

## Response to petition to Council on 7 November 2011 regarding cemetery rules and regulations

**Portfolio:** Councillor Harris – Leisure and Culture  
**Service:** Bereavement and Registration Services  
**Wards:** All

### Executive Summary

This report sets out the background regarding the management of lawn memorials in the Council's eight Borough cemeteries following the receipt of a petition at Council on 7 November 2011.

The petition was signed by 744 people which requires referral to a Scrutiny and Performance Panel under the petitions scheme contained in the Council's Constitution. The Lead Petitioner has been invited to attend the meeting to present his case to Members.

The petition reads:

**Background:** *Walsall Council plans to remove borders around all graves at cemeteries in Walsall including Streetly Cemetery, thus allowing lawn mowers, workmen and members of the general public to pass on top of the graves. The Council has never objected or removed any of the borders before or maintained the cemetery as a lawn cemetery. No consultation has taken place with the families of those buried in this and other cemeteries in the borough.*

**Action petitioned for:** *The plan to remove the borders around graves, and as a result allowing lawn mowers and workmen to pass over graves, is an infringement of our human rights, beliefs and dignity. We, the undersigned are concerned citizens who, call upon Walsall Council to reconsider and change their decision to remove the borders around graves.*

The report sets out the background and the response to the issue so that Members have the necessary information to debate and consider making recommendations to Cabinet.

### Recommendations

**That Members consider the petition and the position of the Council and consider making recommendations on the issue to Cabinet.**

## **Background papers**

Appendix One: Photographs showing lawn graves both with and without enforcement action

Appendix Two: Protocol for enforcement action

Appendix Three: Example of letter requesting removal of unauthorised memorials

Appendix Four: Letter dated 4 November 2011 from Executive Director to Union of Muslim Organisations (UMO)

Council's rules and regulations in respect of cemeteries and crematorium

## **Resource and Legal obligations**

The cost of the enforcement of the rules and regulations is contained within existing budgets.

Walsall Council as a burial authority, may under Article 3 of the Local Authorities' Cemeteries Order 1977, do 'all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery'.

## **Citizen Impact**

Rules and regulations are a necessary requirement for the management of Walsall Council cemeteries for the benefit of all visitors. Whilst every effort is made to avoid restricting individual rights and choices, the need for safe and tidy grounds and the provision of cemeteries as both functional facilities and places for peaceful contemplation are also important considerations.

## **Environmental Impact**

Rules and regulations are also required to ensure that the grounds are maintained for the benefit of all visitors to the cemeteries.

## **Performance Management**

Article 4(1) of the Local Authorities' Cemeteries Order 1977 imposes a positive duty upon a burial authority to 'keep the cemetery in good order and repair'.

## **Equality Implications**

Cemetery grounds are open to all visitors during opening hours every day of the year. Rules and regulations apply to all memorials on all sections.

## **Consultation**

There is no requirement to consult by the Council in order to enforce its own rules and regulations for the management of cemeteries.

## **Contact Officers**

Chris Holliday – Head of Leisure and Community Health

01922 650339

[hollidayc@walsall.gov.uk](mailto:hollidayc@walsall.gov.uk)

Steve Billings – Bereavement and Registration Services Manager

01922 655588

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## Report

### 1. Introduction

- 1.1. On 7 November 2011 a petition was submitted to a meeting of the Council by Councillor Jeavons titled 'Save the dignity of our loved ones' containing 744 signatures. In accordance with Council procedure, the petition and a relevant report is required to be brought before the relevant Scrutiny and Performance Panel, in this case the Community Services Scrutiny and Performance Panel.

### 2. History

- 2.1. In common with the vast majority of burial authorities throughout the country, Walsall has a set of rules and regulations for the management of its cemeteries. Part of the rules and regulations relate to the type of memorials permitted on graves. Around the 1950's it was common for Local Authorities to introduce lawn sections into their cemeteries. These areas are predominantly grassed with provision to place a memorial at the head of the grave. Members may recognise this layout which is followed in the majority of Commonwealth War Graves Commission burial grounds.
- 2.2. For a great many years in Walsall the manner in which burials have in the main taken place follows the lawn grave principle. This enables efficient grounds maintenance of graves on these sections to be carried out in an acceptable manner. **Appendix One** shows a typical lawn section and an area where enforcement is considered appropriate in accordance with rules and regulations.

