

Annex A



National Assistance Burials Policy

**June 2019
Review date 5 years**

**The Public Health (Control of Disease)
Act 1984 Section 46**

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1. Introduction

- 1.1 Mid Devon District Council (MDDC) has a duty to bury or cremate the body of any person who has died or been found dead in its area where it appears that no suitable arrangements for the disposal of the body are being made – **Public Health (Control of Disease) Act 1984 s.46.**
- 1.2 The Council can recover the cost of burial or cremation from the estate of the deceased person – **Public Health (Control of Disease) Act 1984 s.46.**
- 1.3 The Council may consider the use of Heir Hunter companies to assist with the process of trying to locate possible next of kin. This will be achieved by an approved procurement route.

2. How we are contacted

- 2.1 We may be informed of a death by:
 - The Coroners Office
 - Nursing Home or Social Services
 - Housing Association
 - Relative or friend of deceased
 - Police
 - Undertaker

3. Who is responsible?

Firstly, you need to decide if MDDC is responsible for arranging the funeral and the following options should be explored:

- 3.1 If the death occurred in hospital it is the Health Authorities responsibility to arrange a funeral. This will usually occur at Royal Devon & Exeter Hospital (RD&E) and contact should be made with the Bereavements services office, RD&E hospital, Tel: 01392 402093.
- 3.2 If the death occurred in a Devon County Council (DCC) residential home, we can ask the manager of the home if they would like to take on the responsibility of arranging the funeral if the deceased had any funds. If the deceased had no family, DCC may have been looking after the deceased's financial affairs and had Court of Protection rights and although these rights cease upon death, they may still feel morally responsible for arranging the funeral. If the deceased had no funds, then it

is very likely that DCC will refer any funeral responsibilities to MDDC to deal with.

Note – Neither RD&E or DCC have a legal duty to deal with the funeral arrangements in the instance where no suitable arrangements are being made. There has always been a **general understanding** that the Health Authority will take on the responsibility if someone has died whilst in their care and RD&E will usually honour this.

If either organisation refuses to deal with the arrangements, the duty would fall to the local authority where the death occurred (Exeter City Council if resident died in RD&E)

- 3.3 If death occurred outside MDDC district then we have no responsibility and we do not need to carry out funeral arrangements.
- 3.4 A close relative and in certain circumstances a close friend can apply for a Funeral Payment from the Social Fund (part of the Department for Work & Pensions) if they are claiming certain benefits. Details of how they can apply are listed below:

- Visit the Social Fund's website and obtain their guidance pack and form at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300448/sf200_print.pdf
- Contact the Social Fund 'Bereavement Line' on 08007310139 and they will take details of the case over the phone.
- Call into the local Job Centre Plus office and complete a form with a member of staff

There is also a Council guidance note on National Assistance Burials which can be sent out to a relative / friend etc and includes how a relative can get financial help from the Department for Work and Pensions.

- 3.5 If a wife, husband or civil partner has died and paid National Insurance Contributions they may be eligible for a one-off, tax-free, lump-sum Bereavement Payment of £2,000. Applicants can contact the Bereavement Service (part of DWP) on 08007310139 – Option 2.

- 3.6 If a next of kin / relative or friend is located who wishes to take responsibility for the funeral this is welcomed. In the instance where the deceased has sufficient funds in their bank account to cover any funeral costs. The family member or friend should make contact with the deceased bank and ask if they can release funds or pay the funeral director directly.

Note - Has the relative spoken to all family and friends regarding a combined approach to pay for the funeral?

- 3.7 All of the above options need to be discussed thoroughly with the relative or friend before we decide to arrange the funeral. There is no provision of part payment of expenses or donations – someone must take FULL responsibility. If they pass the responsibility onto the Council we will take full control of the arrangement and the relative will need to complete a **‘Next of Kin’ declaration form** which confirms that there are no other family members willing to deal with the funeral.

4. Details of deceased

- 4.1 If no one has accepted responsibility at this stage, more details will need to be obtained and the ‘Particulars of Deceased’ form should be completed.
- 4.2 Coroner involvement – The Coroner investigates all unexpected, accidental and/or suspicious deaths. He/she is assisted in this by officers from Devon & Cornwall Police as well as local pathologists. Her Majesty’s Coroner for Exeter & Greater Devon District which includes North, West, East and Mid Devon contact:

H.M. Coroner
County Hall
Topsham Road
Exeter
EX2 4QD

If the Coroners Office is involved, they will have already made some enquiries and will be able to provide ‘all known information’ to the local authority regarding the deceased. Main Coroner office contact number is:

01392 383636

- 4.3 Ask the informant if they know of a Will left by the deceased as this may name a person responsible for the funeral.
- 4.4 Speak with the following to try and obtain Next of Kin details or existence

of a Will:

- Hospital
- Police
- Doctor
- Neighbours
- Friends
- Contact local solicitor's who may hold a Will

4.5 In the event where next of kin details are found, ask if they would like to take on the funeral arrangements and go through Section 3 of the procedure with them. If they decline, a 'Next of Kin' declaration form will need completing by them and returning to us.

