

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 19 March, 2018**

### **Report of the Cabinet Member for Regulatory and Legal Services**

### **Memorandum of Understanding for Fees Charged for the Burial and Cremation of Children**

#### **Purpose of the Report**

1. To locally ratify, adopt and implement the Memorandum of Understanding (MOU) between the Welsh Ministers, the Welsh Local Government Association (WLGA), representing principal councils in Wales and One Voice Wales (OVW), representing Town and Community Councils in Wales in relation to the fees charged by local government for the burial and cremation of children.

#### **Recommendations**

1. That the Council ratify, adopt and implement the MOU between the Welsh Ministers, the Welsh Local Government Association (the WLGA) and One Voice Wales (OVW) in relation to the fees charged by local government for the burial and cremation of children.
2. That the Council makes the necessary arrangements to implement the commitment agreed in the MOU by putting in place arrangements to distribute the funding to Town and Community Councils and any other providers of the relevant services in the Vale of Glamorgan which do not charge for the burial or cremation of children in line with the agreement and which formally adopt the commitment within the MOU.
3. That the Council commits to the MOU and to abide by its provisions, whilst funding is made available from Welsh Government to support the initiative.
4. That the report be referred to the Community Liaison Committee to assist in raising awareness of the MOU.

#### **Reasons for the Recommendations**

- 1-3. To ensure that the commitment in the MOU is implemented in the Vale of Glamorgan and that a consistent approach in relation to children's burial and cremation fees is adopted across Wales.
4. To raise awareness amongst Town and Community Councils

## **Background**

2. On 23rd November 2017, the Cabinet Secretary for Local Government and Public Services, on behalf of the Welsh Government, signed a MOU with the WLGA and OVW. This MOU (attached as Appendix 1) sets out a fair and consistent approach across Wales to the fees and charges by local government for the burial and cremation of children.

## **Relevant Issues and Options**

3. The MOU sets out a shared commitment that burial authorities in Wales will not charge any fees in relation to the standard burial and cremation of a child, defined for these purposes as a person under 18.
4. This commitment applies to standard fees that “burial authorities” charge relating to:
  - The cremation of a person under the age of 18 years (including stillborn and foetal remains);
  - The interment of a person under the age of 18 years (including stillborn and foetal remains);
  - The exclusive right of burial, where required;
  - Any other fees directly relating to the burial or cremation of a person, or the cremated remains of a person, under the age of 18 years (for example, the fee charged for permission to erect a memorial).
5. This commitment does not relate to wider funeral costs such as the costs of a memorial funeral director fees, flowers or coffins.
6. The burial authorities within the Vale of Glamorgan have been contacted and asked to confirm whether they intend to adopt the commitment within the MOU. Some may already have made such a commitment. This Council will then distribute an appropriate sum to each burial authority in respect of applicable fees for services provided as covered by the MOU.

## **Resource Implications (Financial and Employment)**

7. In recognition of the financial implications of the MOU, the Welsh Government has advised that it will allocate funding among principal Councils in Wales that have agreed to comply with the commitment of the MOU.
8. While the MOU remains in force, the Welsh Government will annually make available the sum of £600,000 for allocation among principal Councils in Wales that have agreed to comply with the MOU commitment. The operation of the MOU will be reviewed in advance of the financial year 2020/21 and the payment will be via a specific grant, with the funding being a fixed proportion of the £600,000 (for a full year), determined on the basis of the Standard Spending Assessment formula. The total sum being made available to recognise the financial implications of not charging was calculated on the basis of the total number of child deaths in Wales each year and an analysis of the average costs across Wales for the fees involved.
9. The principal Councils will in turn be expected to distribute appropriate sums to the burial authorities and, as appropriate, other providers of cemeteries and crematoria in its area, who have agreed to adopt the commitment set out in the MOU.

10. Principal Councils may also place such conditions on the provision of that funding to other burial authorities and other providers of the relevant services as they consider appropriate.
11. It is proposed that this Council will commit to the MOU and abide by its provisions, whilst funding is made available from Welsh Government to support the initiative.

### **Sustainability and Climate Change Implications**

12. There are no direct implications arising from this report.

### **Legal Implications (to Include Human Rights Implications)**

13. Under the Local Government Act 1972 a 'burial authority' within Wales is a County or County Borough Council or a Community or Town Council. Within the MOU "burial authorities" refers to County Councils, County Borough Councils and Town Councils in Wales. However, clarification has been sought regarding the term "other providers" and Welsh Government has advised that this covers any other providers of burial /cremation services.
14. Within the Vale of Glamorgan (and following Local Government Reorganisation in 1974 and pursuant to the Local Government Act 1972), Town and Community councils were designated burial authorities for their respective areas where appropriate. The exception to this is the Rhoose, Penmark and Porthkerry area, where the Community Council was dissolved and the burial authority function for the area reverted to the Vale of Glamorgan Council. The cemetery at Porthkerry is now managed on behalf of the Council by Barry Town Council under a management agreement.
15. The Council is not a direct party to the MOU but its interest is represented by the WGLA. Further, the MOU itself is not intended to be legally binding.