### 3. Management and Operation of Rules and Regulations

- 3.1. The Council manages the operation of the cemeteries through its published rules and regulations in order to set the standards for the sites and to maintain them as peaceful and respectful grounds for the bereaved and the community overall.
- 3.2. It is the Muslim community's expectation that burials take place without undue delay, ideally within 24 hours of the death. Well publicised enhancements to Walsall Council's arrangements enable burials to take place 7 days a week for 360 days of the year with extended hours in the four main summer months.
- 3.3. In order to maintain the lawn graves it is inevitable that enforcement action needs to be taken to keep the cemetery in a condition that is manageable and for the benefit of all cemetery visitors. It is recognised that these rules and regulations need to be appropriate and be applied in a sensitive way. As a result a protocol was developed which is shown in **Appendix Two**.
- 3.4. The placing of memorial objects on graves requires the consent of the burial authority (the Council) who retain the ownership of the land. Unauthorised memorials are those that have not received permission from the council.
- 3.5. Where unauthorised memorials have been placed along the full length of the grave it becomes difficult to then excavate pre-reserved graves within the time

available to meet the short time-scale expected by the Muslim community. Such memorials also make it very difficult to undertake the appropriate grounds maintenance work.

3.6. The most recent phase of the enforcement work began at North Walsall cemetery in 2010 and in accordance with the protocol and was completed in Spring 2011. The focus was subsequently moved to Streetly cemetery and the process, again in accordance with the protocol, was repeated. A number of burial sections were inspected and unauthorised memorials removed. Appropriate signage and prior notification was given before work was undertaken.

#### 4. Documentation

4.1. Letters were written to families who had burials on the first Muslim section at Streetly cemetery and who had installed unauthorised memorials and a number of representations were received. A copy of a standard letter for this process is shown in **Appendix Three**. As a result, further discussions followed with representatives of the Muslim community. It was agreed at this point that the original time limit set for the removal of the unauthorised memorials would be extended to 21 November 2011 before the Council take any enforcement action. A copy of this letter is shown at **Appendix Four**. As a consequence, the enforcement process is continuing.

4.2. In a great majority of cases bereaved families use the services of a Funeral Director to facilitate the arrangements for burial. It is expected that the experienced funeral director, as agents for the family and, potentially, as their memorial mason, would acquaint the family with the style of memorial permitted on the lawn section and the rules and regulations relating to them.

4.3. Applicants for burials from the Muslim community do not always use a funeral director and interments are sometimes arranged through the Walsall Muslim Burial Committee or similar organisation associated with a particular Mosque. The Walsall Muslim Burial Committee is well experienced in the field and has frequent dialogue with the Council's Bereavement Service. Those families who do not use a funeral director complete and sign a disclaimer which includes a declaration that they accept the rules and regulations relating to Walsall cemeteries. Burials from the Muslim community have been accommodated in local authority cemeteries for a number of decades; initially at James Bridge cemetery and latterly at North Walsall, Willenhall and Streetly cemeteries. A small proportion of the graves on lawn sections at Streetly have had unauthorised borders placed around them.

4.4. All bereaved families receive a letter within a few days of the funeral expressing condolences and confirming the grave details and giving an extract from the rules and regulations highlighting the permitted memorialisation.

#### 5. The Present Situation

5.1. The latest enforcement inspection information is as follows:-

##### North Walsall Cemetery

- All lawn headstone graves (800 approximately) have been inspected
- 55 infringements (unauthorised borders or surrounds) were found
- Represents 93.1% compliance with the rules and regulations
- All infringements have been successfully dealt with under the protocol
- There are 10 Muslim graves at North Walsall ~ all comply

#### Streetly Cemetery

- 1,843 lawn headstone graves (out of 2,266) have been inspected to date
- Of these, 32 infringe the regulations
- Represents 98.3% compliance rate
- Included are 235 Muslim graves on 2 sections with 30 infringements ~ 87.2% compliance

#### Six other Council cemeteries

- Bloxwich, Ryecroft, James Bridge, Bentley, Willenhall, Wood Street
- To be on a rolling programme for future inspection

### **Contact Officers**

Chris Holliday – Head of Leisure and Community Health  
01922 650339  
[hollidayc@walsall.gov.uk](mailto:hollidayc@walsall.gov.uk)

Steve Billings – Bereavement and Registration Services Manager  
01922 655588  
[billings@walsall.gov.uk](mailto:billings@walsall.gov.uk)

Typically showing regulated lawn grave sections



Sections showing graves where enforcement is considered appropriate



## **Rules and Regulations in Cemeteries**

### **Protocol for addressing infringements**

For a number of years there has been no reactive or proactive enforcement of the previous rules and consequently, the cemeteries in certain areas are now becoming difficult to manage. It is therefore considered essential that the council now takes the appropriate action to ensure that all memorials meet an acceptable standard.

It is recognised that there is a need for a sensitive and proportionate introduction of the revised memorial rules and regulations, particularly as a large number of existing monuments will be expected to meet the required standard in order to ensure the appropriate compliance.