5. Visiting deceased property

5.1 If the deceased had an abode, which may be a privately owned house, rented accommodation or council owned property, access must be obtained. Two authorised officers must go to the last known address to try and locate any next of kin details and to ensure that the effects of the deceased are properly dealt with and accounted for. If it is a Council owned property, then a Housing Officer will usually be the second authorised officer and they can also assess the clearance of the property at the same time. A full procedure and proforma's have been produced to manage this requirement. This will be directed by the Group Manager for Public Health and Regulatory services and in his absence, a Team Lead officer for Private sector housing.

5.2 Keys to the property may need to be collected from a Landlord, friend, family member, community support officer / warden or Police. If the Police are involved, contact must be made with the Police Officer who attended the property to ascertain where the keys should be collected from and when. The Council will ask for details of the property log number, this will make any property easy to locate upon collection. The Police will be notified before the Council enter any property.

5.3 The following items are particularly useful and officers should always attempt to recover them during their search of the property:

- Will
- Evidence of any next of kin / relatives
- Insurance Policies
- Pension Book or Documents
- Savings Books
- Bank Account details
- Cash

- Medical Records (medical card)
 - Birth / Marriage Certificate(s)
 - Any wishes regarding a burial or cremation
 - Utility Bills if the property is owned by MDDC – The Estate Management officer who attends the search will make contact with all utility companies and advise them of the tenants death
 - Make contact with any religious group that they may be a member of
- 5.4 Take photos of each room of the property before and after the search to confirm the condition of the property.
- 5.5 Any cash, small valuables or personal paperwork should be removed and recorded on the 'Retrieval of Possessions Form'. This should be completed and signed by the case officer and countersigned by the second officer once the search has been completed. Any cash should be paid into the Council's National Assistance Burial account via the cashiers on return to the office. A 'Payment Advice' form can be handed over to the cashier, along with the cost code for the National Assistance Burial Income account – ES1007259.
- Note** – Retrieval of any cash from the deceased's property should always be fully recorded and countersigned by the second officer attending the search. On returning back to the office, ask a line manager to check the amount again and countersign the 'Retrieval of Possessions' form.
- 5.6 Any larger items of value (furniture, cars, etc) should be recorded in the Officers notebook and photos taken; this should include any valuables held by family and friends for security.
- 5.7 If there is any perishable food or food waste at the property, place in refuse sacks and either put in food recycle bin or landfill bin. Inform Waste Management of the number of bags and the collection point and a Waste Officer will organise a special collection via SITA.
- 5.8 If the property is filthy or verminous and / or there are bodily fluids causing a public health issue, then this information should be passed onto the property owner immediately (landlord, Estate Management etc) and they should ensure that a pest control firm or a professional cleaning company are employed to deal with the issues, this may result in a public health issue if not resolved. If the property was owned by the deceased, then Environmental Health will consider formal action if required and this may result in the Council recovering the costs back from the estate.

Note – Officers must wear appropriate PPE under these conditions which may include a paper suit, gloves, mask and shoe covers.

- 5.9 Before leaving the property, make sure all windows and doors are secure and turn off any electrical devices.
- 5.10 If a Will is located the executor or the solicitor named should be notified and asked if they wish to take over the arrangements as soon as possible. Any public health issues within the property must also be raised with the executor or solicitor straight away and advice given regarding any pest control treatment or cleansing required.

6. Moving the body

- 6.1 The body may be at:
- The deceased home.
 - A residential home.
 - The Mortuary at the RD&E, Exeter.
 - Already at an undertakers.
- 6.2 If the initial information suggests MDDC is likely to undertake the funeral arrangements and the body is still at the deceased property then the contracted undertaker should be contacted to remove the body (provided a doctor has confirmed death and the Coroners Office / police have not indicated otherwise).
Details of the deceased should be sent to the funeral directors contact officer in writing (by email) and authorisation given to proceed with the collection of the body and arrangement of the funeral. An order number will also need to be provided.
- 6.3 The Councils contracted Funeral Director is:

**Friendship & Sons Funeral Directors
Unit 7, Barle Enterprise Centre,
Dulverton, Somerset. TA22 9BF.**

**Contact Officer: Nick Friendship, 01398 324590
Email: nick@friendshipandsons.co.uk.**

- 6.4 If for any reason the body is taken to another undertaker then the cost of moving the body to Friendship & Sons FD will fall to MDDC.

