



TOURISM, COMMUNITIES, CULTURE AND LEISURE COMMITTEE

Thursday, 23rd January 2025

REPORT TITLE:	UPDATE ON THE REVIEW OF COMMUNAL GRAVES IN WIRRAL
REPORT OF:	DIRECTOR OF NEIGHBOURHOODS SERVICES

REPORT SUMMARY

This report provides this Committee with an update on the actions that have been taken to date to acknowledge and recognise the deeply sensitive and historic issue which led to the practice of stillborn babies being buried in communal graves, which was once common practice across the country. The report also sets out proposed future actions to support bereaved families.

This report aligns with the Council Plan 'Wirral Working Together' for 2023-2027: working together to create a more efficient, effective, and accessible council.

This matter affects all Wards within the Borough.

This is not a key decision.

RECOMMENDATION

The Tourism, Communities, Culture and Leisure Committee is recommended to note and endorse the content of this report and highlight any areas requiring further clarification or action.

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATIONS

- 1.1 The Council, having been made aware of the burial of still born babies in communal graves within Wirral Cemeteries, has taken a number of steps to recognise and work with affected families to acknowledge this historic practice.
- 1.2 This report sets out the actions that the Council has taken to acknowledge this historical practice and to support families by:
 - Assisting families to find the graves of their still born baby
 - Holding services of remembrance; and
 - Providing a memorial to commemorate all babies lost.
- 1.3 This report also sets out the proposed future actions to assist bereaved families.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 No other options were considered as having been aware of this there is a compelling need to recognise this historic practice and to take steps to acknowledge it and work with bereaved families.

3.0 BACKGROUND

- 3.1 The Council first became aware of this issue in November 2022, following a BBC North West news feature which highlighted a parent's efforts to locate her still born daughters grave in Manchester. This led to a growing number of requests to the Council for help from Wirral families wishing to locate their stillborn babies' graves.
- 3.2 Subsequent investigation into this issue highlighted that between 1950s and 1970s, it was widely believed by medical professionals and society that the best course of action for mothers after the loss of a baby was for them to 'move on' by not participating in the funeral. Hospitals would typically arrange for the burial of stillborn babies in communal graves, often without informing parents. This was thought at the time to help the mother recover more quickly from their loss.
- 3.3 Burials in communal graves was once a common practice, not just in Wirral but nationally. This would typically occur when families either did not have an existing family grave or when they were unable to purchase a grave themselves. A communal grave is one for which the 'Exclusive Right of Burial' is retained by the burial authority, allowing unrelated individuals to be buried in the same grave. Each burial in a communal grave was performed with respect with the grave being closed after each interment.
- 3.4 While some communal graves were left unmarked others had a communal headstone erected on the grave which allowed parents to have the name of

their baby inscribed on the memorial if they wished to do so. Parents were also able to place small tributes on the grave in memory of the stillborn babies buried there.

- 3.5 Wirral Council manages eight cemeteries, records indicate that 1,287 still born babies were interred in unmarked communal graves in four of these cemeteries between 1935 and 1981; providing an indication of the extent of the issue of parents not being informed of their still born babies grave location:
- Bebington Cemetery – 1 interment in 1962;
 - Frankby Cemetery – 16 Interments between 1973 and 1981;
 - Landican Cemetery – 1,063 interments between 1935 and 1971; and
 - Plymyard Cemetery – 207 interments between 1940 and 1976
- 3.6 As previously stated, it is recognised that some families were not informed of the burial of their stillborn babies or the location of their babies' grave by the relevant Hospital. While this was thought best at the time by medical professionals, today it is accepted that knowing the location of loved one graves is an important part of the grieving process. Equally the importance of providing parents with choices and support in these difficult moments is better understood.

