



**Agenda Item No:**

**Report To:** Cabinet

**Date of Meeting:** 28<sup>th</sup> November 2019

**Report Title:** Ashford Borough Council Cemetery Provision; Challenges and Solutions

**Report Author & Job Title:** Joanne Burns, Cemeteries Officer

**Portfolio Holder** Cllr. Andrew Buchanan  
**Portfolio Holder for:** Environment and Land Management

**Summary:**

A recent review of cemetery provision has identified the projected capacity of our cemeteries over the coming years. Based on current demand we have adequate availability of grave space within our cemeteries for the short - medium term future. The borough is however expected to see a rapidly increasing population, particularly in the over-65s demographic with an increasing death rate of +45% between 2017 and 2041 putting increasing demand on our provision of grave spaces.

This report provides details of the challenges being faced along with potential solutions,

**Key Decision:** YES

**Significantly Affected Wards:** All wards in the Ashford Borough

**Recommendations:** **The Cabinet is recommended to:-**

- I. **Agree that interment fees are scaled up for non-residents of the borough in accordance with the information in paragraph 45 to protect burial ground for the borough's residents.**
- II. **Agree that delegations are given to the Head of Environment and Land Management in conjunction with the Portfolio Holder to apply discretion where applications are made for interments from families of previous residents of the borough.**

**Policy Overview:** Ashford, as a burial authority has a responsibility (but not a statutory duty) to provide appropriate burial provision for residents of the borough that meets the needs of the boroughs ethnically diverse population.

**Financial Implications:** None

**Legal Implications:** The Local Authorities' Cemeteries Order 1977

**Equalities Impact Assessment:** See Attached

**Other Material Implications:** None

**Exempt from Publication:** No

**Background Papers:** None

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## Report Title: Ashford Borough Council Cemetery Provision; Challenges and Solutions

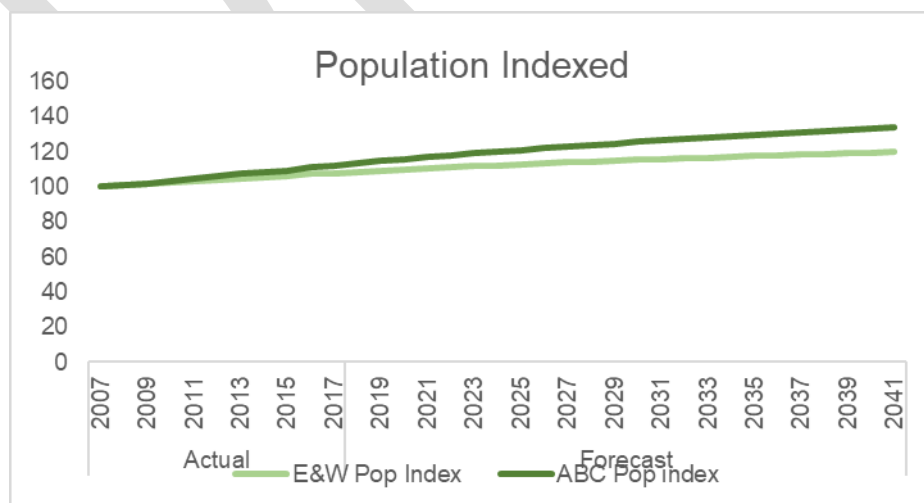
### Introduction and Background

1. Although there is no statutory obligation for a local authority to provide burial space for its residents, it is deemed normal practice to do so. Once in place, we have an obligation to maintain cemeteries but we do not have an obligation to provide new sites / provision.
2. This report reflects recent work undertaken to assess the quality, type and available space in our cemeteries. This has been used with population predictions to extrapolate the need for future provision.
3. A regular review of cemetery provision is carried out by the local authority but this is the most extensive and comprehensive for a number of years. Following this report a similar review will be undertaken every 2 years to ensure we continue to understand the changing needs of our expanding population.

