

Subject: Memorials on Graves

Status: For Publication

Report to: Cabinet

Date: 17th March 2011

Report of: Director of Customers and Communities.

Portfolio

Holder: Environment

Key Decision: Yes

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

- 1.1 To give members information around the current issues faced with enforcing the existing Cemetery rules and regulations, in particular those in relation to memorials located on a grave.
- 1.2 To set out some options for consideration and to enable agreement on the procedure for implementing / enforcing the cemetery rules and regulations.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities:-
- Delivering quality Services to our customers
 - Encouraging healthy and respectful communities
 - Keeping our Borough clean, green and safe
 - Providing value for money services

3. RISK ASSESSMENT IMPLICATIONS

- 3.1 The reputation of Rossendale borough Council (RBC) could be damaged if this policy is seen to be implemented in a non customer focused way. This has been mitigated by carrying out consultation with service users, funeral directors, memorials masons; staff and the Fieldfare Trust (lead body regarding national accessibility standards).
- 3.2 RBC may potentially be challenged financially through breach of the Equalities Act 2010 if we fail to meet the needs of all customers. While RBC may be able to withstand a protracted arbitration process and the financial aspects of the

challenge, the individual who feels discriminated against may not. The process of challenges can be lengthy, emotionally sapping and costly to the point whereby the individual can withstand the challenge no more. This can mean that challenges do not reach their conclusion and while this may be seen as a financial victory for RBC, it would be a poor result in terms of RBC providing a quality service to customers and morally would be seen negatively. RBC should be aiming to ensure all customers have equal access and not simply avoiding financial challenge.

- 3.3 Increased expenditure may be incurred by RBC if it adopts an alternative policy with regards to cemetery management. A range of alternative options are provided along with implications.

4. BACKGROUND AND OPTIONS

- 4.1 Rossendale Borough Council introduced new cemetery rules and regulations following their agreement at Cabinet on 19th March 2008. These revised cemetery rules and regulations (conditions) were produced after lengthy consultation process with undertakers, funeral directors and memorial masons. A summary of this consultation is detailed at [Appendix A](#).
- 4.2 These new conditions were introduced to mitigate the problems caused by various memorials, including kerbstones and edgings, being placed on graves. Kerbstones, edgings and other trinkets can cut across access routes in cemeteries and therefore:
- prohibit access for some visitors with disabilities;
 - present a trip hazard for visitors using the routes;
 - lengthen internment process whilst the plot owners are contacted to arrange the removal of the additional memorials prior to excavation (removal of additional memorials can increase the excavation time from 2 hours to 8 hours);
 - prevent the safe storage of spoil removed from excavation as soil has to be stored adjacent to the excavated plots and this is impossible where there are kerbstones, fences and other additional memorials;
 - restrict access for the plant used to excavate graves; and
 - restrict efficient maintenance of the cemetery as staff are unable to make a single pass up and down the plots with the grass mowers.
- 4.3 The new conditions recognise that there was not a consistent approach to erecting memorials in the past, i.e. some memorials did not conform to the dimensions detailed in the previous conditions, and some memorials were placed legitimately at the time, but wouldn't conform to the new conditions.
- 4.4 In these circumstances, the Council chose not to impose the conditions retrospectively but reserved the right to remove the extended memorials at any time, should these cause a problem to the management and maintenance of the Cemetery.

- 4.5 All new customers and those applying to open existing graves, receive a copy of the new conditions. In addition, temporary notices have been erected in the cemeteries, to let existing grave owners know about them.
- 4.6 However, there have been recent breaches of the rules and regulations and attempts to enforce these have been met with various responses.
- 4.7 Enforcement has mainly been via the issuing of a letter to the grave owner and whilst some people have removed additional memorial items when requested, others have not and some have contacted the local newspaper due to their disagreement with the conditions requested.
- 4.8 Clearly some grave owners still wish to decorate graves with additional memorials and requesting them to remove these has caused various degrees of upset in some cases. Therefore, some alternative approaches have been discussed and are summarised below for the consideration of members.
- 4.9 Consideration has been given to the approach of neighbouring Local Authorities, which can be summarised into the following:
- Adopt a hard line approach and enforce the policy in all cases;
 - Allocate areas not on graves specifically for these types of memorials; or
 - Allow the additional memorials on the graves, but do not maintain those plots where they have been installed.

