council will also register the death. The Council will not pay for any clearance of non-valuable items or cleaning of 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, attempts will be made to locate relatives. This may involve the use of a genealogy search company. Where no relatives are located the case will be referred to the Government legal Department and their instructions regarding the property will be followed.

Executors of a Will

The Council will not be able to 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.

Funeral arrangements

The Council will arrange a Public Health funeral where it is clear that, without the intervention of the Council, no funeral would take place.

The council will arrange a simple but dignified burial or cremation. If we know what the deceased's wishes were, we will look to meet these wherever possible and reasonable, and will always take into account religious requirements.

The funeral will be conducted by the Council's nominated funeral directors only. Where a deceased person is under the care of a second funeral director, arrangements will be made to transfer the deceased to the Council's nominated funeral director. The Council will not be responsible for any costs incurred by the funeral director who collected the deceased on the instruction of family, friend, a care home etc.

The nominated funeral director will care for the deceased until the burial or cremation. No facilities will be made available for viewing the deceased at a chapel of rest. The deceased will not be embalmed unless deemed necessary by the Council.

A simple funeral will be arranged by the Council, including a simple coffin. A single hearse will be provided together with pall bearers who will attend the cemetery or crematorium. The hearse will proceed directly from the funeral directors to the cemetery or crematorium without, for example, driving past the deceased's home.

The time and date of the funeral will be arranged at the discretion of the Council, but some flexibility will be given to allow, for example, the elderly or disabled to attend the funeral. Those wishing to attend the funeral will make their own travel arrangements to and from the cemetery or crematorium. The Council will not provide additional funeral cars.

If there are relatives, friends, carers or neighbours who wish to attend the funeral, then a suitable Minister or other celebrant will be appointed at the Council's ultimate discretion, but based on the likely wishes of the deceased, or advice from those who wish to attend the funeral.

If no one wishes to attend the funeral, the burial or cremation will take place without a formal ceremony, although the pall bearers and any Council staff in attendance will stand for a few moments at the grave side in quiet contemplation.

If it is known there will be mourners who wish to pay their last respects a committal service will take place in the crematorium or at the graveside. Known family and friends will be informed of the funeral details. A service, in line with the deceased's beliefs (where known), will take place. Where possible, the minister or officiate will speak to any known family prior to the service to make the service a personal one.

Cremated remains will be scattered in a garden of remembrance. However, if relatives or friends wish to scatter the ashes elsewhere, the ashes may, at the Council's discretion, be

released to an appropriate person providing that the Council is not aware that anybody disagrees to this arrangement. No memorial is permitted to be erected on any non-private grave.

For burials, the Council has discretion to choose the cemetery which has the most reasonable cost. An interment will take place in a non-private grave, unless Council's burial records reveal that the deceased owned a grave in a Cemetery within the Newark and Sherwood area and there is room for them to be buried in it. If burial in a public grave is chosen, the authority will not use the grave for the burial of another deceased person until at least 12 months has elapsed. This will give time for family to come forward, who may then wish to make other arrangements.

Estate Administration

Newark and Sherwood District Council are entitled to recover their costs when making funeral arrangements under Section 46 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 £500.00 once all costs incurred in making the funeral arrangements have been reimbursed, and there are no living relatives, the Council will refer the case to the Government Legal Department under Bona Vacantia. If no relatives are found, reasonable enquiries will be made in locating next of kin, this may include the use of a genealogy search company.

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.

Where there are known family, however, the case cannot be referred to the Government Legal Department. Where relatives are known, the balance of any estate, after funeral costs, is paid to the next of kin on production of letters of administration from the courts. They are then responsible for administering the deceased's estate.

Death in a 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 the funeral arrangements and recover their expenses from the deceased's estate.

Death in a care/residential home

If the deceased died whilst living in a care/nursing home and there are no relatives who are able to make the necessary funeral arrangements, Nottinghamshire County Council Social Services may assume responsibility for the funeral arrangements and recover their expenses from the deceased's estate.

Please contact Customer Services if you have any enquiries about Public Health Act Funerals on 01636 650000.

V4 October 2018 final

January 2019