

Cheshire East Council: Policy on the pre-purchase of graves at Cheshire East Cemeteries

This document sets out Cheshire East Council's (CEC) Policy on the pre-purchase of graves at Cheshire East Cemeteries.

The pre-purchase of graves will be permitted at all cemeteries owned by Cheshire East Council; save and except where the remaining capacity (number of empty graves available) is less than 20 years.

This Council policy proposes end advance purchases in all cemeteries where there is less than 20 years of capacity of new grave supply. However, in recognising the need for individuals and families to prepare for their passing or that of a relative, the Council will permit advance purchase by exception where the applicant can present medical evidence which indicates likely forthcoming need within a year.

This protocol is effective from the formal Cabinet approval of 2nd February 2021 and supersedes any previous policy or arrangements. It has been adopted in order to provide a continuing supply of graves in any given cemetery for as long as possible.

Explanation

In Cheshire East, demand for burial provision is currently met by Cheshire East Council's eleven cemeteries, together with town and parish council cemeteries and churchyards.

In 2019, Cheshire East Council published a Cemeteries Strategy. <https://www.cheshireeast.gov.uk/pdf/orbitas/cec-cemeteries-strategy-march-2019.pdf>

The research for this strategy suggests that coffin burials account for 8.4 per cent of all deaths in Cheshire East. Ashes following cremation accounted for approximately 59 per cent of total burials in the council's cemeteries in 2017.

Even accounting for projected increases in the number of deaths, there is sufficient capacity within the council's cemeteries overall to meet demand for new graves for over 30 years.

However, individual cemeteries will run out of space for new graves sooner than this. Unless supplemented in some way, this overall capacity will require at least some people to bury their dead further away from their home location than they would currently.

The following table shows the cemetery capacities at Cheshire East Council owned cemeteries as published in January 2019. This provides a baseline assessment of the residual capacity (graves available for purchase) at each cemetery. This residual capacity is monitored. By utilising the average of graves required at each cemetery each year going forward, it is

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possible to calculate the remaining capacity in years for each cemetery. Where the remaining capacity falls below 20 years, this policy will be activated at that cemetery. This will help to ensure that graves remain available for purchase when needed. The table below shows the position as calculated in the light of utilisation in the year to date:

Cemetery	Available graves (From Cemetery Strategy)	Demand in 2020 (actual demand)	Estimated capacity in years
Alderley Edge	1,322	24	55
Congleton	792	9	88
Crewe Meadow Brook	6,705	38	175
Macclesfield	2,718	48	56
Nantwich	918	38	24
Sandbach	235	30	8
Weston	19	1	19
Wilmslow	283	10	28
Totals	12,992	198	

Utilisation and its impact on availability of graves going forward shall be kept under review. The choice of 20 years supply as the starting point for this policy reflects guidance from Orbitas. In their experience, the speed at which the remaining grave stock can be rapidly exhausted if this is under 20 years. Choosing 10 years as the starting point would leave the Council vulnerable to exhausting the stock of graves before this policy could protect it.

Purchased (private or family grave)

When a person purchases the exclusive rights in a grave site, it enables them to decide who may be buried in the grave and this is normally family members. No-one may be buried at the grave site and no memorial may be erected upon the grave site without the registered owner's written consent. It does not, however, grant them ownership of the land itself and the local authority retains ownership of all the land in its cemeteries.

From their first establishment in the mid-nineteenth century, whilst it was lawful to grant exclusive rights for any period, it became standard practice to grant exclusive rights in perpetuity. From 1974, the Local Authorities' Cemeteries Order 1974 (LACO) limited the periods for which rights may be granted to a maximum of 100 years. This does not apply retrospectively, and any rights granted prior to 1974 in perpetuity are still legally valid.

Apart from in London, local authorities have no powers to extinguish exclusive rights of burial during the period for which they were granted, whether in perpetuity or for a specified period. This procedure is correctly termed 'reclamation' when, as in London, it involves the use of legal powers to extinguish exclusive rights of burial that are otherwise still operative. As a consequence of the lack of these statutory powers outside of London, there are many thousands of graves in cemeteries throughout England and Wales in which sufficient space

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remains for further burials to be undertaken without any disturbance of original burials, but this space cannot be used except with consent of the original owner of the exclusive rights or their successor. The only exception is where the exclusive rights were purchased 75 years or more ago, but never actually utilised. This occurs when a person buys the exclusive rights in a grave as a means of reserving it for future use, but then does not use the grave.

There may be many such reserved graves where exclusive rights have been purchased before 1943 and the graves have never been used. Using powers contained within LACO, the Local Authority may extinguish these old, unused rights so that the space in such empty graves may be released for use today. This requires the local authority to serve 6 months' notice of its intention to extinguish the rights. The original owner (or their successor) may object and retain the ownership of the rights. Whilst these are useful powers, this will involve a significant investment in resources to release this latent capacity.

Pre-purchase of graves

There has been a rise in the popularity of funeral planning. Individuals and families do like to pre-purchase graves. This ensures that relatives can be buried in either the same grave or in close proximity. Whilst there is plenty of capacity in a cemetery it is desirable to permit this practice.

However, as cemeteries approach capacity there is a need to manage the availability of grave space. It is normal practice to allow advance purchases but as capacity starts to reduce it is also common practice to stop advance sales because available plots will run out faster.

This Council policy proposes ending the advance purchase of graves in all cemeteries where there was less than 20 years of capacity of new grave supply. However, in recognising the need for individuals and families to prepare for their passing or that of a relative, the Council will permit advance purchase by exception where the applicant can present medical evidence which indicates likely forthcoming need within a year.

The Council believes that this policy will be fair to local residents as it protects the availability of grave space to cater for local need into the years when the cemetery nears capacity.