### **Crime and Disorder Implications**

16. There are no direct implications arising from this report.

### **Equal Opportunities Implications (to include Welsh Language issues)**

17. As the MOU has been developed at a national level and is applicable across Wales, there are no specific implications for this Council.

### **Corporate/Service Objectives**

18. There are no direct implications arising from this report.

### **Policy Framework and Budget**

19. This is a matter for Executive decision by Cabinet.

### **Consultation (including Ward Member Consultation)**

20. As the provisions of the Memorandum of Understanding apply to all "burial authorities" within Wales, no specific Ward consultation has been undertaken.

### **Relevant Scrutiny Committee**

21. Corporate Performance and Resources.

## **Background Papers**

Memorandum of Understanding between Welsh Government, the Welsh Local Government Association and One Voice Wales: November 2017

## **Contact Officer**

Jeff Wyatt, Operational Manager (Democratic Services)

## **Officers Consulted**

Managing Director  
Director of Environment and Housing  
Head of Legal Services  
Head of Finance  
Operational Manager (Leisure)

## **Responsible Officer:**

Rob Thomas, Managing Director

## Memorandum of Understanding

### 1. The Parties

- 1.1 This Memorandum of Understanding (MOU) is between the Welsh Ministers, the Welsh Local Government Association (the WLGA) and One Voice Wales (OVW) (together, "the Parties").
- 1.2 In entering into the arrangements which this MOU describes the WLGA and OVW are respectively representing principal councils and community and town councils in Wales.

### 2. Purpose

- 2.1 The MOU sets out a fair and consistent approach across Wales to the fees charged by local government for the burial and cremation of children.
- 2.2 This MOU has been prepared in partnership between the Welsh Government, which oversees the strategic policy and funding framework in respect of local government in Wales; and local government burial authorities<sup>1</sup>, who provide and maintain cemeteries and crematoria in Wales.

### 3. A shared commitment

- 3.1 Burial authorities in Wales will not charge any fees in relation to the standard burial or cremation of a child, defined for these purposes as a person under the age of 18.
- 3.2 This commitment applies to standard fees that burial authorities charge relating to:

---

<sup>1</sup> Under the Local Government Act 1972 a 'burial authority' within Wales is a County or Country Borough Council or a Community or Town Council. In this MOU, "burial authorities" refers to county councils, county borough councils and community and town councils in Wales.

- i. The *cremation* of a person under the age of 18 years (including stillborn and foetal remains);
  - ii. The *interment* of a person under the age of 18 years (including stillborn and foetal remains);
  - iii. The *exclusive right of burial* <sup>2</sup>, where required;
  - iv. Any *other fees* directly relating to the burial or cremation of a person, or the cremated remains of a person, under the age of 18 years (for example, the fees charged for permission to erect a memorial).
- 3.3 Burial authorities will waive the fees described in section 3.1 and 3.2 in all circumstances.
- 3.4 The commitment in this section does not relate to wider funeral costs such as (non exhaustively) the cost of a memorial, funeral director fees, flowers or coffins.

#### 4. Funding

- 4.1 In recognition of the financial implications of waiving the fees described in section 3, the Welsh Government will, while this MOU remains in force, annually make available the sum of £600,000 for allocation among principal councils in Wales that have agreed to comply with the commitment in section 3.
- 4.2 Provision by the Welsh Government of that funding to principal councils is subject to satisfactory grant conditions having first been put in place.
- 4.3 Principal councils will distribute appropriate sums to other burial authorities, and other providers of the relevant services, in their area which have agreed to adopt the commitment set out in section 3.
- 4.4 Principal councils may place such conditions on the provision of that funding to other burial authorities and other providers of the relevant services as they consider appropriate.

---

<sup>2</sup> Exclusive Right of Burial ('EROB') means exclusive right, granted by deed, of the registered owner to determine who may be interred in or commemorated on the grave in question; such exclusive rights to be for a limited period which has been determined by the Council



## **5. Duration / Review**

- 5.1 This MOU may be modified by mutual consent of the Parties, acting via authorised officials.
- 5.2 This MOU shall become effective upon signature on behalf of the Parties and will remain in effect until terminated by any one of the Parties.
- 5.3 Any Party may terminate this MOU by giving at least 3 months notice in writing to each other Party.
- 5.4 The operation of the MOU will be reviewed in advance of the financial year 2020/21.

## **6. Status of this MOU**

- 6.1 This MOU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the Parties from this MOU.

A handwritten signature in black ink, appearing to be 'Iwan Jones'.

Date: 23/11/2017.

(Cabinet Secretary for Local Government and Public Services, on behalf of the Welsh Government)

A handwritten signature in black ink, appearing to be 'O. Jones'.

Date: 23/11/2017.

(WGLA, representing principal councils in Wales)

A handwritten signature in black ink, appearing to be 'M. Cully'.

Date: 23/11/2017.

(OVV, representing community and town councils in Wales)