- Appropriate signage will be placed in all cemeteries advising grave rights owners of the introduction of the new requirements and providing them with a contact number for further advice. The Council's Bereavement Services website will also display relevant information.
- All elected members will be informed in writing of the new regulations and the procedures to be followed in order to enforce them. [16 September 2010]
- The new regulations will be displayed within cemetery buildings and at the crematorium
- All local funeral directors and memorial masons will be notified of the implementation of the revised new requirements and their support requested in advising cemeteries and crematorium users.
- Where there still appear to be examples of non compliance with the new requirements the following procedure will be followed:
  - A letter will be sent to the last known address of the grave rights owner or if not possible place appropriate signage on or near the identified non-conforming article. A copy of the letter will be attached to the memorial, tree, building or council property.
  - If after a period of a month the issue remains outstanding, staff from Bereavement Services will remove the property from the grave or other areas of the cemetery/crematorium and this will be taken into storage for a further period of a month for collection by the owner.
  - If no contact is received from the owner by the end of this period, the property will be disposed of. The procedure will be fully explained in the initial correspondence.
  - Items deemed to present an immediate safety hazard to cemetery visitors will be removed without prior notification. The grave rights owner will subsequently be notified and provided with an opportunity to collect the items. If this has not occurred within a month, the items will be disposed of.
  - As part of the ongoing communication process to try and ensure the effective implementation of the new requirements all new grave rights owners will be issued with a summary of the rules and regulations.





# Walsall Council

## Bereavement Services

Reference:  
Date:

Dear .....

**Grave Number ..... at ..... Cemetery**

I am writing to you about the rules and regulations for managing cemeteries and the action we are taking to help maintain Streetly Cemetery to the standard that people expect.

After you signed the burial order for the above grave we issued you a letter which included information on the general regulations for managing cemeteries. We have recently been carrying out a review of all the cemeteries in the Borough to see how far these regulations are being applied. Having completed this work in other cemeteries we are now reviewing Streetly Cemetery where our inspections have found that a number of graves do not comply; for example having edging stones, plants and shrubs as these extend over parts of the length of the plot. These items make it impossible to maintain this section of the cemetery as is expected due to the encroachment on the grave. I am afraid these are not permitted and will need to be removed.

I am writing to you to ask that you remove the non-agreed items from the above numbered grave in Streetly Cemetery and I would be grateful if you could do so as soon as possible.

If you do not remove the items, the council will reinstate the graves, including removing edging stones, levelling off and grass seeding the area. If, when we do this, we have to remove any edging stones these will be stored for one month in a safe place awaiting collection by you. We will dispose of uncollected items after one month.

I hope this clarifies what the council is doing and why we have contacted you. I am sure you will appreciate that all cemetery users want the council properly to manage and control the cemeteries and keep them in good order. I would certainly appreciate your co-operation in helping us do this and helping ensure that grave spaces comply with the regulation. If you would like more information please contact me on 0845 111 2848 or visit our office at Willenhall Lawn, Bentley Lane, Willenhall, WV12 4AE.

Thank you in advance.

Yours sincerely

Susan Smith  
Memorials Officer



# Walsall Council

## Neighbourhood Services

Our Ref: JM/LS  
Date: 4 November 2011  
Ask for: Jamie Morris  
Direct Line: (01922) 653203

Mr Matloob Hussain  
90 Wednesbury Road  
WALSALL  
WS1 4JH

Dear Mr Hussain

Thank you very much for attending the recent meeting with Councillor Bird, Leader of the Council and Councillor Harris to discuss the Council's regulations for the maintenance of lawn cemeteries and the application of these regulations at Streetly Cemetery. Following this meeting I am pleased to confirm the council's objectives:

- New graves, for cultural reasons, are generally back-filled by members of the family and the surface is mounded to take account of the expected settlement of the ground over time. This practice will continue
- The surface is left in this condition for a period of time, usually a few months, after which the council will arrange to remove the rough top surface, replace it with finer topsoil and grass seed at an appropriate time
- At this time the surface of the grave will be left 'crowned'; that is with a slightly raised centre, high enough to signify that a burial has taken place there but low enough for the lawn to be maintained. This will allow the grass to be cut regularly and the section to be kept neat as expected by visitors
- With regard to the unauthorised items on graves, when these are removed by the council the graves will be left 'crowned' in the same way as described.

Inevitably, graves settle at differing rates and a certain amount of undulation will be seen over the site. If specific families want the crown on a grave to be re-instated to the accepted level after settlement in the future they are encouraged to make a request to the council at that time when steps can be taken to restore the crown.

I appreciate that you will be communicating these intentions to your colleagues over the next two weeks and therefore as agreed we will not

commence the removal of identified unauthorised items on graves on the R section at Streetly until the week beginning 21 November 2011.

Thank you again for your co-operation over this issue. If you require any further information please do not hesitate to contact either myself or Steve Billings, Bereavement and Registration Services Manager (01922 655588).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jamie Morris', with a stylized flourish at the end.

**Jamie Morris**  
**Executive Director**