

DEATHS, FUNERALS AND DISPOSAL OF PERSONAL EFFECTS

Version: 2

Area: People and Communities Department (Adults)

Date: 25th February 2016

Status: New Document

Effective from: 29th February 2016

Next Review Date: 29th February 2017

Author(s) Camilla Freeth, Matthew Cardoza, Cheryl Wood.

Owner: Tony Bartlett – Head of Business, Finance and Pensions

Document Sign-Off

People and Communities Directorate Senior Management Team	Date: 29.02.2016
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1. LEGAL FRAMEWORK

The basis of the Local Authority's responsibility for funeral arrangements and expenses of people who have died in their area, and for whom it appears that no other arrangements will be made, is section 46 of the Public Health (Control of Disease) Act 1984.

This section states that the Local Authority has the responsibility for the burial of any person who dies, who immediately before their death was being provided with accommodation under Part III of the National Assistance Act 1948 or who was living in a Hostel provided by the Council under Section 29 of that Act. This also applies to persons in private homes funded by the Local Authority.

The Local Authority has the right to claim the expenses incurred in arranging the funeral from the deceased's estate or from the person who was liable to maintain the deceased estate before the person's death.

2. SERVICE AIMS

- To ensure the prompt and dignified burial/cremation of any deceased person for whom the Local Authority has a responsibility, (If there is a financial dispute then the Local Authority should make the necessary arrangements and resolve the dispute afterwards).
- To comply where possible with the wishes/beliefs of the deceased with regard to a funeral service and burial/cremation.
- To be sensitive to the needs and wishes of any surviving relatives/friends and involve them where appropriate.
- To ensure that the affairs of the deceased are dealt with by the correct legal process.

It is good practice for a Social Care Practitioner admitting somebody to an Independent Care Home, for whom there appears to be no next of kin or close friend, to give a copy of this guidance to the Manager of the Home.

It is the expectation that Social Care Practitioners and Managers undertaking Bath and North East Council's social care duties will adhere to this policy.

3. RESPONSIBILITIES

The overall legal position for making funeral arrangements in circumstances where it appears that no other arrangements will be made is set out below:

Death in hospital	The Hospital Patient Affairs Department is responsible unless the local authority held financial deputyship for that person.
Death in person's own home or in the street.	Funeral arranged by the Bereavement Service at Haycombe Cemetery and Crematorium. Tel: 01225 396020
Death in a private residential or nursing home	If the accommodation was arranged and funded by Social Services then the Council makes the arrangement. If the person is privately funded then Haycombe Cemetery and Crematorium make the arrangements.

*DSS circular (HM(41) advises hospital authorities that if relatives who are thought to be able to arrange the burial refuse, the Local Authority should be asked to do so. The L.A. have the power to claim reimbursement from the estate of the deceased person but this power is not extended to hospital authorities.

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It is primarily the responsibility of family members or the Executor named in the Will to make the arrangements for a deceased person. Therefore, the Local Authority will need to satisfy itself, in the first instances, that there are no other people to assume this responsibility.

Referrals should be made to the AWP or Sirona team funding the placement. The relevant Social Care Practitioner should ascertain if there is a family member or executor that can arrange the funeral. If not, and the deceased person appears to come under the Local Authorities responsibilities, then the Social Care Practitioner should contact the Client Finance Team on 01225 396487 who will confirm if the Local Authority Team has a duty to arrange the funeral. If the Local Authority has a duty the following procedures will be followed.

4. PROCEDURES

A. Removal of the Body

Once the Doctor has registered the death then the relevant Care Home Manager should contact inform Funeral Director to arrange for the collection and removal of the body to a chapel of rest. Bath and North East Somerset Council do not have a formal contract with a particular local Funeral Director at the present time.

B. Registering the Death

Every reasonable effort should be made by the Deputyship Officer, Home Manager and Social Care Practitioner (as appropriate) to contact relatives of the deceased to inform them of the death and to ascertain whether they are in a position to arrange a funeral.