### Demographics and statistics

#### Population

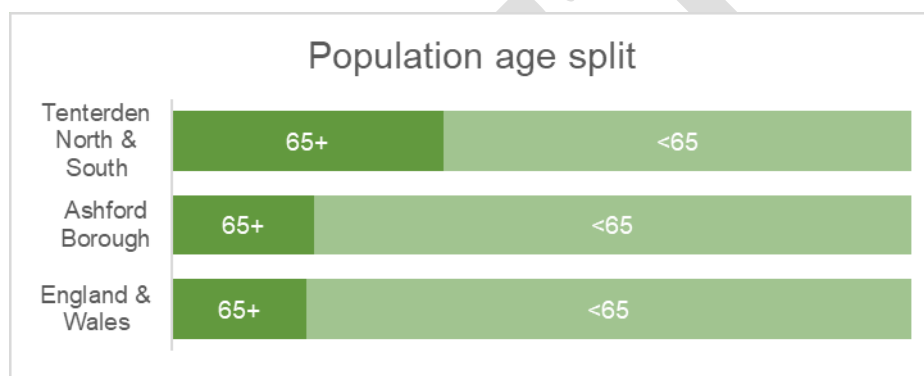
4. The population of Ashford has rapidly increased in recent years due to the building of new housing and net migration into the borough, a trend that is forecast to continue. Based on the last ten years, the population in Ashford has grown at a faster pace than England and Wales as a whole, placing further demand on our cemetery services. Currently the population of the borough is estimated at 130,000 but this is projected to rise by 17% to 152,000 by 2041<sup>1</sup>.



<sup>1</sup> NOMIS April 2019

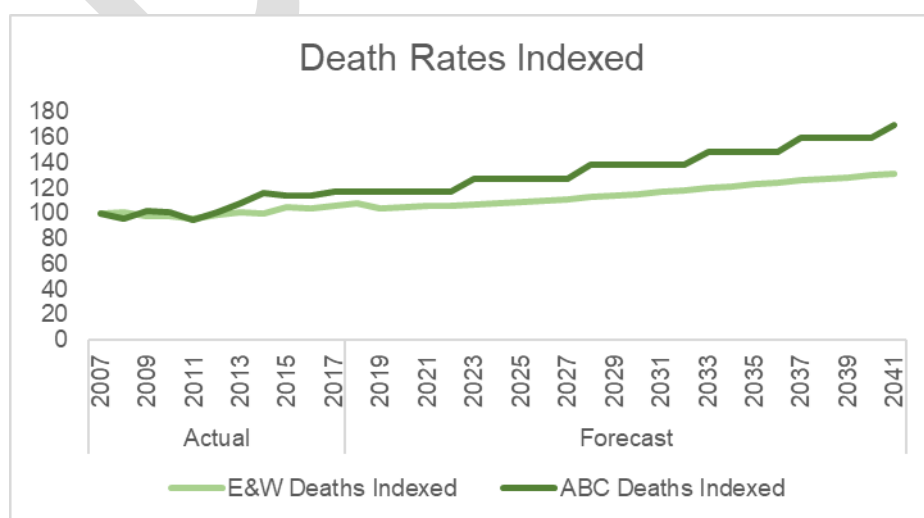
## Age

- 85% of all deaths that occur in England and Wales are from those aged 65 years or older and this demographic is represented in the borough with 87% of all adult interments being for those aged 65+. Subsequently, alongside a general increase in the local population we can also expect an increase in the number of those in older age.
- In 1991, those aged 65+ in the borough represented just 16% of total population, however this is estimated to rise to 20% in 2021 and continue to increase to more than a quarter by 2041<sup>2</sup>. This is particularly noticeable in our Tenterden wards where more than a third of residents are over 65 years of age.



## Mortality

- Statistically death rates increase from the age of 64 years up, something that corresponds with the average age for adults we inter in the Ashford area of 78 years old. According to an Office for National Statistics (ONS) study, the death rates in Ashford are projected to increase by 45% between 2017 and 2041.<sup>3</sup> With the population both increasing and aging, it is inevitable that death numbers in both England and Wales, and more specifically in Ashford, will increase.



