

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 05 December 2023

TITLE	Flax Bourton Mortuary Byelaw	
Ward(s)	The Avon Coroner area covers Bristol City, North Somerset, Bath and North-East Somerset and South Gloucestershire councils.	
Author: Yvonne Dawes	Job title: Head of Statutory Registration	
Cabinet lead: Cllr Craig Cheney - Deputy Mayor and Cabinet Member for Finance, Governance and Performance	Executive Director lead: Tim O’Gara	
Proposal origin: BCC Staff		
Decision maker: Full Council Decision forum: Full Council		
Purpose of Report To recommend that Full Council pass a byelaw to enable the council to commence charging for storing of deceased people at Flax Bourton Mortuary where the funeral director delays collection.		
Evidence Base: Flax Bourton Public and Forensic Mortuary provides mortuary and autopsy services for the Senior Coroner for Avon. The mortuary is used to investigate unexplained or unnatural deaths that occur in the Bristol, South Gloucestershire, North Somerset, and Bath and North-East Somerset council areas. When the coroner has finished investigating the cause and other details of a death, she releases the deceased person for collection by a funeral director. The funeral director, who is usually appointed by the deceased’s family, is responsible for storing the deceased until they are buried or cremated. There is increasing pressure on storage capacity at Flax Bourton Mortuary due to funeral directors delaying collection of the deceased until shortly before the funeral. The proposals will therefore affect funeral businesses and may indirectly affect people who use them in any of the four authority areas. Bereaved people can expect the payment they make to funeral directors and direct cremation companies to include the cost of storing their deceased relatives/friends until the funeral or cremation/burial. There are increasing numbers of ‘direct cremations’. These are ‘no frills’ funerals where the provider often does not have a mortuary and relies on storing the deceased person in public sector mortuaries such as Flax Bourton Mortuary and NHS mortuaries. There is also a lack of capacity in some funeral directors’ own mortuaries, which leads them to leave deceased people they are responsible for in Flax Bourton and NHS mortuaries. In response to these pressures on mortuary space, local NHS hospital mortuaries and the two largest funeral directors in the former Avon area have significantly increased their mortuary storage capacity in recent years. However, funeral directors still do not have enough mortuary capacity and are keeping deceased people at Flax Bourton Public and Forensic Mortuary for long periods after the coroner has released the bodies for collection. Consultation summary outcome: There were 78 responses to the public consultation were received from 45% public, 31% funeral directors (none of which are direct cremation businesses) 10% NHS mortuaries, 6% bereavement		

organisations, as well as national funeral director associations. 69% agree or strongly agree with the proposal for a daily charge and 27% strongly disagree or disagree. 48% think that charges should start sooner than April 2025; 35% think it's about the right time and 17% think charges should start later. Please see appendix B for the full report.

Cabinet Member / Officer Recommendations:

That Cabinet:

1. Recommends to Full Council that a byelaw be passed permitting the council to commence charging for storing of a deceased person at Flax Bourton Mortuary where the funeral director delays collection.
2. Notes the outcome of the consultation as set out in this report and appendix B.

Corporate Strategy alignment:

Good Governance - Make sure that we are financially competent and resilient, offering good value for money.

City Benefits:

The proposed byelaw would permit charging of funeral directors and is intended to manage this pressure at Flax Bourton Mortuary and to allocate the costs more fairly from the local authorities – funded by taxpayers - to private funeral directors.

Consultation Details:

Public consultation undertaken from 19th September 2023 to 31st October 2023 – see consultation outcomes document appendix B.

Background Documents:

Proposed byelaw.

Revenue Cost	£0	Source of Revenue Funding	N/A
Capital Cost	£0	Source of Capital Funding	N/A
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1.Finance Advice: The consultation period has now ended, and the feedback supports the introduction of a daily charge for storing of a deceased person at Flax Bourton Mortuary, where the funeral director delays collection, in line with the proposed byelaw.

As BCC is the first local authority to introduce this type of charge, estimating the likely number of cases where charges will apply is extremely difficult, as it hinges upon the extent to which funeral directors accept the need for behaviour change to avoid charges. However, it is expected that a charge will need to be levied in some cases.

Details of the charge and the associated implemented costs are still being finalised. The charge is estimated to be between £120 and £150 per day and based on assumed numbers, implementation costs (staff and IT costs) are likely to be minimal as additional resources are unlikely to be required. However, if once the charge is introduced the volume of cases is significant, there may be a requirement for additional resources, but in such a scenario, it is expected that the income generated would be sufficient to cover any additional costs.

Given that the charges have not been levied previously, any income raised will be additional to current income levels relating to recharges to neighbouring authorities for provision of the mortuary service, which are forecast to exceed budgeted income in 23/24.

Finance Business Partner: Alison Bennett, Interim Finance Business Partner 21st November 2023

2.Legal Advice: Section 198 of the Public Health Act 1936 gives local authorities the power to provide mortuaries and post-mortem rooms and to make byelaws in relation to the management and charging. Legal services is providing continuing support in relation to the process of making and bringing into force the proposed byelaw. The consultation responses must be conscientiously taken into account in finalising the decision. The leading cases on consultation provide that consultation should occur when proposals are at a formative stage, should give

sufficient reasons for any proposal to permit intelligent consideration and should allow adequate time for consideration and response. There must be clear evidence that the decision maker has considered the consultation responses, or a summary of them, before taking its decision.

Legal Team Leader: Husinara Jones, Team Manager/Solicitor, 27th November 2023

3. Implications on IT: There are no IT implications in the proposals in this report.

IT Team Leader: Paul Day, Interim Head of IT Operations, 11th Sept 2023.

4. HR Advice: No HR implications evident

HR Partner: Bryn Williams, HR Business Partner, 4th September 2023

EDM Sign-off	Stephen Peacock	8 th November 2023
Cabinet Member sign-off	Cllr. Craig Cheney	6 th November 2023
For Key Decisions - Mayor's Office sign-off	Mayor's Office	15 November 2023

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	YES
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	NO
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO