
Date

June 2020

Location

Environmental Health
Public Health
Procedures
Funerals and Exhumations

Public Health Act Funerals - PHP9E

Procedure

Scope

Sometimes, local authorities have to bury people because there is no family or the relatives are either absent or do not have the means to pay for a normal funeral. This procedure covers this situation. They are called public health burials and are carried out under the Public Health Act.

Legislation

Public Health (Control of Disease) Act 1984, section 46

Responsibility of

Environmental Health Practitioner
Registrar of Burials and Cremations

Summary

This procedure deals with arranging for burial or cremation at the expense of the local authority. It will apply where it appears that a person has died in the district and no suitable arrangements for the disposal of the body have been or are being made. Documents S46A to S46E are provided by RIAMS to assist officers dealing with Public Health Act funerals.

Hospital deaths

One possible exception to the above duty is when the death occurred in a hospital. Department of Health guidance 'When a Patient Dies – Advice on Developing Bereavement Services in the NHS' (Ref: 5578) states: 'NHS Trusts may become responsible for the funeral arrangements of a person who dies in hospital when:

- a) No relatives are traced, or
- b) Relatives are not able to afford the cost themselves and do not qualify for Social Fund', or
- c) Relatives are unwilling to take responsibility for funeral arrangements.

It also says, the local authority in whose area the body lies may arrange for a burial or cremation under section 46 (1) of the Public Health (Control of Disease) Act 1984; however, this will often depend upon local procedures and protocols. In the absence of an appropriate protocol then the trust may retain the responsibility to arrange a funeral.

General Procedures

1. The Public Health (Control of Disease) Act 1984, section 46(1) states that the local authority must, "cause to be buried or cremated, the body of any person who has died or been found dead in their area, in any case where it

appears to the authority that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the authority”.

2. Section 46(3) of this act expressly provides that a local authority shall not cause a body to be cremated where they have reason to believe cremation would be against the wishes of the deceased. Where the local authority makes the arrangements, it is entitled to recover the costs of the funeral from the estate of the deceased in the form of a civil debt recoverable within three years. Note that funeral expenses have first call upon any estate. The following paragraphs cover guidelines for dealing with a request for the provision of a funeral under the Public Health (Control of Disease) Act 1984 (section 46).

Initial enquiry

3. The process is likely to begin with the service being contacted by any one of a number of sources (e.g. family member, local hospital, social services, housing department, police, residential home, coroner’s office, etc.) and asked to provide a Section 46 funeral. The investigating officer should complete the Initial Enquiry Form S46A which seeks to gather as much relevant information upon which to decide whether a Section 46 funeral is appropriate.

4. The source of the contact should be advised that if a Section 46 funeral is undertaken, the funeral expenses have first call upon any estate and, therefore, nothing should be removed from the home of the deceased and indeed, access should be prohibited until otherwise informed.

5. At this stage, it may be possible to decide that such a funeral is not applicable. In all cases, the investigating officer must be satisfied that no other agency or persons are prepared to undertake the funeral arrangements, for example, social services may deal with people from council residential care homes. It may also become evident that arrangements have already been made with an undertaker, so the local authority may decide not to become involved. It may also become evident that the deceased made the necessary arrangements before dying.

6. It is possible that there are relatives of the deceased in receipt of benefits from the Department for Work and Pensions (DWP), and if so, the local authority is unlikely to conduct a Section 46 funeral as payment for the funeral can be made by applying to the DWP Social Fund (see <https://www.gov.uk/funeral-payments/overview>). It is most likely, though, that further enquiries will have to be made. Either way, the source of the enquiry should be informed of the decision and the action to be taken.

7. The nature of the further enquiries will depend upon the information obtained via the initial request for a Section 46 funeral. Such enquiries are likely to involve liaison with any relatives, executors and insurance companies.

8. If as a result of these enquiries, it is decided that a Section 46 funeral will not be conducted, the source of the initial contact should be told.

Referral and liaison with other agencies

9. Throughout the process there will be a need to liaise with other agencies and colleagues within the local authority, such as social services. It is not possible to be too prescriptive as each case will differ. Much will depend on what the enquiries find. Passing information about the death to all relevant agencies as soon as possible will speed up the process of identifying any funds to offset the cost of a Section 46 funeral.