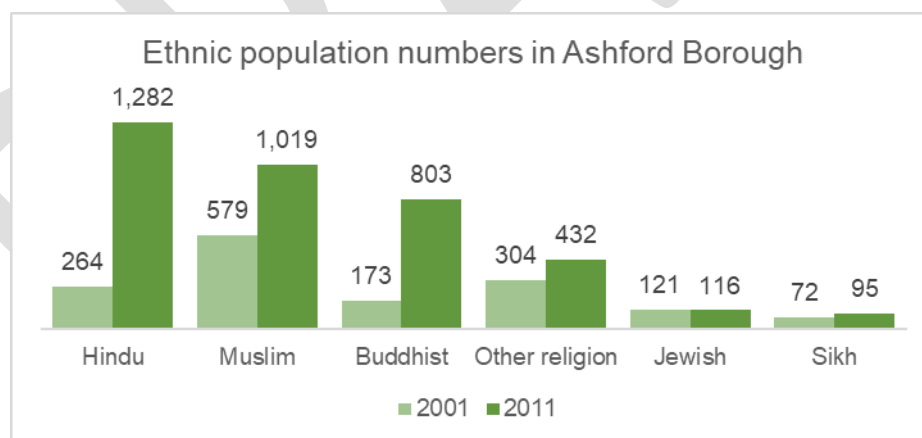
<sup>2</sup> NOMIS April 2019

<sup>3</sup> 2016-based subnational population projections ONS

## Ethnicity and religious beliefs

8. Ethnic origins, cultural and religious beliefs have an impact on the type of burial chosen. Some faiths such as Islam and Judaism require a burial to be take place 24 hours following the death where possible, with one grave space used per person and cremation discouraged. This has an impact on the area required for burials.
  
9. In recent years the borough has become more ethnically diverse with a rise in the Gurkha population (largely practicing Hinduism or Buddhism), Muslim population and Gypsy/Irish Travellers<sup>4</sup>, evident by the quantity of burials for these groups at our cemeteries. Interestingly, whilst we see an increase in the relatively less represented ethnic groups, there has been a decline in the majority Christian population and growth in those saying they follow no religion at all. These trends are anticipated to continue and we must ensure our provision is sympathetic to all beliefs where possible. Ashford cemeteries do currently reflect the diversity of the borough by providing tailored faith sections, with Bybrook in particular having Consecrated, Catholic, Islamic, Gurkha and non-faith sections; something that is not a feature of other local authority burial grounds.

% of Population by Ethnic Grouping in Ashford Borough									
Year	Christian	No religion	Religion not stated	Hindu	Muslim	Buddhist	Other religion	Jewish	Sikh
2001	76%	15%	7%	0.3%	0.6%	0.2%	0.3%	0.1%	0.1%
2011	63%	26%	8%	1.1%	0.9%	0.7%	0.4%	0.1%	0.1%



## Proposal/Current Position

10. Understandably as the number of deaths in the borough have increased, so too have the number of burials, whether full coffin or ashes. Our cemeteries do not receive all bodies following a death, as 78% of all people will choose to have a cremation rather than a burial.<sup>5</sup> In the table below it can be seen that circa 13% of all deaths in the borough result in a burial in our land whether coffin or ashes

<sup>4</sup> 2001 and 2011 Census

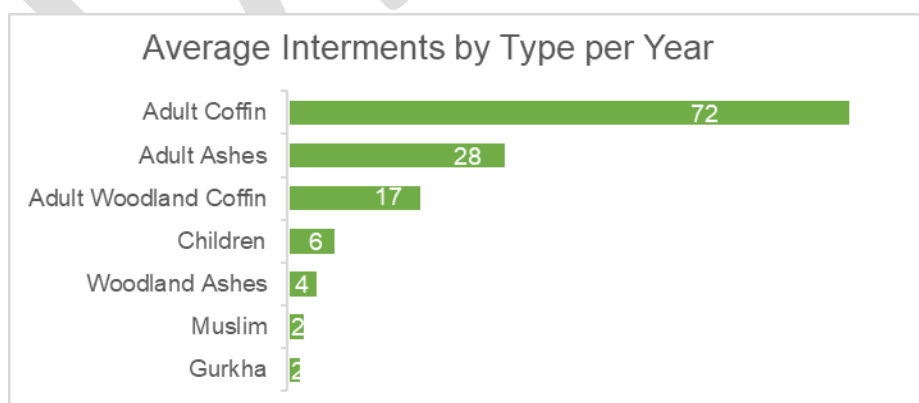
<sup>5</sup> The Cremation Society of Great Britain

interments, which means the remainder must have a cremation with no ashes interment in our cemeteries or are buried in local graveyards or taken outside of the borough for funeral arrangements.