Actions taken to date

- 3.7 The Council, having been made aware of these historic practices, has sought to work with the bereaved families in a number of ways.
- 3.8 The Cemetery Service arranged a Baby Memorial Service, for bereaved families effected, held at Landican Cemetery Chapel on Saturday 11 February 2023. Several staff, offering their recognition and support for these families, volunteered their time to support this service. This memorial service was organised in partnership with a local celebrant and the Bereavement Midwife from Arrowe Park Hospital. The service was also webcast, for those not able to attend in person. The service was well attended with positive comments received from the bereaved families affected.
- 3.9 Shortly after the service, work commenced on providing two memorials to commemorate all babies lost. These were placed in Landican Cemetery and Wallasey Cemetery. This was done to provide a physical memorial and focal point for the bereaved families.
- 3.10 The Baby Memorial Service, held in February 2023, also led to bereaved families seeking answers to how these burials were undertaken in the past. Cemetery staff held a number of meetings with families. Whilst most burials within communal graves took place before the Council was created, in April 1974, and before many current staff were born, the service was able to provide assurances to the families using their knowledge of grave preparation and interment. This included assurances that communal graves would have been filled in after each interment and not left open. Communal graves would only have been opened to prepare for a further interment, on the morning of the burial and covered with a board until the time of the burial. Following the burial

the grave would have been back filled until the next time it was required for burial.

- 3.11 Cemetery staff at Landican Cemetery also assist bereaved families in locating the graves of their loved ones within Wirral Cemeteries. As with a burial in a private grave, burial records were kept for all burials in communal graves, allowing people to trace the resting places of their loved ones over the years. Council staff at the Landican Cemetery Office assist families by undertaking searches in both the Burial Register and Graves Register to provide information and locate the grave that their baby was buried in.
- 3.12 Copies of Wirral Councils Burial Registers are also provided on microfilm and are available from the Archive Service and Birkenhead Central Library, allowing families to search the records themselves. Grave Registers, which provide details of the birth parents and their address, however, are not publicly available for inspection.
- 3.13 On Monday 13 November 2023 a second Baby Memorial Service was held, including the unveiling of a dedicated memorial at Landican Cemetery. This was attended by the then Mayor of Wirral, Councillor Jerry Williams. The memorial service was held within the 'Forget-me-not Baby Garden' at Landican Cemetery, an area of the cemetery set aside in recognition of all babies buried and cremated.

Proposed next steps

- 3.14 In September 2024 Oldham Council launched, an on-line version of its Burial Register. In doing so it also recognised the historic practice of burying still born babies in communal graves. The on-line publication of these records has resulted in a call for the Council to also to make Burial Register and Grave Registers more publicly accessible.
- 3.15 The service is currently seeking quotes from its current cemetery IT suppliers to provide a similar on-line record to Oldham Council, based upon the Burial Register. Once quotes are received the service will seek the additional funds and resources to digitise records and provide these on-line in a similar way to Oldham Council
- 3.16 It is not considered that there is a sound legal basis to publish the Graves Register. This is not currently publicly available. Publication of this information could cause distress to the families of still born babies by disclosing the names and addresses of parents included in the Graves Register. This is information that parents may not wish to be placed in the public domain, and which they may not be aware are recorded in the Graves Register due to way interments were arranged by Hospitals at that time.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The costs associated with digitising records and providing these on-line are expected to exceed the current budget allocation, within the service, for its IT

Support. Once quotes are received additional funding would need to be identified and agreed.