7. Registering the death

- 7.1 The death must be registered with the Registrar from the district in which the death occurred, within five days after death (14 days after Post

Mortem). To make an appointment to register a death call Devon County Council Registrars on 03451551002.

- 7.2 If a relative, friend or nursing home is willing to register the death ask them to do so, if not it is the local authorities' responsibility to do so.
- 7.3 If an inquest has been held, the Coroners Office will register the death and the certificate for cremation / burial will be left with the body at the mortuary. This process can take some time and the Coroner can provide the local authority with an 'Interim Death Certificate' in the meantime (acts in the same way as a certified death certificate which we would usually obtain from the Registrars).
- 7.4 If a post mortem has been carried out (but no inquest) the Coroners Office will deliver the 'Coroner Death Certificate' to the Registrar but the local authority or relative must still register the death. Again the certificate for cremation / burial will be with the body.
- 7.5 If there is no post mortem the death must be registered by the local authority or relative and they will need to take the death certificate signed by the doctor in the sealed envelope in which it comes. If a cremation is to take place, the Registrar will give the 'informant' the green certificate for burial or cremation.

Note - Details can be checked with an officer at the Coroner's Office – tel: 01392 383636.

- 7.6 To register the death the officer will need to know as much information as possible about the deceased and they should take the Doctors death certificate with them. Officers should try and obtain the following information to take with them:
- Full name and address of deceased (and maiden name if female)
 - Date and Place of Death
 - Date & Place of Birth
 - Details of spouse (if there is one)
 - Occupation at time of death (and before retiring)
 - NI number – Registrars can inform DWP of the death which resolves any issues of overpayment of pension
- 7.7 The registrar will issue:
1. A certified copy of the registration of death
 2. Form for National Insurance and Social Security purposes (otherwise known as a DB8)
 3. A certificate for burial or cremation (green form) which should be passed onto the funeral director. Not needed if coroner involved.

- 7.8 A copy of the registration of death (Death Certificate) will only be needed if MDDC is likely to reclaim expenses against insurance policy / bank accounts etc or other estate. A copy of the Death Certificate will cost £11.00 and can be reclaimed through expenses. If there are several bank accounts then the officer may need to request 2 or 3 copies.
- 7.9 The registrar will provide, free of charge, a form for National Insurance and Social Security which needs to be taken or sent to Job Centre Plus to cancel any pensions / benefits etc. This will require completion and should be sent to :

Job Centre Plus
Phoenix Lane
Tiverton
EX16 6LU

- 7.10 If a burial is to take place, one doctor certificate of death is needed. If cremation is to take place two doctors certificates are needed from separate medical practices. The second doctor can visit the funeral directors to view the body.
- 7.11 When arrangements have been made to register the death the Councils contracted funeral director (Friendship & Sons Funeral Directors) can be contacted and asked to arrange the funeral.

8. Funeral and Funeral Director

- 8.1 The certificate for burial or cremation (green form) should be delivered to the funeral director. If the deceased requested cremation, the officer will need to complete a '**Cremation 1**' form – '**Application for cremation of the body of a person who has died**' and a '**Instructions for the cremated remains**'.
- 8.2 Burial is the preferred option as the Council owns two cemeteries, at Tiverton and Crediton, however, if the deceased has left specific instructions regarding cremation, the Council will usually try to honour this and arrange for a cremation to take place. The Council reserve the right to choose which cemetery is used but would take into consideration requests from friends / relatives.

Please refer to the Funeral Directors contract regarding preferences on which crematorium or cemetery is used and under what circumstances.

- 8.3 However there may be reasons the deceased wished to be cremated. This could be due to information contained in a Will; family or friends wishes or due to religious reasons.

It is stated in the Public Health (Control of Disease) Act 1984 Section 46 (3) that:

'an Authority should not cause a body to be cremated if there is any reason to believe that cremation would be contrary to the wishes of the deceased'.

The Council will always have the final say whether to bury or cremate.

- 8.4 A Will may also state the preference of the deceased to be buried at a family grave, which should also be complied with as long as the difference in the cost can be paid by the relative or there is sufficient funds in the deceased's bank account.