Home visit

This section has been amended to reflect the incidence of Covid-19 infections within the general population

10. If the Section 46 funeral is still a possibility, the investigating officer should consider the need for a home visit.

11. Where the deceased party lived alone then it is advised that a period of 72 hours is allowed to elapse after any infected person/body has been removed from the property before a home visit is undertaken.

12. If the property of the deceased is still occupied by other people, then the living arrangements should be established, for example, single family occupancy, bedsits, etc. The health status of the other residents should also be established, such as whether anyone is shielding or suffering from coronavirus symptoms. The lead officer should try to determine the value of a home visit, by checking with other residents what documentation (e.g. insurance policies, bank accounts, pension funds, etc.) may be available and whether there are any personal possessions of reasonable value. In circumstances where there is little or no apparent value in the estate, it may be decided that a home visit is not warranted.

13. Where a home visit is appropriate, it is recommended that two officers attend the property (to ensure safety and to protect against accusations of misappropriating property). If required, the local police should be contacted before visiting and it should be established whether they wish to attend, particularly if it is suspected that a crime may have

been committed.

14. Before the visit, a risk assessment should be undertaken highlighting any particular concerns, for example, drug usage, filthy or verminous conditions, etc., as well as taking into account the precautions that are required in relation to Covid-19. In extreme cases, it may be necessary to arrange for the property to be decontaminated first. Other reasonable precautions will be identified by the risk assessment; but as minimum, hand sanitiser and protective clothing such as disposable gloves and disposable plastic aprons must be available. Officers should travel separately to the property and maintain appropriate social distancing during the visit. Before entering the property, the officers should wash their hands or apply hand sanitiser and don the appropriate protective clothing. Items to be removed from the property should be documented and bagged. At the conclusion of the visit, protective clothing should be bagged and sealed/tied off and officers should again wash or sanitise their hands.

15. Where the property is occupied, arrangements should be made in advance to limit the numbers of people in the property, ideally to a single occupant. The purpose of the visit and the procedures to be followed should be explained in advance and social distancing should be maintained with the occupants at all times. If there are heightened risks to either existing residents (as they are shielding) or officers (due to illness within the property), then it may be determined that a home visit is not appropriate. The risk assessment should drive this decision-making process.

16. The purpose of the visit is to seek any documentation which might indicate that a Section 46 funeral should not be conducted. The visit should also ascertain what funds might be/become available if the Section 46 funeral goes ahead. Particular focus should be given to trying to locate a will, which may give instructions regarding the funeral as well as the name of an executor.

17. If a Section 46 funeral is to be arranged, officers of the local authority have statutory authorisation to enter a property to ascertain the extent of the estate and to remove any items or assets which may assist in the funding of the funeral. Anything removed from the premises should be listed on form S46B.

18. When leaving the premises, make sure that it is left in a condition which does not permit unauthorised access. Landlords should not enter the premises or remove any items until officers have completed their enquiries.

19. The initial source of the request should be kept informed of progress.

20. The following information will be required in order to register the death:

- Date and place of death
- Name and surname of deceased
- Sex
- Maiden surname of woman who has married
- Date and place of birth
- Occupation and usual address
- Name and surname of informant
- Qualification to register, i.e. causing the disposal of the body
- Cause of death (medical certificate of death or coroner's form)
- On registration, obtain a copy of the death certificate as this will need to be produced when reclaiming funeral expenses from the estate

21. After the death is registered, the registrar will issue a 'certificate for disposal' (a requirement of the Births and Deaths Registration Act 1953). It should be handed to a nominated funeral director who will complete the necessary forms required by the burial/cremations authority. An obituary notice should be drafted for publication in the local newspaper for a minimum of one day.

Arranging the funeral

22. These arrangements should be discussed with the funeral director and will reflect the current level of Covid-19 control relating to funerals. These may include:

- Providing for the collection and storage of the body prior to the funeral
- Hygienic preparation of the body
- Provision of a coffin
- Provision of a hearse for the funeral and transport to the cemetery/crematorium
- The funeral director's professional fees
- There will also be charges for burial/cremation, doctor's fee, minister's fee and the fee for an obituary or other notices put in newspapers.

