

<b>Report to:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	12 December 2018
<b>Executive Member/Reporting Officer:</b>	Councillor Allison Gwynne - Executive Member (Neighbourhood Services) Emma Varnam – Assistant Director, Operations and Neighbourhoods
<b>Subject:</b>	<b>MEDICAL REFEREE FEE</b>
<b>Report Summary:</b>	The report provides information on the statutory requirement for the Cremation Authority to have Medical Referee and the justification for raising the fee above the 2.5% annual increase in fees and charges.  The Key objective is to ensure the Councils meets its legal obligations with regard to providing a cremation service.
<b>Recommendations:</b>	That the fees outlined in this report are approved by Executive Cabinet to increase from £18 to £19 per form backdated from 1 April 2018
<b>Corporate Plan:</b>	Ageing Well
<b>Policy Implications:</b>	There is a statutory requirement for the Council to comply with the legislation and to have a Medical Referee in place for Cremations.
<b>Financial Implications: (Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b>	Within the Budget Report recommendations of February 2018 it was specifically approved that ; <i>‘An uplift to all fees and charges of 2.5% except where costs are not being recovered or market conditions indicate a different rate is more appropriate’</i> be applied.  The proposed increase in medical examiners fees is greater than 2.5% however as all costs are recovered, it is still a competitive rate within Greater Manchester and there are no financial implications, it is considered an appropriate increase.
<b>Legal Implications: (Authorised by the Borough Solicitor)</b>	Medical referees at crematoria are paid by local authorities to scrutinise cremation certificates. If not satisfied, medical referees are required to contact the doctors completing certificates 4 and 5 and, if necessary, order an autopsy examination. They also have a duty, where appropriate, to refer a case to the coroner.  Medical referee fees for Forms 12 and 13 are no longer negotiated on a national level by the BMA. Each individual local authority will set fees for the completion of these forms.  The system for scrutiny over all deaths (both cremation and burial) is currently being reviewed by the Department of Health with the proposal to implement a Medical Examiner led system. Medical Examiners (appointed by local authorities) will replace the current roles of the medical referee and the two doctors completing the cremation forms.  Increasing the fee paid to the Medical Referee has no financial implication with regards to Bereavement Service revenue costs as any fees charged are recovered by income received. This fee

forms part of the overall cremation fee and is paid by the family as part of the disbursement funeral costs. However, as the Council is a public body it has a duty of care to ensure that any fees are reasonable and proportionate to the function being paid for by the public.

**Risk Management:**

No financial risk. The risks of not increasing the fees are that the Medical Referee could decide not to continue with providing this service as they are not under any jurisdiction to do so. They may move to another Local Authority where some are currently paying significantly higher fees.

**Background Information:**

The background papers relating to this report can be inspected by contacting Michael Gurney



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## **1. INTRODUCTION**

- 1.1 Under the Cremation Regulations 1930, Regulation 10, every Cremation Authority shall have a Medical Referee and a Deputy Medical Referee, who must be registered medical practitioners of not less than five years' standing and must possess such experience and qualifications as will fit them for the discharge of the duties required of them by these Regulations.
- 1.2 The Medical Referee or Deputy Medical Referee, if otherwise qualified, may be a person holding the office of Coroner or Medical Officer of Health. The Deputy Medical Referee shall act in the absence of the Medical Referee and in any case in which the Medical Referee has been the medical attendant of the deceased.
- 1.3 The Secretary of State shall appoint as Medical Referee and Deputy Medical Referee such fit persons as may be nominated by the Cremation Authority.
- 1.4 Any Medical Referee or Deputy Medical Referee appointed by the Secretary of State may, in the case of emergency, act as the Medical Referee or Deputy Medical Referee of a Cremation Authority other than that for which he has been appointed.

## **2. QUALIFICATIONS OF MEDICAL REFEREE AND DEPUTY MEDICAL REFEREE**

- 2.1 To be eligible for appointment as a Medical Referee or a Deputy Medical Referee, a person must be a registered medical practitioner of at least five years' standing
- 2.2 The Secretary of State must appoint as Medical Referee and Deputy Medical Referee such persons as may be nominated by the cremation authority who have the character, experience and qualifications to discharge the duties required by these Regulations.

## **3. FUNCTIONS OF A MEDICAL REFEREE**

- 3.1 The functions as Medical referee are set out in regulations 23 to 28 of the Cremation Regulations, and can be summarised as follows:
  - Not to allow a cremation unless satisfied that the death has been properly registered, or is not required to be registered, or that a coroner has issued a certificate as set out in form Cremation 6;
  - To be satisfied that the application and certificates are as required by the Regulations;
  - To be satisfied that adequate inquiries have been made by the medical practitioners completing the certificates;
  - To be satisfied either that the application has been made by an executor or a near relative of the deceased, or that there is sufficient explanation why the application has not been made by an executor or near relative;
  - Not to allow the cremation unless satisfied that the fact and cause of death have been definitely ascertained, or if not so ascertained that the coroner has investigated the death and has released the body;
  - To request a pathologist to carry out a post-mortem examination if the cause of death has not been definitely ascertained or, in particular, the cause of death given on either form Cremation 4 or Cremation 5 suggests that it might be due to poison, violence, an illegal operation, privation or neglect;
  - Not to allow the cremation if such a post-mortem examination fails to reveal the cause of death, unless an investigation has been opened and a coroner has issued form Cremation 6;

- Not to allow the cremation if there are other suspicious circumstances connected to the death of the deceased, whether revealed in the medical certificates or otherwise, unless an investigation has been opened and a coroner has completed form Cremation 6

#### **4. MEDICAL REFEREE FEES**

- 4.1 Medical Referee fees are no longer negotiated on a national level by the BMA. Each individual local authority will set fees for the completion of these forms.
- 4.2 The current fee payable to the Medical Referee at Dukinfield is £18 per cremation form.
- 4.3 Increasing the fee paid to the Medical Referee has no financial implication with regards to Bereavement Service revenue costs as any fees charged are recovered by income received. This fee forms part of the overall cremation fee and is paid by the family as part of the disbursement funeral costs.
- 4.4 The Medical Referee has requested an increase of £1 per form, which would result in the payment of £19 per cremation form.
- 4.5 An increase to £19 per form will align Tameside Council's fees more with what others are currently paying.
- 4.6 Set out below are the fees currently being paid to Medical referees Across Greater Manchester Crematoria.

<b>Cremation Authority</b>	<b>Medical Referee Fees</b>
Wigan	£19.30
Stockport	£20.00
Bolton	£20.00
Tameside	£18.00
Oldham	£23.00
Trafford	£29.00
Rochdale	£27.40
Salford	£20.00
Manchester	£7.10

#### **5. RISKS**

- 5.1 The risks of not increasing the fees are that the Medical Referee could decide not to continue with providing this service as they are not under any jurisdiction to do so. They may move to another Local Authority where some are currently paying significantly higher fees.
- 5.2 Experience of recruiting and attracting new Medical Referees to carry out this role has always proved difficult and this could leave the authority in a position where it would not be able to fulfill its statutory obligations.

#### **6. RECOMMENDATIONS**

- 6.1 As set out on the front of the report.