A summary of the responses can be found at [Appendix B](#).

- 4.10 Consultation has also been carried out with cemetery staff.
- 4.11 As a result of previously discussing this report and the issues within it at Policy Overview and Scrutiny Committee in June 2010 there has been further extended one to one consultation with funeral directors, undertakers and memorial masons. This consultation was to establish the most practical method of ensuring customers are aware of key items within the cemetery rules and regulations (regarding memorials on graves) at the earliest opportunity so that they can make an informed decision if to use Rossendale Borough Councils cemetery and burial service. Included in this consultation has been the revised interment form.
- 4.12 Also as recommended by Policy Overview and Scrutiny Committee there has been the development of a bereavement services pack currently in draft format. This pack aims to be a more customer friendly way of informing customers about the key messages within the cemetery rules and regulation (Draft text and format examples for discussion are attached as [Appendix C](#)). Where the pack is to be sent to a recently bereaved person or family then it will be accompanied by a simple letter of sympathy explaining what the pack contains.
- 4.13 **Options for consideration:** The options for enforcement are numerous and each has negative and positive impacts. For ease of interpretation and comparison examples of these have been put in to table format as [Appendix D](#).

4.14 The criteria to consider when selecting the method of enforcement are summarised as follows:

- Which graves – all, new ones only or new ones and those reopened.
- When – retrospectively or from a given date.
- Where – all plots or new / currently unused plots when they start to be used.
- How – allow memorials over the entire grave space or a limited area (current rules allow 450mm / 18 inches from the memorial stone which enables maintenance, burials and access; however a minimum 1.2m / 4ft space between row of memorials meets accessibility standards.)
- Alternatives – offer a designated area within the cemetery to allow memorials to be placed or no alternative area.
- Fee – charge for an alternative memorials space or offer free of charge?

Therefore from those options summarised in the table ([Appendix D](#)) one may be selected or cabinet may wish to adopt a different method using the above criteria.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

5.1 In acknowledging the sensitivity of the report and its various options, there will be financial implications (either positive or negative) as a result of final Member recommendations. The financial implications are not however quantified within the report.

6. MONITORING OFFICER

6.1 The Council cannot avoid liability for death or personal injury which may result from hazards on land which they manage. Non enforcement of the cemetery rules and regulations or failure to maintain adequately would pose a risk of legal claims against the Council.

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

7.1 No HR implications.

8. CONCLUSION

8.1 Unauthorised memorials cause a problem to the safe and efficient use and maintenance of municipal cemeteries for a number of reasons.

8.2 The issue of additional memorials is clearly emotive and one that needs to be approached with caution. Should RBC wish to consult with stakeholders this needs careful consideration.

8.3 Rossendale has attempted to enforce its policy on unauthorised memorials with limited success on a number of occasions; it is likely that any additional

enforcement, without any real commitment will experience the same limited success.

- 8.4 Failure to remedy accessibility problems can result in moral and financial loss with individuals being left feeling discriminated.

9. RECOMMENDATION(S)

- 9.1 That members of the Cabinet consider the options for enforcement in the table ([Appendix D](#)) and recommend an approach to be adopted; or
- 9.2 That members of the Cabinet recommend a completely different approach to the options as set out in the table ([Appendix D](#)) using the criteria stated in section 4.14.

Please note that Policy Overview and Scrutiny Committee held on 8th March 2011 expressed preference for option 3 (shown in [Appendix D](#))

“Enforce the existing cemetery rules and regulations for new graves and also for those graves which are re-opened for further interments. Additional memorials would be removed at the time of re-opening and grave owners would not be able to replace them”.

The following additional conditions have also been recommended by the Policy Overview and Scrutiny Committee and will be applied:

- A revised interment form (in place)
- Bereavement services pack (currently in draft format)
- Date for commencing this enforcement is suggested as 4th April 2011.
- Any challenges made under the Equalities Act 2010 or reported cases of accessibility issues where memorials remain on existing graves to be dealt with on an individual basis.
- Establishment of a disability /access forum or group to assist with accessibility management.

10. CONSULTATION CARRIED OUT

- 10.1 Consultation with stakeholders is detailed in the attached appendices.

11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required	Yes
Is a Community Impact Assessment attached	Yes

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required	No
Is a Biodiversity Impact Assessment attached	No

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No background papers