18. A local funeral director can be contracted to provide the arrangements for such funerals. There are no requirements as to minimum standards contained in the law, but morally it should not be possible to distinguish a publicly arranged funeral from a privately arranged one.

19. The investigating officer should check whether there is a family grave in the district that has room for another coffin (this may be the expressed wish of the deceased). If no family grave exists, the burial can take place in a public grave at the discretion of the burial authority. For cremation, the ashes may be scattered in a garden of remembrance.

20. If a Section 46 funeral is to be conducted, any known relatives should be asked to complete form S46C which confirms that they are unable/unwilling to arrange for the disposal of the body and that they acknowledge and agree that the local authority will collect any and all such money available or which will become available to pay for it. It must also be made clear to any relatives that they may attend the funeral (subject to Covid-19 limitations), although they do not have a say in the arrangements.

21. The funeral director should be asked to arrange the funeral. Unless the deceased would have preferred a burial, it can be a cremation.

22. The reasons for agreeing to a Section 46 funeral should be made clear by the completion of form S46D.

Advertising/publicity

23. Although any known relatives, friends, neighbours, etc. should be informed of the funeral arrangements, the local authority does not have a statutory obligation to advertise the death. The restrictions relating to Covid-19 must be taken into consideration when deciding how many and who to notify of the funeral arrangements as there are likely to be limits on numbers that can attend.

Payment for the funeral

24. The invoice from the funeral director should be passed to the officer designated as being responsible for Section 46 funerals. Any cash recovered from the property can be used to offset the funeral costs. Recovered property can be sold to help raise funds for covering the funeral expenses. Bank accounts and other savings schemes, insurance policies and pension plans can also be approached for finances to offset the costs of arranging the funeral – the costs can include reasonable officer time.

25. A record of payments, costs, etc. should be made on S46E. Afterwards, if the estate has a net cash residue of over £500.00, it must be referred to the Treasury Solicitor on form BV1A.

<https://www.gov.uk/government/publications/bona-vacantia-estates-referral-form>

26. Other issues

On occasions, these situations can become very complicated. For instance, the relatives refuse to acknowledge that they are actually related to the deceased, even if they have the means to pay for the funeral. This may be due to them being unwilling to pay for the funeral or because they have mental health problems. The council's legal team often needs to become involved before a satisfactory outcome is found. This may mean that the council pays for all the expenses. This will also be the case where there is a public burial and the deceased has no property of any worth. A third possibility is that the deceased's premises are filthy and verminous, in which case see RIAMS procedure entitled 'Filthy and Verminous Premises'.

Record keeping

27. When an initial enquiry relating to a potential Section 46 funeral is received, a case file should be opened. The initial enquiry form and all subsequent forms, receipts, financial information and personal information relating to the deceased should be kept in the file. When the process has been concluded, the file should be retained for future reference for a minimum of seven years.

Local Procedures

[Works in default contact for entering premises](#)

[Funeral director contracted to act on behalf of the local authority](#)

[Details of the Registrar of Burials and Cremations](#)

Enforcement

Recovery of expenses would normally be pursued by the local authority solicitor and finance officer as a civil debt on the deceased's estate.

Power of Entry

Section 61 of the Public Health (Control of Disease) Act 1984 permits access provided 24 hours' notice has been given to the owner/occupier. If access is denied or it is a case of urgency the case officer, if duly authorised, may apply to a justice of the peace for a warrant to enter the premises by force if necessary.

Further Guidance

See: [Environmental Health / Public Health / National Policy and Guidance / Funerals and Exhumations](#)

Documents

See: [Public Health / Documents / Funerals and Exhumations](#)

S46A – Initial enquiry form

S46B – Record of items removed from premises – this should be in duplicate so that a copy can be left with a relevant person when leaving the property.

S46C – Next of kin consent form

S46D – Record of decision and authorisation

S46E – Record of receipts and disbursements

Not on RIAMS

[When A Patient Dies: Advice on Developing Bereavement Services in the NHS](#)

[Covid-19: Guidance for managing a funeral during the coronavirus pandemic](#)

Related Procedures

See: [Public Health / Procedures / Funerals and Exhumations](#)

Public Health Act Funerals

[Public Health / Procedures / Filthy and Verminous](#)

Filthy and Verminous Premises

