

Report of the Portfolio Holder for Environment and Climate Change

Clearing Cemeteries of Unauthorised Personal Memorials1. Purpose of Report

The purpose of this report is to outline the requirement to clear unauthorised personal memorials, which have accumulated over the years within all of the Council's cemeteries, in accordance with the Council's Cemetery Rules and Regulations.

2. Recommendation

The Cabinet is asked to:

1. **RESOLVE** and endorse the decision made on 16 July 2024 to clear all unauthorised personal memorials as detailed in this report.
2. **NOTE** the proposal submitted by some of the families that have personal unauthorised memorials and thank them for their engagement.
3. **NOTE** the difficulties experienced by some members of the community when trying to access the graves of loved ones.
4. **CONSIDER** and **RESOLVE** accordingly Broxtowe Borough Council's Bereavement Services alternative proposal for personal memorialisation.

3. Detail

This report was originally presented to Cabinet in 2019 and was approved, the outbreak of Covid-19 prevented the programme commencing. The report was presented to Cabinet again on 16 July 2024 and was approved as presented, the full report is provided in **Document A**.

The Council manages 11 cemeteries and closed graveyards. Analysis completed at the beginning of 2025 demonstrated that 93% of grave owners are correctly following the Cemetery Rules and Regulations. The remaining grave owners, a small number in comparison, have failed to follow the Cemetery Rules and Regulations to some degree. This mainly affects graves located within the lawned areas of the cemeteries. These contraventions of the rules include the installation of unauthorised personal memorials for example, "gardens" that create health and safety hazards for both employees and visitors but also impacts on accessibility for other grave owners, tree and scrub planting, alcohol bottles, deck chairs, fencing, kerbing, bedding plants, vases, flower displays, windmills, and any item made from glass.

Decision details from 16 July 2024

Clearing Cemeteries of Unauthorised Personal Memorials

Decision Maker: Cabinet

Decision status: Recommendations Approved

Purpose: The purpose of this report is to outline the proposal of clearing personal memorials which have accumulated over the years within all of the Broxtowe Borough Council's cemeteries.

Decisions: Cabinet was informed that Bramcote Bereavement Services had carried out a review of the current management arrangements of the Council's cemeteries and identified an issue with personal memorials. The Council's Cemeteries Rules and Regulations stated that "It is Council policy that no item of whatever description is allowed to be placed upon the actual grave space in a lawned area". This is in order to maintain a safe environment for both employees of the Council and visitors to the cemeteries.

Members noted the intention to clear all personal memorials as detailed in the report and stated that communication with families was imperative. Cabinet was reassured that the methods by which families would be notified of the intentions was of a sympathetic nature, which was necessary when dealing with such a sensitive subject.

Following the decision by Cabinet, and the commencement of the work, families approached the Council to discuss their concerns regarding the decision.

The Council responded with the following statement:

The Council acknowledges the extreme distress that the current arrangement to enforce the Cemetery Rules and Regulations are causing. As a result, the Council is proposing that extra time, of up to 12 months, is given. This is completely without prejudice as the Rules and Regulations still apply; however, during the 12-month period no enforcement action will be taken.

The Leader of the Council, Councillor Milan Radulovic, agreed to allow "a sensible dialogue to take place recognising the duty and responsibility that the Council has to maintain a tasteful and safe environment".

A proposal containing suggestions and requests, provided by some of the families that have installed unauthorised personal memorials is provided in **Document B**.

A detailed response from Broxtowe Borough Council Bereavement Services in respect of the proposal provided in Document B, examples of accessibility cases, and a proposal from Broxtowe Borough Council Bereavement Services for Members to consider is contained in **Document C**.

A Health and Safety statement from Broxtowe Borough Council's Head of Health, Safety, Compliance and Emergency Planning is provided in **Document D**.

4. Key Decision

The location of cemeteries will affect individuals within communities who visit and tend to family graves in several wards in the Council's area.

5. Updates from Scrutiny

Not Applicable.

6. Financial Implications

The comments from the Assistant Director Finance Services were as follows:

There are no direct financial considerations at this stage. The decision must be taken with due regard to mitigating any of the associated health and safety, reputational and financial risks.

7. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

There is no statutory duty on the Council to provide burial facilities but where they do then the management is governed by the Local Authority Cemeteries Order (LACO) 1977. The Council's powers to provide a cemetery derives from the Local Government Act 1972. LACO 1977 gives the Council wide ranging powers of management to do what is considered necessary or desirable for the management, regulation and control of the cemeteries. The Council also have a legal obligation to keep the cemeteries in good order and repair from a health and safety element whilst maintaining records, plans, issuing deeds, etc. In relation to the Health and Safety element, the legal obligations have been clearly set out in Appendix 4 at paragraph 4 but a principle piece of legislation the Council must adhere to is the Health and Safety at Work Act 1974 (HSWA) which places the Council under a legal duty to protect employees and other persons working or visiting the cemetery.

The Management of Health and Safety at Work Regulations (1999) made under the HSWA, require all employers to assess the risks to employees and non-employees which arise out of the employer's undertaking. Therefore, the Council is under a legal duty to assess the risk from all plant, structures (including memorials), and work activities in their cemeteries to ensure that the risk is controlled.

The Council also has a duty of care under the Occupiers Liability Act 1957 Section 2(2) which states 'The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there'. Furthermore, case law has established

the principle of a duty of care towards others who may foreseeably be injured by their activities (Donoghue v Stevenson 1932).

8. Human Resources Implications

The comments from the Human Resources Manager were as follows:

Not Applicable.

9. Union Comments

The Union comments were as follows:

Not Applicable.

10. Climate Change Implications

The climate change implications are contained within the report.

11. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

12. Equality Impact Assessment

Not Applicable.

13. Background Papers

Nil.