

Report of the Overview and Scrutiny Committee**Scrutiny Review of Cemetery Memorials****1. Purpose of Report**

This report accompanies the final report of the scrutiny task and finish group considering the subject of unauthorised cemetery memorials in borough cemeteries. The recommendations of the task and finish group were considered by the Overview and Scrutiny Committee and voted upon at the meeting of the Committee that took place yesterday evening. The Committee's recommendations to Cabinet on this matter were agreed at its meeting of 15 December 2025 and will be reported to Cabinet.

2. Recommendation

Cabinet is asked to CONSIDER the recommendations of the Overview and Scrutiny Committee, and RESOLVE accordingly.

3. Detail

Cabinet, at its meeting on 3 June 2025, where a report was tabled on the matter, deferred a decision on the clearance of cemetery memorials to this Committee for a scrutiny review. It was decided at the meeting of this Committee on 26 June 2025 that the matter will be reviewed through a task and finish exercise, with the scoping document agreed at the Committee's meeting of 25 September 2025.

The task and finish group's final report and recommendations were considered at the meeting of the Overview and Scrutiny Committee that took place on Monday 15 December 2025, where Officers gave their feedback on its recommendations, which were then voted on by the Members of the Committee. The recommendations of the Overview and Scrutiny Committee to Cabinet are presented at this meeting. As the meeting of the Committee took place yesterday evening, they will be distributed to Cabinet Members at the meeting.

The additional documentation considered by the Overview and Scrutiny Committee is also provided in this Cabinet agenda for information.

4. Key decision

This report is a key decision as defined under Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as it will be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the Council's area.

5. Financial Implications

The comments from the Interim Deputy Chief Executive and Section 151 Officer were as follows:

Any recommended actions with a cost implication would have to be contained within existing budgets. There is currently no budget provision to support the recommendation that refers to making available any additional funding necessary to implement changes to cemetery management and grounds maintenance procedures which are required to work around any memorials that will remain under the new rules, such as changes to shift patterns and procurement of new equipment. Any significant budget implications, over and above virement limits, would require specific approval by Cabinet.

The risk implications for any changes to operations will have to be carefully identified, risk assessed and suitably managed in order to mitigate the Council from being exposed to any significant risks.

6. Legal Implications

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

The relevant legislation is set out in the report at page 28, whilst 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 obligations these have been set out from page 27 and at other points throughout the report, but a principle piece of legislation the Council must adhere to is the Health and Safety at Work Act 1974 (HSAW) 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’.

Relaxing the regulations to permit unofficial graveside memorials could result in the Council being vicarious liable for the acts or omissions of its Officers, grave owners and visitors, consequently being liable for claims for compensation.

Ultimately, any recommendations must comply with the above statutory obligations and align with Officer’s professional opinion in order to protect both visitors and Council employees. Any non-compliance or departure from the above statutory obligations and Officer’s professional opinion exposes the Council to a higher risk of legal action which may incur significant legal costs and have a reputational impact on the Council.

Furthermore, the Member Code of Conduct in paragraph 8 states: *When reaching decisions on any matter you must have regard to any relevant advice provided to you by Officers of the Council acting pursuant to their statutory responsibilities (including a Proper Officer designated by the Council), or other professional Officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit.*

Where Officers indicate that certain recommendations may expose the Council to significant safety risks, Members must give substantial weight, as a failure to do so may expose the Authority to legal liability. Officers with operational, health and safety or regulatory duties remain personally accountable for their professional decisions. It is necessary for implementation planning to be undertaken solely by Officers and Members and consultation with any other interested party not to influence this discharge of duties.

7. Human Resources Implications

Not applicable.

8. Union Comments

The Union comments were as follows:

The Union supports the overall direction of the Task & Finish Group Report, particularly with the focus on health and safety, compliance and risk management in relation to cemetery memorials. Any changes to rules, inspection regimes or management arrangements must not place staff or contractors at increased risk and must be fully supported by clear procedures, appropriate training and sufficient time for implementation.

The Union wishes to highlight the importance of considering workload and resourcing implications ensuring staffing levels are adequate and additional responsibilities do not place undue pressure onto frontline teams.

Overall, the Union is supportive of a consistent and legally compliant approach, provided staff wellbeing, capacity and consultation remain central to the final decision making.

9. Climate Change Implications

The climate change implications are contained within the report.

10. 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.

11. Equality Impact Assessment

As this is not a change to policy / a new policy an equality impact assessment is not required.

12. Background Papers

Nil.