- 8.5 The Council will pay for a simple but dignified funeral arranged by Nick Friendship & Sons Funeral Directors and this will include:

- Supply a coffin appropriate for burial or cremation, suitably fitted with handles, plate of inscription, internal lining and gown
- Removal of the deceased to the Chapel of Rest and care of the deceased until day of funeral
- Provision of Hearse and attendant staff
- Arranging and conducting the Funeral

Note - The Council has no legal duty to inform relatives of the arrangements but we would be open to criticism after a 'normal' investigation if we did not inform relatives and friends of the date, time and place.

- 8.6 The Funeral Director will arrange the details of the funeral and will normally act as the Councils representative at the funeral.

- 8.7 Ashes from cremation will normally be scattered in the garden of remembrance at Exeter Crematorium unless there is a relative or friend who wishes to take possession of the ashes, in which case any details of relatives or friends who wish to take control of the ashes should be clearly highlighted on the '**Instructions for the cremated remains**' form.

- 8.8 Once the funeral has been completed the Funeral Director will send us their invoice and the procedure for paying

- 8.9 The procedure for paying invoices is as follows:

1. When the invoice arrives check name and details of the deceased are correct.
2. Check all figures and total are correct and in accordance with the Funeral Director's contract
3. Check on deceased file that invoice has not already been paid before certifying payment.
4. Put copy of invoice in deceased file with 'Passed for payment' and the date on the top of it.

9. The Estate

- 9.1 It is the Council's responsibility to make every effort to recover its costs, which include the undertaker's bill and any administration charge for the work we have carried out. The person or organisation responsible for the arranging and paying for the funeral has first claim on the deceased's estate.
- 9.2 It is not our responsibility to arrange house clearance (unless Council owned in which case refer to the Housing team) but sale of the possessions of the deceased may help to recover funeral costs if there are little funds in the deceased's bank account.
- 9.3 Valuable items should be auctioned and officers should make sensible decisions about the cost involved in selling items against their anticipated value.
- 9.4 As the funeral expenses are the first legal charge against any estate, we will need to write to any financial institution advising them of the person's death. Enclose the original death certificate, the funeral director's invoice and receipt of payment by MDDC. Only when this first charge has been paid can anyone else claim the residue.
- 9.5 Notify all relevant MDDC departments regarding the death (Council tax etc)
- 9.6 The Council will not be responsible for cleaning or fumigating a property – unless it is decided it is needed before they can investigate the case or there are public health issues which need dealing with.
- 9.7 If any money or valuables are left over after the bills are paid then this can either be passed to the relatives (after they have signed the 'Retrieval of Possessions/Valuables by Relative or Friend' form) or to the Treasury). Solicitor (see 10.2 for further details).

10. Treasury Solicitor

- 10.1 If after MDDC has recovered its costs, there is still money left, this should be sent to the Treasury Solicitor. This is done by filling in form BV1A which can be found on the Bona Vacantia Division website.

Treasury Solicitor initially require only birth, marriage and death certificates. DO NOT SEND ANY DOCUMENTS OR POSSESSIONS until confirmation has been obtained in writing from Treasury Solicitor that they are accepting the case. They now say 90% of cases result in them finding a next of kin. The case will then be referred back to us to pass all documents etc to Next of Kin.

Or from the Treasury Solicitors office at:

Treasury Solicitor's Department
Bona Vacancia Division BVD
P O Box 2119
Croydon, CR90 9QU
tel. 020 7210 4700
Email: bvcbt@governmentlegal.gov.uk

Note: If the deceased owned a freehold or leasehold property then form BV1D should also be completed (this can also be found on the above website or the information cabinet)

