



**POLICY ON INDIGENT PERSONS AND
PAUPER BURIALS**

COUNCIL APPROVED

EFFECTIVE 1 JULY 2023

This policy has been formulated in terms of the provision of section 96(b) of the Local Government: Municipal Systems Act, 32 of 2000

The policy on Paupers and Indigent Burials will be there to guide Council, Officials, Individuals, Community and Funeral Undertakers on the handling the above.

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DEFINITIONS

In this policy, any word or expression to which a meaning has been assigned in the Langeberg Municipality Cemetery and Crematoria By-laws shall bear the same meaning unless the context otherwise indicates –

Applicant means any person, non-governmental organization (NGO), welfare Organization or any other entity who seeks assistance to bury or cremate a Deceased person who qualifies for a destitute person's burial or cremation;

Authorized official means an employee of the Langeberg Municipality responsible for carrying out any duty or function or exercising any power in terms of this Policy and includes employees delegated to carry out or exercise such duties, functions or powers;

Burial means when burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body

Constitution means the Constitution of the Republic of South Africa, 1996;

Council means municipal council of Langeberg Municipality

Cremation means the process of disposing of a human body or any remaining part of a human body by burning it and reducing it to ashes;

Designated service provider means a company which has been awarded the tender to provide the service of burying or cremating destitute persons on behalf of the Langeberg Municipality;

Environmental Health Practitioner means a person registered as such in terms of Section 34 of the Health Professional Act, 1974 (Act no. 56 of 1974) and who performs functions as listed in the Schedule of the Scope of Profession of Environmental Health, as amended;

Grave includes any place, whether wholly or partly above or below ground level in which a corpse is permanently interred or intended to be permanently interred, whether in a coffin or other receptacle or not, and also includes any monument, tombstone, cross, inscription, rail, fence, chain, erection or other structure of whatsoever nature forming part of or belonging to such grave;

Health Act means the National Health Act, 2003 (Act 61 of 2003);

Indigent person means a person who makes use of the cemetery service and who is called an indigent person in terms of the Langeberg Municipality Cemetery and Crematoria By-laws or in any other law;

Next of kin means the surviving spouse, unless otherwise determined by customs, or if there is no surviving spouse, the surviving children, or where there are no surviving children, the closest surviving descendants, or there are no surviving descendants, the surviving parent or parents, or where there is no surviving parent or no surviving parents, the surviving sibling or siblings, or where there is no surviving sibling or are no surviving siblings, the other blood relation or blood relations of the deceased who are related to him or her in nearest degree, provided that where this policy requires the consent of the next of kin, and the next of kin refers to more than one person, in terms of this definition, then the consent of all these persons shall be required;

Officer in charge means the person authorized by Council to be in control of any cemetery;

Pauper means a dead person whose identity is unknown to the municipality despite all reasonable steps to identify him or her;

Policy means the policy for the burial and cremation of indigent and pauper persons;

Public holiday has the same meaning as in the Public Holidays Act, 1994 (Act 36 of 1994);

Regulations relating to the management of human remains means regulations relating to the management of human remains published under Notice No. R363 in Government Gazette No. 36473 dated 22 May 2013, under the National Health Act, 2003 (Act 61 of 2003);

Regulations: General control of human bodies, tissue, blood, blood products and gametes mean regulations regarding general control of human bodies, tissue, blood, blood products and gametes, published under Government Notice R180 in Government Gazette No. 35099 dated 2 March 2012, under the National Health Act, 2003 (Act 61 of 2003);

The service means the Forensic Pathology Service in a Province and provides a medico legal investigation of death due to natural or unnatural causes as defined in the Regulations regarding the rendering of forensic pathology service;

Regulations regarding the rendering of forensic pathology service means the regulations regarding the rendering of forensic pathology service; published in Government Notice No. R636 dated 20 July 2007, under the National Health Act, 2003(Act 61 of 2003);

1. GENERAL POLICY

1. PROBLEM STATEMENT

1.1 Local government has a constitutional and statutory duty to regulate cemeteries, crematoria and funeral parlours, to provide for the interment of human remains in a dignified manner, and to ensure that appropriate Municipal Services are effectively and equitably provided.

