**Request Reference: 17180465**

**Date received: 23 June 2017**

**Date response sent: 3 July 2017**

**1. Has the authority at any time used a genealogist, probate researcher or tracing agent to locate the next of kin of a deceased person for whom the authority is to undertake, or has undertaken, a public health funeral?**

Yes

**2. Has the local authority used a genealogical researcher or similar organisation to trace owners or relatives where a property in their designated area has been left empty?**

No

**3. Has the Deputyship/appointeeship team at the council ever used a genealogical researcher or similar organisation to trace relatives of a person for whom they are acting as deputy?**

No

**If the answer to any of the questions above is YES, please respond to the following**

**questions:**

**4. Which researcher(s) are used?**

Hoopers International Probate Gynaecologists.

**5. What statutory function(s) is the authority fulfilling when it engages genealogical research organisations?**

Public Health and Control of Diseases Act 1984.

**6. What is the benefit to the authority of entering into each arrangement?**

Tracing relatives in the unusual instance where there is a large estate and we believe they could take on responsibility for arranging the funeral of their deceased next of kin.

**7. In relation to public health funerals, why does the authority not simply refer all deaths of people who die intestate with no identified next of kin and assets of over £500 to the Government Legal Department Bona Vacantia Division for advertisement of the unclaimed estate?**

Expediency – if a next of kin can be quickly traced and they are prepared to take on the funeral arrangements then this saves time and money for the local authority.

**8. What due diligence process was used and against which criteria was the organisation selected in preference to any other research organisation?**

To date we have only done this on one occasion.

**9. Why does the council not pass the information to more than one researcher at a time?**

These cases in our experience are sporadic and it is not expedient to ask more than one researcher at a time to trace the same relative.

**10. Has the authority considered the financial implications for the relatives, in that research organisations engaged by the local authority are likely to derive a commercial benefit from the location of next of kin?**

Yes

**11. Does the council expend any monies in tracing next of kin of people who die intestate with no next of kin? If so, how much have they paid the researcher in total for the duration of the contract so far?**

No

**12. If the council pays the researcher directly, what specifically do these fees cover?**

There are no costs and we only ask for details of any next of kin that can be found.

**Please provide a breakdown of the costs and services provided.**

N/A

**13. If not paid by the council, how exactly does the genealogical organisation locating next of kin for the council when a person dies intestate with no known relatives get paid for the service they provide?**

The next of kin, if found, would pay a ‘finder’s fee’.

**14. In respect of deaths in the community/public health funerals, in total, on how many occasions has the council used a genealogical researcher to trace next of kin?**

1 referral has been made since May 2016.

**15. Of these, on how many occasions did the next of kin take over the funeral arrangements?**

1

**16. In the SPECIFIC CIRCUMSTANCES where there have been NO ASSETS in the estate to fund the funeral of the deceased, AND the genealogical organisation was used to trace next of kin, on how many occasions have these relatives:**

**a. taken over and paid for the funeral arrangements; or b. repaid/reimbursed the local authority for the funeral costs incurred from their own pocket?**

This situation has not arisen.

**17. In the SPECIFIC CIRCUMSTANCES where there were insufficient assets in the estate to refund the cost of the funeral to the council and next of kin identified by the heir hunter have made a contribution from their own personal funds towards the funeral costs, how much money has been contributed:**

**a. in each particular case; and b. as a running total?**

This situation has not occurred.

**18. Arrangements between the authority and the research organisation will form a contract, even if not formalised. Please provide a copy of any contract(s) between the local authority and any research organisation used to trace next of kin for any reason.**

Information not held.

**19. Please provide full copies of the exchange of emails between the authority and genealogical organisations for all periods during which referrals were made.**

Under Section 40(2) of the Freedom of Information Act 2000, this is classed as personal information as the information now belongs to that of the heir to the estate and to provide the information would lead to individuals being identified.

This is an absolute exemption and therefore I am not required to consider the public interest test.