If there are no relatives or executor to arrange the funeral then the Deputyship Officer should register the death within 5 days with the local Registrar of Births and Deaths. The Registrar will require:

- The Death Certificate
- The medical card of the deceased if available
- The deceased's birth and marriage certificates, if available.
- The life insurance policies or the names of the companies involved.

Information about:

- The date and place of birth.
- The deceased's last address
- The deceased's first and last names (and unmarried name if appropriate)
- The deceased's date and place of birth
- The deceased's occupation and the name and occupation of their spouse.
- Whether the deceased was getting a pension or allowance from public funds.
- If the deceased was married, the date of birth of the surviving spouse.
- Details of the person(s) dealing with the estate if known.

The Registrar will issue:

- A Certificate for Burial or Cremation – Green Form. An application for cremation has to be made to the crematorium as cremation requires a second medical certificate (this is usually done by the Funeral Director).
- Certificate of Registration of Death (form BD8) – for Social Security purposes.
- Copies of the Death Certificate must be requested (there is a fee).
The procedure will be slightly different if the Coroner has been informed of the death.

C. Arranging the Funeral

The Deputyship Officer will ascertain, where possible, the religious beliefs of the deceased and their wishes with regard to the form of the funeral service and any preference for burial or cremation. This should then be relayed to the Funeral Director who will make the necessary arrangements e.g.: contact a local clergyman. Known relatives and friends should be informed of the date and time of the funeral. Staff at the Home where the deceased person has been residing should also be informed.

The Local Authority will normally pay for the costs of a simple funeral if there are no other funds available. If the deceased person has a bank account with sufficient monies to cover the cost of the funeral the Deputyship Officer will forward the invoice for the funeral along with the death certificate to the bank, requesting that the bank releases funds to pay the funeral. As per the individual bank's policy, the Deputyship Officer will then either pay the funeral directors directly using Local Authority funds and obtain reimbursement from the bank, or ask that the bank makes payment directly to the funeral directors. This is done under the Administration of Estates Act 1925.

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The Funeral Director should send their account to the named Deputyship Officer who will arrange payment of the bill. The Deputyship Officer will endeavour to reclaim the cost of the funeral from the estate of the deceased

D. Personal Possessions

Receipt of Possessions

1. All cash should be recorded and taken by the Deputyship Officer. The money should be paid into the Voluntary Account.
2. The person's personal effects should, where possible, be stored at the Home. No personal possessions are retained by the Deputyship Officer. The Deputyship Officer will consider if a referral to the Treasury Solicitor is required to manage the person's valuable/assets.
3. If the deceased person was subject to a deputyship order, monies are paid into their deputyship account.

E. Release/Disposal of Possessions

Effects may be released to an **executor** named in a Will or to the next of kin or known near relative of the deceased on receipt of a signed and witnessed form of indemnity (IF6). The recipient must be given a copy of the indemnity form. Proof of identity must always be requested and verified and also where appropriate proof of relationship to the deceased.

On death, the powers of a deputy/appointee end, but the deputy/appointee can pay the funeral expenses if there is no executor, or with the executor's written consent. If the estate amounts to above £5000 a grant of representation (probate) will be required. If the estate is less than £5000 a separate indemnity declaration will need to be signed. If the whole estate amounts to less than £500 after bills have been paid, the local authority can claim the funds if there are no known relatives or an executor.

In all other situations, where there is no Will, the property and the assets must be itemised on a form **BV1A** together with details of any outstanding debts. This must be sent to the Treasury Solicitor at 12 Buckingham Gate, London SW1E 6LJ. No further action regarding the property must be taken until instructions are received.

5. REFERENCES

What to do after a death in England and Wales' - Form DWP011 from the Department for Work and Pensions.

Guidelines for Referring Estates to the Treasury Solicitor is Bona Vacantia – Estates, Treasury Solicitor's Department, PO Box 70165, London, WC1A 9HG. Tel: 020 7210 4700.

6. FORMS

IF6 Receipt/Indemnity Form for relatives claiming property.

BV1A forms to be sent to and requested from the Treasury Solicitor is Bona Vacantia – Estates, Treasury Solicitor's Department, PO Box 70165, London, WC1A 9HG. Tel: 020 7210 4700.