	2011	2012	2013	2014	2015	2016	2017	2018	2019
Ashford Deaths	888	947	1,018	1,087	1,075	1,077	1,078	1,100*	1,100*
Coffin Burials**	90	93	93	105	90	115	110	96	91
Coffin Burials as % of Ashford deaths	10.1%	9.8%	9.1%	9.7%	8.4%	10.7%	10.2%	8.7%	8.3%
Ashes Burials**	23	26	31	40	32	36	25	28	30
Ash Burials as % of Ashford deaths	2.6%	2.7%	3.0%	3.7%	3.0%	3.3%	2.3%	2.55%	2.73%

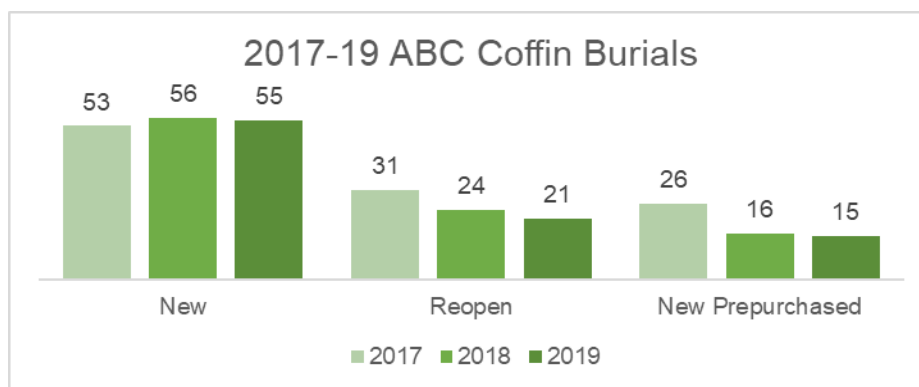
\*estimates from ONS. \*\*New and Reopened graves

11. Even though demand for cremations has increased over time, burial by coffin is still a popular choice, averaging at 99 per year within our cemeteries. In 2019, we have experienced record numbers of interments with 91 already completed by early September.
12. The borough does have a privately run Crematorium at Charing, and the majority of all ashes for interment by us originate from here. There are still some active churchyards allowing burials of coffins and ashes within the borough but they are usually limited to those resident within the parish prior to their death, limiting their use by the majority.
13. Our most widely used cemetery is Bybrook with half of all interments taking place there, followed by a quarter in each Willesborough and Tenterden. Canterbury Road cemetery is still active for burials however we are currently only reopening family graves in this cemetery.
14. 55% of all our interments are adult coffin burials (new grave or reopened plot), followed by 21% adult ashes, 13% adult woodland coffin burials, with the remaining 11% of interments children, woodland ashes, Gurkha and Muslim burials combined. These numbers demonstrate how much demand we still have for full burials despite the popularity of cremations.



15. In terms of how much physical ground space is used per interment, we are primarily concerned with new coffin burials. This is where a new piece of ground is dug for a grave that has not been previously purchased for future use or already occupied. In 2019 to date, 77% of all coffin interments were new, and 23% in graves previously used and reopened to inter further people. This means that the majority of the time we are progressively using up new ground for burials. We do have some new interments that use space that has been purchased

ahead of time but this equates to just 16% of all interments with most people preferring to buy to use immediately.



### Forecast demand and capacity

16. The table below shows the percentage of grave space capacity left at our cemeteries by type. These figures exclude those purchased but not yet used as they prevent us from using these for the majority of new interments.

Cemetery	Standard Adult	Gurkha	Muslim	Woodland	Children	Ashes
Bybrook	12%	95%	70%	24%	64%	98%
Willesborough	13%	100%	N/A	N/A	59%	34%
Tenterden	9%	N/A	N/A	3%	62%	36%
Canterbury Road	0%	N/A	N/A	N/A	0%	0%
Grand Total	7%	95%	70%	17%	63%	42%

17. Woodland space is limited as it proved very popular when introduced and 22% of all total plots have been pre-purchased by residents for future use and are unavailable for new burials. There is less pressure on the woodland area at Bybrook due to a 'meadow' area recently created (for burials without trees).

18. Of highest concern is the number of vacant plots for standard coffin burials within all cemeteries. Tenterden's capacity has been capped due to single-depth burials only able to take place due to ground water levels preventing deeper interments and the remaining lawn area for coffin burials too steep to use realistically, safely and respectfully. All of this is compounded by a larger than average over 65 population in the area. The cemetery is also further away from other urban areas in the borough and residents prefer to stay local rather than have to travel further distances to our other cemeteries closer to Ashford town centre.

19. Our Gurkha section in Willesborough has 32 plots available and has so far not been used, whilst the larger area in Bybrook has only had 5% of the allocated plots used to date. Our Muslim section at Bybrook is also fairly underutilised to date but due to changes in the ethnic make-up of the borough over time these areas are expected to become more widely used.