**20. In relation to public health funerals, please provide the name, date of death and date of birth of any deceased persons for whom a genealogical organisation was used to trace relatives, from the first recorded referral to the most recent.**

Carol Barnard DOB 20/5/35 DOD 13/12/16.

**21. Does the council have a Death in the Community Procedure or similar written procedure relating to the process that is followed when an individual who dies in the designated local area is referred to the council? If so, please provide a copy.**

 Yes a procedure is in place and a summary of the kind of information contained within it is attached.

 Please note that this is not a public document as it contains internal procedures for carrying out one of our functions and therefore the full document has not been disclosed.

**22. Does the authority employ or contract a house clearance organisation as part of the process of dealing with a death in the community? If so, which one?**

No

**23. Does the council require the clearance organisation to sign a confidentiality agreement?**

N/A

**PROCEDURAL DOCUMENT**

**Disposal of Dead Bodies**

**Public Health (Control of Diseases) Act 1984**

**Section 46**

**Contents**

Section 1 - The Local Authorities legal duty

Section 2 - Preliminary Investigations

Section 3 - Investigation: Deceased lived in homes/hostel

Section 4 - Investigation: Deceased lived in own/rental dwelling

Section 5 - Registration of Death

Section 6 - Notification of Undertaker

Section 7 - Treasury Information

Section 8 - Recovery of Costs

Section 8 - Annual Accounts

Note:

Relatives and close friends of the deceased person are inevitably going to be in an emotionally distressed state and at all times dignity and respect for the deceased and their family must be maintained. Verbal and written communication must be clear, unambiguous and sensitive to this.

**Section 1 - The Local Authorities Legal Duty**

Section 46 of the Public Health (Control of Diseases) Act 1984 states

* “it shall be the duty of a Local Authority to cause to be buried or cremated the body of any person who has died or has been found dead in their area, in any case where it appears to the Authority that no other suitable arrangements for the disposal of the body have been or are being made otherwise than by the Authority.”
* “An Authority shall not cause a body to be cremated where they have reason to believe that cremation would be contrary to the wishes of the deceased.”
* “An Authority may recover from the estate of the deceased person or from a spouse or a parent any expenses incurred.”

Note - We have no duty to undertake any action if funeral arrangements have already been made by some other person. If someone makes arrangements and subsequently cancels them we may be able to take over full responsibility but any costs already incurred are not to be charged to us and the body is transferred to our own contractor for any further actions. If our contractor makes any savings as a result of any works already undertaken by someone else it is a matter between him and the other funeral director.

It should be noted that since an executor has an official duty to dispose of the deceased, he is personally liable to pay the funeral expenses even where the assets are insufficient and he has ordered the funeral. (Sharp v Lush 13th Jan., 1879)

The Torbay Care Trust will arrange the funeral of any person who died in or whilst travelling to hospital.

**Section 2 - Preliminary Investigation**

**Section 3 - Investigation: Deceased lived in residential home/hostel**

**Section 4 - Investigation: Deceased lived in own home or rented property**

**Section 5 - Registering the Death**

**Section 6 - Notifying the Undertaker - ISCA**

**The Funeral**

The Council **will** provide a funeral to include the following:

* Services of our contracted undertaker
* Collection of the body from the place of death and preparation for cremation
* Arrange for a suitable officiary to conduct such funeral rites as appropriate
* Provision of a coffin and hearse to transport the deceased to the crematorium
* Service in the crematorium chapel
* Cremation / Burial of the body
* Scattering of the cremated remains in the garden of remembrance or facility to take away remains for private disposal
* Where the funeral is a burial it will an unpurchased grave at Torquay cemetery and deeds will be retained by the cemetery office.

The Council is **unable** to provide or pay for the following:

* Obituary notices or flowers (Family/ Friends can pay undertaker direct for these services)
* Transport for mourners
* Provision of a church service prior to cremation/burial
* Provision of a headstone or other memorial

**Section 7 - Treasury Information**

**Section 8 - Recovery of Costs**