

ENVIRONMENTAL AND HOUSING SCRUTINY COMMITTEE - 10TH JULY 2003

SUBJECT: EXCLUSIVE RIGHTS OF BURIAL

REPORT BY: DIRECTOR OF THE ENVIRONMENT

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**1. PURPOSE OF REPORT**

- 1.1 To advise members of the need to separate the Exclusive Rights of Burial and the right to construct and maintain a memorial on a grave space.

**2. LINKS TO STRATEGY**

- 2.1 The Directorates principal aim in the Divisional Improvement Programme for 2003/04 in relation to Bereavement Services is:-

*"to develop an effective and sympathetic bereavement service as part of the public service provision"*

This supports the corporate theme of:-

*"Improving people's environment through targeted activities, regulation, information and advice"*

**3. BACKGROUND**

- 3.1 Under the provision of section 10 of the Local Authorities' Cemeteries Order 1977, a burial authority may grant, on such terms and subject to such conditions as they think proper, to any person, the Exclusive Right of Burial in any grave space. Included within the Exclusive Right of Burial, the Authority may include the right to place and maintain a memorial.
- 3.2 These rights commence for the period specified on the respective grant and must not exceed one hundred years. At present, Caerphilly County Borough Council grants Exclusive Rights of burial for the period of ninety-nine years. These rights also encompass the right to place and maintain a memorial on a grave space.
- 3.3 In granting a right to place and maintain a memorial in a cemetery, it is important that safety of the memorial and the public are considered, both in the short and long term. The terms and condition of the Health and Safety at Work etc Act 1974 are important and although an exclusive right of burial may be granted for a period not exceeding one hundred years, the right to place and maintain a memorial may be given for a more restricted period with power to renew the right for extended periods, in the same manner as the right of burial, provided the memorial has been and is being maintained in a safe condition.
- 3.4 Since 1st August 2002, the Council adopted a Memorial Mason Registration Scheme. One requirement of the scheme is that memorial masons must guarantee their work for a period of 30 years, to both their client and the Council.
- 3.5 Following fatalities across the U.K from unsafe memorials and under the provisions of the Health & Safety at Work etc Act 1974, the Council has set up a memorial inspection programme to inspect every memorial erected in our ten municipal cemeteries, of which there are approximately 25,000.

3.6 The Council has recently adopted the 'Charter for the Bereaved' promoted by the Institute of Burial and Cremation Administration (I.B.C.A). It is a recommendation of the Charter that members separate rights to erect and maintain memorials from the exclusive rights of burial. The length of the lease for erecting and maintaining a memorial should be issued for the same period as any guarantee given by the memorial mason, in our case thirty years. Rights can be renewed at the end of the period subject to an inspection and repairs of any defects and further guarantee given by the memorial mason.

3.7 When a memorial is identified as unsafe the current procedure is to place an appropriately coloured warning bag upon it to clearly identify it to visitors of the cemetery and employees of the Council as a potential hazard. Attempts are then made to contact the holder of the rights requesting that they make the memorial safe. To date, we have had very little success in contacting heirs to the rights. This has resulted in the Council repairing the memorial or laying it flat.

#### **4. FINANCIAL IMPLICATIONS**

4.1 It is not anticipated that there will be any significant financial implications from the adoption of this scheme.

#### **5. PERSONNEL IMPLICATIONS**

5.1 There are none.

#### **6. RECOMMENDATIONS**

6.1 The scrutiny committee is asked to consider the following and recommend to cabinet accordingly:-

- (a) Move away from issuing Exclusive Rights of Burial, which includes the right to construct and maintain a memorial.
- (b) Issue a separate right to place and maintain a memorial for a 30-year period. The right is issued on the condition that it is subject to the memorial being inspected once every five years and any repairs carried out. If this is not done, then the right is deemed to be terminated. The 30-year period coincides with the guarantee required under the Memorial Masons Registration Scheme.
- (c) Reduce the period of the Exclusive Right of Burial from 99 years to 50 years.

#### **7. REASONS FOR THE RECOMMENDATIONS**

7.1 If the Exclusive Right of Burial is issued for ninety-nine years and the right to erect and maintain a memorial is included, then the memorial may become a hazard long before the rights have expired.

7.2 Ensure compliance with the recommendations made by the Institute of Burial and cremation administration.

7.3 Such a policy would ensure that communication links between the Authority and the holder of the Exclusive Right are maintained.

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Consultation: Director of the Environment, Roger Webb  
Cabinet Member, Councillor Kevin Viney  
Chief Environmental Health Officer, Norman Gatehouse  
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Background Papers:  
Charter for the Bereaved



CABINET - 12TH AUGUST 2003

SUBJECT: EXCLUSIVE RIGHTS OF BURIAL

REPORT BY: CHIEF EXECUTIVE

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1. PURPOSE OF REPORT

1.1 The attached report was considered by the Environmental and Housing Scrutiny Committee on 10th July. That Committee recommended to Cabinet to

- (a) Move away from issuing Exclusive Rights of Burial, which includes the right to construct and maintain a memorial.
- (b) Issue a separate right to place and maintain a memorial for a 30-year period. The right is issued on the condition that it is subject to the memorial being inspected once every five years and any repairs carried out. If this is not done, then the right is deemed to be terminated. The 30-year period coincides with the guarantee required under the Memorial Masons Registration Scheme.
- (c) Reduce the period of the Exclusive Right of Burial from 99 years to 50 years.
- (d) Subject to the views of the Head of Legal Services, invite holders of existing rights to relinquish them voluntarily and adopt the new procedures.

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Appendices:  
Appendix 1 Environmental and Housing Scrutiny Report 6(a)