20. Canterbury Road Cemetery has no spare capacity left as all graves are either purchased or occupied.

21. Based on average demand from the last eight years, the table below details the number of years that we estimate remaining per section for new graves. Demand does not include reopening graves or those pre-purchased.

Current Demand		Adult	Gurkha	Muslim	Woodland	Children	Ashes
Bybrook	Vacant spaces	738	347	93	135	457	41
	Avg demand 2011-2018	21.6	1.8	2.3	6.7	5.4	4.0
	Capacity in years	34.1	192.8	40.7	20.3	85.0	10.3
Willesborough	Vacant spaces	609	32	N/A	N/A	43	38
	Avg demand 2011-2018	6.8	0	N/A	N/A	1.3	3.3
	Capacity in years	90.2	32.0	N/A	N/A	32.3	11.6
Tenterden	Vacant spaces	173	N/A	N/A	9	37	101
	Avg demand 2011-2018	7.0	N/A	N/A	3.2	1.5	4.7
	Capacity in years	24.7	N/A	N/A	2.8	24.7	21.4
Canterbury Road	Vacant spaces	0	0	0	0	0	0
	Avg demand 2011-2018	0	0	0	0	0	0
	Capacity in years	0	0	0	0	0	0

22. If we take the projected death rate increase of +45% to 2041 as forecasted by ONS for the borough however, the lifespan of Bybrook for standard coffins falls by over ten years with Tenterden falling by seven years.

Forecasted Demand		Adult	Gurkha	Muslim	Woodland	Children	Ashes
Bybrook	Vacant spaces	738	347	93	135	457	41
	Avg demand 2011-2018	31.4	2.6	3.3	9.7	7.8	5.8
	Capacity in years	23.5	133.0	28.1	14.0	58.6	7.1
Willesborough	Vacant spaces	609	32	N/A	N/A	43	38
	Avg demand 2011-2018	9.8	0.0	N/A	N/A	1.9	4.8
	Capacity in years	62.2	32.0	N/A	N/A	22.2	8.0
Tenterden	Vacant spaces	173	N/A	N/A	9	37	101
	Avg demand 2011-2018	10.2	N/A	N/A	4.6	2.2	6.8
	Capacity in years	17.0	N/A	N/A	2.0	17.0	14.8
Canterbury Road	Vacant spaces	0	0	0	0	0	0
	Avg demand 2011-2018	0	0	0	0	0	0
	Capacity in years	0	0	0	0	0	0

23. Those highlighted in the table could cause potential issues in the future if we do not take any action such as repurposing existing grave allocation, plan for alternative burial options, reviewing fees and charges for cremation interments and burials of non-residents or provide extra capacity to residents ready for when these become full.

## Implications and Risk Assessment

24. The key issues facing our cemeteries are that with a rapidly expanding and aging population the remaining capacity could fall dramatically in coming years. At current rates we have 34 years remaining at Bybrook, 90 at Willesborough and 25 at Tenterden but if the death rates continue as expected, these lifespans will decrease to 24 at Bybrook, 62 at Willesborough and just 17 years at Tenterden.

25. We are not alone however, as even in 2013 a BBC survey found that more than half of all cemeteries in England were due to run out of space within 20 years<sup>6</sup>. With other local authorities and London boroughs reporting running out of or low on grave space, people are starting to look outside of their area for burials and we predict a further rise in non-resident interments. Although they generate

<sup>6</sup> Burial space in England 'could run out in 20 years' [www.bbc.co.uk/news/uk-24283426](http://www.bbc.co.uk/news/uk-24283426)



higher revenues for the borough (currently twice the resident fees) they divert precious space away from residents.

26. Other neighbouring local authorities now only have one main cemetery rather than various ones spread across a borough. This can be inconvenient for families to have to travel a distance to mourn and visit, and in particular if we were to run out of capacity in Tenterden there is no other provision aside from cremation or churchyards that are in the vicinity for residents.
27. Tenterden also has issues that compound the lifespan of the cemetery as a high water table there prevents anything more than single depth burials per grave space, resulting in families purchasing rows of plots for future use so that they can be close to each other when the time comes.
28. Less of an issue at the moment but is an emerging trend, is the increase in coffin sizes, in particular, American-style caskets which fall outside the standard grave widths and take up two grave spaces. This is usually a status purchase to respect the deceased but is also being increasingly seen because of obesity levels equating to larger coffins being required.
29. Our more diverse ethnic mix in the borough over time, with Muslim burials only allowing one burial per grave space and currently our Gurkha plots only being used for one body, also puts pressure on the area of land set aside for interments of these faiths.

