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**PART B: RECOMMENDATIONS TO COUNCIL**

**REPORT TO: POLICY AND RESOURCES COMMITTEE**

**DATE: 27 SEPTEMBER 2012**

**REPORT OF THE: COUNCIL SOLICITOR AND MONITORING OFFICER  
ANTHONY WINSHIP  
CORPORATE DIRECTOR (s151)  
PAUL CRESSWELL**

**TITLE OF REPORT: MAINTENANCE OF CLOSED CHURCHYARDS**

**WARDS AFFECTED: ALL**

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

1.1 To review the consultation responses and consider the financing of works to Closed Churchyards.

### **2.0 RECOMMENDATIONS**

2.1 That members recommend to Council their preferred option for managing the costs of closed churchyards. The options are detailed in paragraph 6.13.

### **3.0 REASONS FOR RECOMMENDATION**

3.1 A local parish can include the on-going costs associated with maintaining closed churchyards within their precept setting process. This option should secure adequate resources to maintain the sites. If requested, Ryedale District Council could undertake the repair/rectification works under an agency agreement.

### **4.0 SIGNIFICANT RISKS**

4.1 The primary risks to the Council are around the finances and impact of not passing on the predicted costs through special expenses. In such a case all costs will fall on the district council and this will create a budgetary pressure which will necessitate cuts to other services to finance. Not passing the charge on increases the likelihood of further closed churchyards being passed to the district council creating a future unbudgeted pressure.

### **5.0 POLICY CONTEXT AND CONSULTATION**

5.1 This report considers a new policy for the Council for the financing of works to closed

churchyards.

- 5.2 This report considers the results of a consultation exercise undertaken between 28 March 2012 and 31 July 2012. The consultation questionnaire is attached at annex A. This was also discussed at the Parish Liaison meeting on the 30 May.

## REPORT

### 6.0 REPORT DETAILS

- 6.1 On the 8 December 2011 this committee considered a report on the maintenance of closed churchyards. Members resolved:

*That a consultation with Parish Councils on the following principles be approved:-*

*Where Parish Councils do not wish to retain responsibility for the maintenance of closed churchyards that Council:-*

- (a) Agrees that a special expense be charged to cover Ryedale District Council's annual maintenance and administration costs in the event of any parish determining that it does not wish take responsibility for maintenance of a closed churchyard in its parish and passes this to Ryedale District Council;*
- (b) Agrees that a special expense charge be made to cover costs henceforth for closed churchyards which have already transferred to this Council;*
- (c) Consider whether they would wish to see an upper annual limit to any special expense charge levied for closed churchyards, and if so determine at what level they would wish this to be set.*

- 6.2 Ryedale District Council has already assumed responsibility for the following 7 churchyards:-

- St Helen's Churchyard, Amotherby
- Holy Cross Churchyard, Gilling East
- St Mary's Priory Churchyard, Old Malton
- St Nicholas Churchyard, Norton (this provides the access to the swimming pool)
- All Saints Churchyard, Slingsby
- All Saints Churchyard, Terrington
- St Hilda's Churchyard, Ampleforth (this is an RDC responsibility but the Parish cut the grass)

- 6.3 The current costs of maintaining closed churchyards are met from limited budgets at the Council. There are insufficient funds for any major works. The estimated 10 year costs for the existing transferred churchyards is in excess of £300k.

- 6.4 Once a churchyard is closed the PCC concerned may apply to the local authority to take over its maintenance responsibilities under the Local Government Act 1972. The application is usually made to the Parish Council and, if they decline, to the District which, under the legislation, has a legal obligation to take on the responsibility.

- 6.5 Where the District Council does take on the responsibility for a closed churchyard, the Parish Council gives up any control over future maintenance arrangements. The

churchyard would be managed by the District Council's to its own chosen standard. There is currently no legal basis to ensure that the churchyard is "in decent order and its walls and fences in good repair" prior to transfer.

- 6.6 Transferring all or part of the PCC's maintenance and repair liability to the local authority does not mean that the churchyard itself is transferred; all other rights, powers, functions and liabilities remain under the control of the incumbent.
- 6.7 The Local authority has an option to charge the costs of maintenance of closed churchyards as a Special Expense. This is a charge only paid by residents within a certain parish, in addition to the Council Tax, which is collected as part of Council Tax. Members will be aware that there presently exists a special expense in former Norton UDC, former Malton UDC and former Pickering RDC areas for street lighting.

#### Consultation Responses

- 6.8 This consultation has sparked significant debate and interest in this issue. Whilst the consultation was around principles of the future funding of closed churchyards, inevitably officers ended up in detailed discussions around specific issues.
- 6.9 Of those 11 parishes who anticipate a closure order in the next 10 years, 5 would prefer to retain the responsibility for the churchyard and raise a precept to cover the maintenance costs. Of those churchyards which are closed or anticipating closure only one anticipates transferring responsibility to RDC.
- 6.10 There were a total of 63 responses (from a possible 99 local Councils). Of the 63 responses received 14 preferred option one – to retain responsibility and 2 preferred the option to transfer to RDC. 9 respondents thought that RDC should impose a limit if a special expense was levied. One thought not. The common amount for the limit was £1 with one suggestion of £5 but most respondents not answering this question.
- 6.11 Whilst the scope for additional closed churchyards becoming the Council's responsibility for maintenance seems low, this of course may change over time, more especially if significant works are required which would be beyond a reasonable parish precept.
- 6.12 Notwithstanding this the Council still has a significant unbudgeted pressure to consider for existing closed churchyards.
- 6.13 The options for taking forward this issue are as follows:

**1. The Council resolves to finance works to closed churchyards from its resources.**

The Council would need to identify where the additional resources would be finance from, clearly a revenue budget of c£30k could manage the expected costs. Members will be aware from other reports on this agenda that the scope for budgetary growth will lead to cuts to other services, it is therefore a priorities issue for members. Some capital resources could be applied to manage this, however there are presently no unallocated capital resources.

**2. Apply a Special Expense to those parishes in which the closed churchyard is located to cover in full the maintenance costs.**

As members will see from Annex C to this report (the same annex to the report last year) there are very unequal financial consequences on individual parishes, as the cost is spread across the number of band D properties within that Parish. For example Ampleforth residents would face a special expense of £67 per year for 10 years to cover the anticipated maintenance obligations.

**3. Apply a Special Expense with a Capped maximum amount.**

Clearly the level of cap would determine what costs remained with RDC and what could be charged to rate payers. The following table shows the estimated cost sharing of applying a cap:

<b>Special Expenses Cap</b>	<b>Rate payers (£000)</b>	<b>RDC (£000)</b>
£10	157	152
£15	188	121
£20	214	95
£25	229	80

6.14 For information the current special expenses rate for street lighting is between £2.83 and £10.57 in 2012/2013.

## **7.0 IMPLICATIONS**

7.1 The following implications have been identified:

- a) Financial  
The implications will depend on the option chosen and have been included in the report.
- b) Legal  
There are no new legal issues in considering this report.
- c) Other  
The report has no other significant implications.

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### **Background Papers:**

None.