1.2 The Langeberg Municipality provides support to deceased indigent persons and paupers, their families and communities by providing a simple and dignified burial or cremation service for such persons.

1.3 Requests for the burial and cremation of indigent persons and paupers are currently processed and provided for under an outdated approved policy in accordance with an established practice. The current written policy needs to be reviewed, and where necessary, more detailed criteria and a more structured decision-making process must be provided.

1.4 The criteria for the burial or cremation of indigent persons and paupers will, of necessity, differ from the criteria for indigent relief under the Municipality's Indigent Policy in the light of the need to bury or cremate a deceased's body as soon as reasonably possible after death and for relevant health considerations. The applicable criteria under the municipality's Indigent Policy are furthermore not necessarily appropriate and applicable to a deceased person who has died in indigent circumstances.

2. DESIRED OUTCOMES

2.1. The policy will guide the decision-making around the burial or cremation of a person that is considered indigent/pauper.

2.2. The outcome of this policy will be the burial or cremation of people considered to be indigent/pauper in order to afford that person a dignified burial or cremation.

4. POLICY PARAMETERS

4.1. This policy applies to the geographical jurisdiction of the Langeberg Municipality, but not to deceased persons who died in a Provincial hospital, or Provincial or National institution.

4.2. It is current and accepted practice that a burial or cremation of destitute persons who have died in Provincial hospital, or Provincial or National institution will be

provided for by a service provider who has been appointed by the Western Cape Provincial Government.

4.3. This policy applies to all indigent/ pauper persons who meet the criteria set out in this policy, irrespective of whether the body of the deceased person is claimed or not by the deceased's next of kin or relative, any other person, NGO, religious or welfare organisation.

4.6. In the case of requests for the burial of deceased persons who are not claimed by the deceased's next of kin or relative, any other person, NGO, religious or welfare organisation, the implementation of the policy is subject to the direction of the Health Officer and the Service, and the Regulations: General control of human bodies, tissue, blood, blood products and gametes.

5. ROLE PLAYERS AND STAKEHOLDERS

5.1 **Councillors:** Councillors must provide application forms to applicants and assist them to fill the forms out. The Councillor as the case may be, must write a letter/memorandum to the Director of Community Services/ Social Services declaring the family of the deceased as indigent and request for the burial.

5.2 **Cemetery Clerk:** Authorised officials within the Parks and Amenities department must provide application forms to applicants, assist them to fill the forms out, interview applicants and make a recommendation to the Manager Parks and Amenities.

5.3 **Manager Parks and Amenities:** The Manager Parks and Amenities must check and investigate the applications and make recommendations on behalf of Parks and Amenities department to the Director: Community Services

5.4 **Director: Community Services:** The application must then be submitted to the Director: Community Services for approval and processing.

5.6 **Health officer:** The body of a deceased person that is not buried or claimed for burial in the circumstances described in Regulation 10(1) of the "Regulations: General control of human bodies, tissue, blood, blood products and gametes".

5.7 **Forensic Pathology Service:** A body is only released from the service after the requirements in terms of Regulation 30 of the Regulations regarding the rendering of forensic pathology services are complied with.

6. REGULATORY CONTEXT

6.1. Constitution of the Republic of South Africa, 1996

6.1.1. Part B of Schedule 5 of the Constitution provides that cemeteries, crematoria and funeral parlours are local government matters.

6.2. Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

6.2.1. Section 73 of the Local Government: Municipal Systems Act, Act 32 of 2000 places a general duty on municipalities to give effect to the provisions of the Constitution.

6.3. Cemeteries, Crematoria and Funeral Undertakers By-law

6.3.1. The Cemeteries By-law provides for the control, regulation and development of cemeteries, the disposal of corpses and the interment of human remains in a dignified manner, matters connected therewith, and seeks to ensure the proper management of cemeteries, crematoria and funeral undertakers within the area of jurisdiction of the Langeberg Municipality.