## **Potential Solutions and Implications**

30. There are many potential solutions that could be actioned to help improve grave capacity at our cemeteries. Some ideas are already being carried out by other local authorities to tackle the same issue with some solutions controversial and more costly than others. Some suggested ideas for Ashford are:
  - Adapting small areas for ashes plots
  - Repurpose grave types
  - Amend cemetery layouts
  - Deterring burials

### **Adapting small areas for ashes plots**

31. The number of years left for ashes plots is of minimal concern as we are currently making use of smaller parts of land where full coffin burials cannot take place. This has the potential to gain more plots over time as we find smaller areas between standard burials where ashes caskets can be interred. Although it can affect aesthetics of the cemeteries due to graves being out of line, making use of plots that are otherwise untenable for coffin burials is a better use for the ground when space is limited. This is particularly useful at our Bybrook cemetery where there is no dedicated ashes section.

### **Repurpose grave types**

32. It is possible to change the original allocation of grave spaces. At Bybrook, for example, by rededicating some of the less popular meadow area in the woodland to standard adult lawn burials would provide potentially another 60 spaces.

## **Amend cemetery layouts**

33. There are some alterations that could be made to layouts within our current cemeteries to claim back more burial space. This could however have a detrimental effect to the aesthetics of the cemeteries.

- Remove some hedgerows, bushes, trees, flowerbeds – circa 75 burial spaces
- Repurpose some paved areas/roadways/roundabouts – circa 25 burial spaces
- Alter the layout of woodland areas to allocate more plots – circa 20 woodland spaces
- Review the burial depths at Tenterden to allow double-depth burials again, in places where possible
- Raise the land and level at Tenterden to reduce issues with sloping ground and to reclaim circa 100 plots, subject to planning permission
- Instate shared graves as an option- a cheaper price for burial but limited/no memorial and buried with others at different depths
- Reclaim graves that have 'extended' onto adjoining plots with their memorials – circa 6 spaces

## **Deterring burials**

34. Promotion of alternative-style interments to take the pressure away from using new burial space:

- Remind residents that some churchyards are open to burials (although only usually reserved for parishioners)
- Natural interments – at sea or on private land
- Promote cremations as cost-saving, particularly direct cremations without services
- Create an 'Ashford Funeral Package' to encourage direct cremation and lower costs
- Highlight environmental impact of burials and promote alternatives such as promession (freeze-drying) and resomation (water cremation)
- Tree projects – to reduce demand for the limited woodland burials (with trees) at Tenterden and Bybrook by allowing trees to be planted elsewhere in the borough so that there is more burial space to use where trees would normally be planted
- Scatter areas could be created for ashes to promote more choices for those who are cremated to reduce burial demand

## **Equalities Impact Assessment**

35. Members are referred to the attached Assessment.

## Other Options Considered

### Discontinuing pre-purchase of graves

36. Prohibit any graves from being pre-purchased and only allow graves for immediate use. This would remove the issue of old graves that never get used and leave grave space purely for those who require it. There would be push back on this from residents who tend to want to be buried near loved ones and is particularly a problem at Tenterden with the single-depth limit.

### Re-use grave space

37. The number of unused purchased plots is a large problem for cemeteries as grave owners change address and do not inform us and grave purchasers die and do not use their plots as they are buried/cremated elsewhere. Under the Local Authorities' Cemeteries Order 1977, local authorities are able to look at purchased plots where no burial has taken place within 75 years or more to reclaim the burial rights and reuse. There is a lengthy procedure that has to be followed where the re-purchase is advertised, family are researched and contacted where possible as successors could be legal owners of the grave. With the rise in ancestry research we are seeing an increase in long-lost family members looking to repurchase grave spaces that they are legally entitled to so we could have complaints in reusing space.

### Create a new cemetery

38. A more costly but longer term solution would be to purchase new land and create a new cemetery for the borough to boost capacity. This is by no means a simple solution and involves a number of steps, not least:

- procuring land that is in proximity to residents, transport planning, an appropriate size
- hydrology, ecology, archaeology, topography surveys
- planning permission

39. In terms of size, 1.5 hectares would provide 2,511 new coffin burial spaces which would provide an extra capacity of 35 years based on projected death rate increases of 45% to 2041. This has been adjusted for using 30% of space for roads, etc. and for a slightly wider than average grave size of 9' x 5' vs. the usual 9' x 4'. Canterbury Road and Bybrook Cemeteries both currently use over four hectares of space so we would be looking at under half of that area to be used, or perhaps two smaller sites to cover the more demanded areas of Tenterden and Ashford, and to be closer to higher populated areas. 0.3 hectares would give capacity to Tenterden and 463 extra new graves, while 1 hectare in Ashford would provide 1,680 graves to both cover 30 years of new burials.