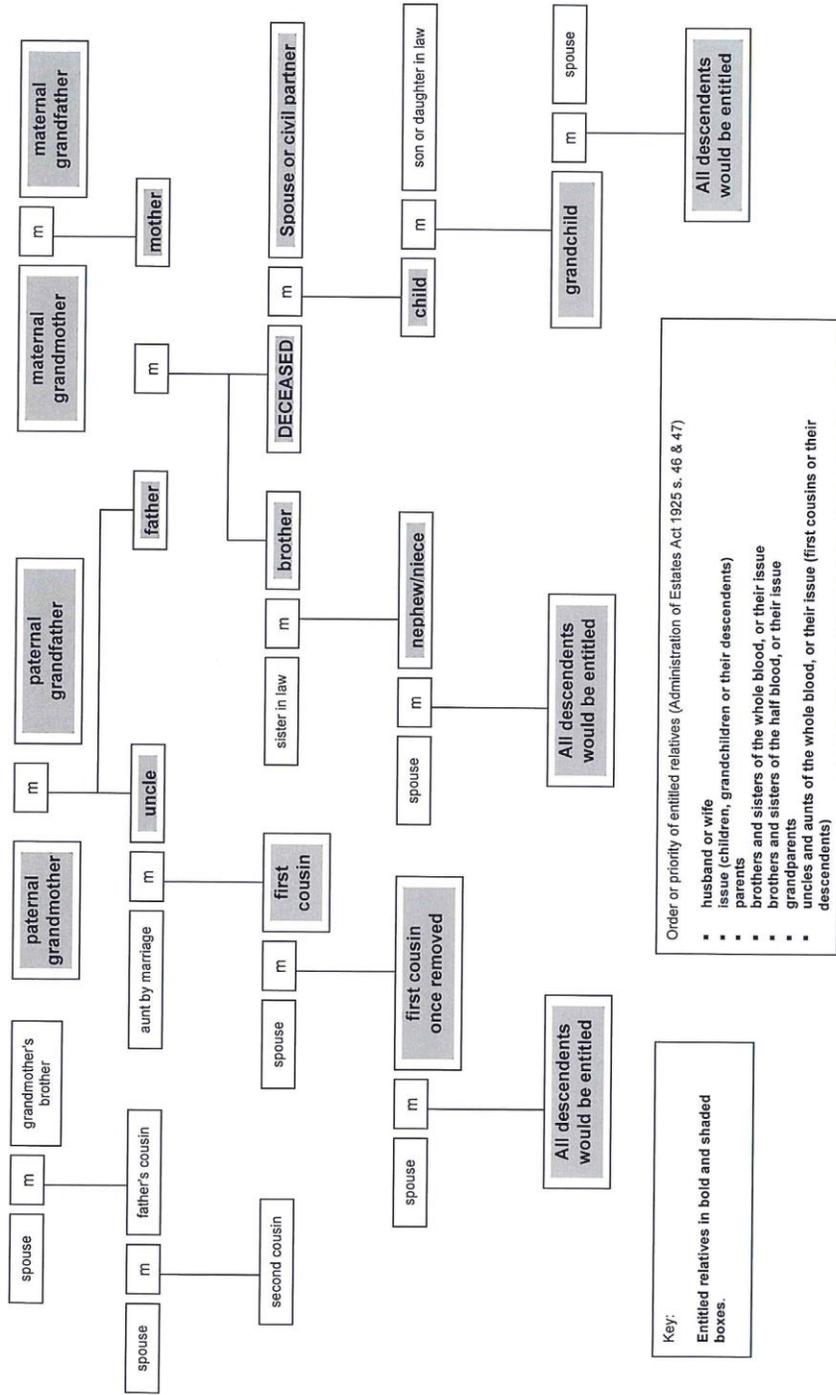
- 10.2 When an estate consists only of a net cash residue of £500 or under, the money may be retained by a blood relative (see family tree below) or the Council (if blood relative cannot be traced). When an estate consists of a cash residue of over £500 the case should be referred to the Treasury Solicitor, but only in the instance where a blood relative has not been found – **Treasury Solicitor can only administer the estate of someone when we have been unable to locate any next of kin.**
- 10.3 If blood relatives have been found refer to the family tree detailed below concerning order or priority of entitled relatives. Family entitled to make a claim on the deceased's estate should seek legal advice from a probate solicitor or contact the 'Probate or Inheritance Helpline' on 03001231072.

- 10.4 If Treasury Solicitor administers the estate, they will pay reasonable administrative charges for any work carried out in connection with the Council's statutory duties, under s.46 of the Public Health (Control of Diseases) Act 1984. We will include any costs involving the clearance of a property or pest control work, along with mileage and officer hours. The hourly rate of a Technical Officer will be calculated and charged with all on costs.
- 10.5 See separate guidance from The Treasury Solicitor entitled: "Guidelines for Referring Estates to the Treasury Solicitor" for a more in depth guide and procedure for sending papers and valuables to the Treasury Solicitor.

Officers should keep comprehensive records of all events as they occur during the investigation and actions they have taken. This is important if any queries arise. We need to show that we have made reasonable checks to ascertain any next of kin and a Will.

The sensitivity of dealing with these issues should not be underestimated, but you also need to be firm when handling relatives/friends of deceased as we need to keep a fair and uniform approach when arranging each funeral.

RELATIVES ENTITLED TO SHARE IN AN INTESTATE ESTATE



FLOWCHART PROCEDURE