6.3.2. Section 9 of the Cemeteries By-law provides that a person making application for the burial of a destitute person must make a declaration to that effect.

6.4. National Health Act, 2003 (Act 61 of 2003)

6.4.1. Section 32(1) of this Act provides that every Metropolitan and District Municipality must ensure that appropriate Municipal Health Services are effectively and equitably provided in their respective areas.

6.5. Regulations: General control of human bodies, tissue, blood, blood products and gametes

6.5.1. Regulations 10(1) of these regulations provides that the body of a deceased person that is not buried, or claimed for a burial within 30 days after the death of that person by the spouse, partner, major child, parent, guardian, major brother, or major sister in the specific order mentioned or bona fide friend of the deceased, will be at the disposal of the health officer in whose area the body is.

6.5.2. The requirements pertaining to the disposal of unclaimed bodies of deceased persons, notice to the health officer, and preservation period of bodies before use, are set out in regulations 10, 11, 12 and 13, respectively, of the aforesaid regulations.

6.6. Regulations relating to the management of human remains

6.6.1. Regulation 29 of these regulations provides that any unclaimed bodies or unidentified human remains must be dealt with in accordance with the provisions of regulations 32 and 34 of the Regulations regarding the rendering of forensic

pathology service; published in the Government Notice No. R636 dated 20 July 2007.

6.7. Regulations regarding the rendering of forensic pathology service

6.7.1. Regulation 30 of these regulations provides that a body must only be released from the service after:

- (a) the spouse, partner, major child, parent, guardian, major brother, major sister, caregiver has given written consent, or by order of the Court;
- (b) the authorised person, after consultation with the investigating officer, has given approval for such release of the body;
- (c) an appropriate tissue or blood sample has been procured or other investigations done, where necessary, in order to assist with the medico-legal investigation and to facilitate the scientific investigation of the deceased.

6.7.2. Regulation 31 of the regulations provides that where the person giving consent as contemplated in regulation 30(a), namely (the spouse, partner, major child, parent, guardian, major brother, major sister, care-giver consenting to the release of a body from the forensic pathology service in a province, providing medico-legal investigation of death due to natural or unnatural causes) is unable to pay for the burial of the body, the local municipality having jurisdiction of the area where the body was stored, must provide for a pauper burial or cremation of such a body.

6.7.3. Regulation 32 of the regulations provides that a body that has not been identified must be moved to a freezer within seven days of admission, and if such body remains unidentified for 30 days, the local municipality under whose jurisdiction the designated facility is, must provide for a pauper burial or cremation of such a body.

6.7.4. Regulation 32 of the regulations provides that the provincial head of the service must immediately be notified when a facility is requested to admit a body of a person who died of unnatural causes while being detained by the South African Police Service or the Department of Correctional Services as an awaiting-trial or convicted prisoner.

6. POLICY DIRECTIVE DETAILS

Qualification criteria

6.1 A deceased person may qualify for an indigent persons and pauper's burial or cremation in the following circumstances:

6.1.1 The deceased did not have an income greater than the state old age pension or state disability pension.

6.1.2 The deceased did not have an insurance policy or estate which could be used to pay for the burial.

6.1.3 No next of kin or relative with a legal duty to support the deceased, and with sufficient means, is able to pay for the burial or cremation costs of the deceased person.

6.1.4 No other person, religious organisation, NGO or welfare organisation has offered to pay for the burial or cremation costs of the deceased person.

6.1.5 The deceased is a South African residing in Langeberg Municipal area.

6.2 Where a critical emergency or any other unforeseen or unexpected situation arises in terms of which the municipality is required to fulfil its legal obligations in terms of the National Health Act, or any other applicable law, the municipality may exercise its sole discretion to accept an application for a burial or cremation of an indigent person or pauper without compliance of the aforesaid criteria, in order to fulfil those obligations.