40. Due to the significant amount of housing and development projects in the borough finding an appropriate area for a new cemetery could prove difficult, however it would allow the opportunity to create a new cemetery layout that maximises the land according to changing borough needs.

41. A project of this scale will take many years to bring to fruition but could be key going forward to ensure that residents always have an option for full coffin or ashes interments.
42. Extending Willesborough could be more viable option, depending on surveys, etc., although access to the site for the general public may need improving. Expanding Willesborough cemetery directly west of the current area could create circa 2,428 burial spaces.

### **No proactive action**

43. As there is no statutory obligation for local authorities to provide cemeteries for residents we could choose to continue interring until such a time that all remaining space has been used and we have to close the cemeteries. Although this has happened in some other local authorities in London it makes for negative press and could be upsetting to residents. Not only do they have to travel further to bury their loved ones, nearly all local authorities charge double or triple fees to inter non-residents making it more of a burden to loved ones and causing increased funeral poverty. If families cannot bury their loved ones it may mean more potential Public Health Act funerals (pauper funerals) where the local authority is obligated to deal with the funeral arrangements if families are unable to pay, putting pressure on tax-payer funds.

### **Reasons for Supporting Option Recommended**

44. All suggestions in paragraphs 33 and 34 above will be investigated and where possible taken forward.
45. Cabinet are being asked to support increased charges for out of borough residents that wish to make use of burial space in our cemeteries. It is proposed that from January 2020, charges for out of borough residents are increased to 3 times resident charges and 4 times in January 2021. The impact of these changes and use of space will be reviewed every 2 years, advising Cabinet when preparation for a new facility is required.
46. Cabinet are being asked to support a delegation to Head of Service in conjunction with the portfolio holder where a familial link to the borough elicits a request for burial in the borough and the increased charges can be reviewed.
47. The justification for our recommendations is that due to analysis of our current cemetery provision and predicted increasing aging population for the Ashford borough, we are considering actions that can be taken at this early stage to prolong the burial capacity of our cemeteries. Thus ensuring that our residents have the opportunity to bury loved ones for the foreseeable future.

### **Next Steps in Process**

48. To seek approval for the proposed ideas to support the repurposing of graves, reviewing and restructuring fees whilst promoting alternative interment options in order to maximise burial space and increase lifespan of our cemeteries.

## Conclusion

49. Many of the potential solutions should be easy to instate to increase capacity. Although other local authorities are reusing burial space this is not an option this authority intends to pursue.
50. Projects to reallocate grave section types and repurpose areas in order to create more burial space should be actioned. These are simpler and less costly techniques that could boost available grave space by some 286 plots, giving us a further 5.5 years at current capacity or 4 years at +45% death rates for new coffin burials. Pricing and promotion should also be used to discourage full coffin burials where possible to reduce pressure on capacity.
51. Although it would be very costly and would take time to come to fruition, we do anticipate the need for future additional burial provision in the borough. Currently the capacity is appropriate for the borough's demands however it should be added into the next iteration of the local plan, with the consultation process beginning in two administrations time (circa 2027) so that the time required to source, approve and begin operation will correspond with when we will be at our limits of current cemetery capacity.
52. In the interim Environment and Land Management will continue to track and review biannually death rates and levels of new burials to ensure that capacity is not diminishing at faster rates than anticipated.

## Portfolio Holder's Views

53. Cemetery provision is a sensitive subject. The key issue is that land used for graves can never be used for any other purpose once the cemetery is full and land is very much a finite resource. Whilst we must not proactively discourage coffin burials, we must be mindful that future provision of burial plots cannot be unlimited.
54. The key recommendation in this report is that we have increased the charges for burials from those living outside of the Borough, with a clause whereby this extra charge can be waived, under certain special circumstances, for people with connections to the borough.
55. The impact of the extra charge for burials from outside of the Borough will be monitored and used for maintenance of service provision.