5.0 LEGAL IMPLICATIONS

- 5.1 Cemeteries across the UK adhere to strict regulations to ensure that all burials including those of stillborn child are conducted with dignity and respect. The Burial Act 1852 and the Cemeteries Clauses Act 1847 were repealed and replaced with Local Authorities Cemeteries Order 1977 (LACO) which sets the general parameters under which the Council's Cemeteries operate today.
- 5.2 LACO empowers the Council to maintain plans showing and allocating distinctive numbers to all graves in which burials are made and maintain records of the burials made in any grave.
- 5.3 In relation to computerised records, Article 11 of LACO was amended by The Local Authorities Cemeteries (Amendment) Order 1986 to allow for the "maintenance of registers on computer and provides that a burial authority shall maintain a register of all burials in a cemetery in a book or books provided for the purpose, or in a computer. The pages in which entries are to be made shall include columns headed:
- Number;
 - Date of Burial;
 - Deceased name in full;
 - Age;
 - Address;
 - Grave or Vault number;
 - Other particulars; and
 - Signature of person directing or making entry
- 5.4. LACO (as amended) provides that where the register of burials is maintained in a computer the burial shall be entered in the computer so as to ensure that any document produced by the computer in relation to that burial contains the same information as would have been recorded if the burial had been entered in a book. It provides that the register of burial shall at all reasonable times be available for consultation by any person free of charge. This will guide any future digitisation of burial records.
- 5.5 The issue of 'public documents' such as Burial Registers and Grave Registers and the relationship to the General Data Protection Regulation (GDPR) is a complex one. The definition of a public document and access to them is contained within *Sturla v Freccia* (1880). This case related to hearsay and the use of documents used as evidence. The case makes clear the document in question must be "public" in three senses. First, the document must be made by a public officer, i.e. an officer acting under a public duty when creating the document. Secondly, the document must be public in the sense of it being created for an official, as opposed to a private purpose. Thirdly, it must be a public document in the sense of its purpose; it must be made for the purpose of the public making use of it. "Public" does not mean the whole world. It

means all those who would have a legitimate interest in the matter that is recorded in the document.

5.6 Legitimate Interest in relation to General Data Protection Regulation (GDPR) places a responsibility on the Council to protect an individual's interests. GDPR sets out the three elements that must be proved to qualify as 'legitimate interest' in that a person needs to:

1. Identify a legitimate interest;
2. Show that the processing is necessary to achieve it; and
3. Balance it against the individuals' rights and freedoms.

Whilst a legitimate interest can be a person own interest, or the interests of third parties which can include broader societal benefits, the processing of the information must be necessary. If it can reasonably achieve the same result in another less intrusive way, legitimate interest will not apply.

5.7 The merits of making the contents of Grave Registers publicly accessible via an on-line system has been considered but is not recommended, for the following reasons: -

- Grave Registers contain person details of potentially living persons in the form of grave ownership or parents of other children buried in a communal grave. Therefore, the legitimate interest test, contained within GDPR applies.
- Whilst a legitimate interest to a public document can be a person's own interest, or the interests of third parties which can include broader societal benefits, the processing of the information must be necessary. As the information allowing an interested person to search for the burial location of a deceased person can reasonably be found via the Burial Register, the same result is able to be achieved in another less intrusive way than that of a Grave Register and therefore a legitimate interest to have access to the information contained within a Grave Register will not apply.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 ICT: There are no ICT implications arising directly from this report, However, these will need to be considered as part of considerations for future options including the provision of burial registers online.

6.2 Staffing: There are no staff implications arising directly from this report. However, as with ICT implications, these will need to be considered as a part of any future considerations.

6.3 Assets: There are no asset implications arising directly from this report. However, as with Staffing implications, these will need to be considered as a part of future considerations.

7.0 RELEVANT RISKS

7.1 The subject of this report is a deeply sensitive issue which may cause distress to families who are already grieving, regardless of how much time has

passed. A failure to address these issues in both a timely and sensitive way carries a reputational risk for the Council.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The service has actively engaged with families and groups to agree and take forward the actions contained within this report.
- 8.2 It is recognised that further on-going engagement with families and other key stakeholders will need continue to ensure that future actions are understood and supported.

9.0 EQUALITY IMPLICATIONS

- 9.1 The Council has a legal requirement to make sure its policies, and the way it conducts its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision, or activity.
- 9.2 There are no equality implications arising from this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no direct environment and climate implications arising from this report.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 There are no community wealth implications arising from this report.

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APPENDICES

Not applicable

TERMS OF REFERENCE

This report is being considered by the Tourism, Communities, Culture and Leisure Committee in accordance with Section G of its Terms of Reference, "in relation to bereavement services and support to the Coroner's service."

BACKGROUND PAPERS

- ICCM Guiding Principles for Burial and Cremation
- ICCM Statement – Communal Graves 17th October 2024
- ICCM policy and Guidance for Baby and Infant Funerals (September 2015)
- Local Authorities Cemeteries Order 1977 (as amended).

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	