## Contact and Email

Joanne Burns, Cemeteries Officer email: [joanne.burns@ashford.gov.uk](mailto:joanne.burns@ashford.gov.uk)

# Equality Impact Assessment

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1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:
  - (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
  - (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
  - (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
  - (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

## Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
  - (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).
3. These are known as the three aims of the general equality duty.

## Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:
  - Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership\*
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex
  - Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

## Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
  - removing or minimising disadvantages suffered by people due to their protected characteristics.
  - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.
8. In terms of timing:
  - Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
  - Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
  - The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

### **Armed Forces Community**

9. As part of the council's commitment to the Armed Forces Community made through the signing of the Armed Forces Covenant the council's Cabinet agreed in November 2017 that potential impacts on the Armed Forces Community should be considered as part of the Equality Impact Assessment process.
10. Accordingly, due regard should also be had throughout the decision making process to potential impacts on the groups covered by the Armed Forces Covenant:
  - Current serving members of the Armed Forces (both Regular and Reserve)
  - Former serving members of the Armed Forces (both Regular and Reserve)
  - The families of current and former Armed Forces personnel.

### **Case law principles**

11. A number of principles have been established by the courts in relation to the equality duty and due regard:
  - Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
  - Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.

- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on “Meeting the Equality Duty in Policy and Decision-Making” (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

<b>Lead officer:</b>	Tracey Butler
<b>Decision maker:</b>	Cabinet
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	Reviewing the charges for non-residents for future cemetery provision.
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	28 November 2019.
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> </ul>	At present the number of non-residents applying for our cemeteries is low (less than 10 per year). The increase in charges is aimed to futureproof the service.



<ul style="list-style-type: none"> <li>Who will be affected and how?</li> <li>How many people will be affected?</li> </ul>	<p>Non-residents. The decision does not have an impact on any particular group as it is a blanket increase in charges for all non-residents. Discretion can be applied as appropriate and explained in the report.</p>
<p><b>Information and research:</b></p> <ul style="list-style-type: none"> <li>Outline the information and research that has informed the decision.</li> <li>Include sources and key findings.</li> </ul>	<p>Info about what has happened elsewhere – check no negative impacts on specific communities.</p>
<p><b>Consultation:</b></p> <ul style="list-style-type: none"> <li>What specific consultation has occurred on this decision?</li> <li>What were the results of the consultation?</li> <li>Did the consultation analysis reveal any difference in views across the protected characteristics?</li> <li>What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul>	<p>No consultation is planned on the change to the charges. Separately, there are planned discussions with representatives of the Muslim and Gurkha communities to ensure that cemetery capacity continues to meet their requirements in both the short and longer terms.</p>

**Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.**

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

<b>Protected characteristic</b>	<b>Relevance to Decision</b> High/Medium/Low/None	<b>Impact of Decision</b> <b>Positive</b> (Major/Minor) <b>Negative</b> (Major/Minor) <b>Neutral</b>
<u>AGE</u> Elderly	Low	Neutral
Middle age	Low	Neutral
Young adult	Low	Neutral
Children	Low	Neutral
<u>DISABILITY</u> Physical	Low	Neutral
Mental	Low	Neutral

Sensory	Low	Neutral
<u>GENDER RE-ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral
<u>SEX</u> Men	Low	Neutral
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral
<u>ARMED FORCES COMMUNITY</u> Regular/Reserve personnel	Low	Neutral
Former service personnel	Low	Neutral
Service families	Low	Neutral

<b>Mitigating negative impact:</b> Where any negative impact has been identified, outline the measures taken to mitigate against it.	Not applicable but also built in provision to demonstrate discretion as required.
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<b>Is the decision relevant to the aims of the equality duty?</b>	
Guidance on the aims can be found in the EHRC's <a href="#">Essential Guide</a> , alongside fuller <a href="#">PSED Technical Guidance</a> .	
<b>Aim</b>	<b>Yes / No / N/A</b>
1) Eliminate discrimination, harassment and victimisation	n/a
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	n/a
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	n/a

<p><b>Conclusion:</b></p> <ul style="list-style-type: none"> <li>• Consider how due regard has been had to the equality duty, from start to finish.</li> <li>• There should be no unlawful discrimination arising from the decision (see guidance above ).</li> <li>• Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>• How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>The burial provision in our cemeteries covers all protected characteristics. The service itself takes account of different needs and cultural beliefs. The increase in charges would not affect specific characteristics.</p> <p>The long term provision – not a decision for now but that the impact on equalities will be at the heart of the development of future provision.</p>
<p><b>EIA completion date:</b></p>	<p>4 November 2019</p>

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