6.3 Indigent or pauper burials can be arranged for anybody in the community if all the requirements are met.

6.3.1 All requests for indigent burials must be referred and considered by the Director of Community Services.

6.3.2 The Director of Community Services must ensure that all the above-mentioned procedures and requirements are met before an order could be placed at the funeral undertaker appointed by the municipality to bury a deceased person as indigent and pauper.

Municipality's obligation

6.4 The Municipality's obligations in terms of this policy will be limited to:

6.4.1 Provision of a public grave; or

6.4.2 A cremation.

6.4.3 Appointment of a service provider

6.4.4 Keep record of the grave number and application number in a burial register together with any personal information provided regarding the deceased

Service Provider's obligation

The designated service provider obligations in terms of this policy will be:

- 6.4.4 To book the burial or cremation at the Parks and Amenities department.
- 6.4.5 To collect the body from the relevant mortuary
- 6.4.6 To provide a biodegradable non-emission type coffin.
- 6.4.7 Where a service is required, transport the deceased to a church or other place of worship or to a house for a simple, dignified service and then to the cemetery or crematorium.

Conditions of burial or cremation

- 6.5 At least two working days' notice is required for the approval of the application for a burial or cremation can be undertaken.
- 6.6 Indigent burials are conducted within 5 days of the date of death as storage increases costs. Provide all paper work is up to date i.e. death certificate
- 6.7 Burials and cremations are to take place on weekdays only, excluding public holidays.
- 6.8 No memorial work, tombstone and or exhumation. Should such an application be received in future, the applicant will be held responsible for the payment of the costs incurred during the funeral, except for exhumation authorised by the Magistrate to SAPS for investigations.
- 6.9 Should an application be received for the purpose indicated in section 6.8 above due to financial status having improved in the family, the person wanting to conduct the above process in 6.8 shall first reimburse the municipality whatever amount that was spent during the pauper burial before permission to erect the tombstone can be given.
- 6.11 The complete service offered in terms of 6.37 below must be utilised. Applicants may not select parts of the service and provide an expensive coffin, or an elaborate or extensive funeral service.
- 6.12 Indigent persons and pauper burials may be accommodated in any section of a cemetery and at any cemetery at the discretion of the authorised officials.
- 6.13 The deceased shall be a South African citizen and resident within the Langeberg municipal area of jurisdiction.
- 6.14 In the event that the deceased has died outside of Langeberg Municipality the onus is on the next-of-kin to transport the body to area within which the scope of this policy shall be applicable.

6.15 The service provider should be registered in the municipality's database and in possession of a valid Certificate of Competence issued by the Cape Winelands District Environmental Health Practitioner.

6.16 The service provider should be local and in operation in Langeberg Municipality area of jurisdiction.

6.17 Any service rendered without prior investigation and/or approval and with no supporting documents and signing of form, will not be paid for.

Application forms

6.19 Application forms are available from:

6.19.1.1 Councillors office

6.19.1.2 Directorate: Community Services

6.19.1.3 Authorised officials within the Parks and Amenities department

Completion of forms

6.20 The applicant may obtain an application form for the burial or cremation of a destitute person by contacting the authorised officials or councillors.

6.21 The applicant must complete the application form.

6.22 If necessary, the applicant will be assisted to complete the form by a councillor, or an authorised official within the Parks and Amenities department.

6.23 The conditions for an indigent person's and pauper's burial or cremation will be explained to the applicant.

6.24 The applicant may choose either burial or cremation subject to cost.

6.25 The applicant must complete and sign the application form, and confirm the information supplied therein by means of an affidavit, and is required to depose to the affidavit by way of an oath or affirmation in the presence of a Commissioner of Oaths.

6.26 The applicant will be liable for all costs incurred by the municipality for the burial and criminal charges opened with local SAPS, in an event that the municipality has reasonable grounds that the application was fraudulent and that the deceased did not meet the criteria for indigent persons and pauper burial.

Required documentation

6.27 Burial order

6.28 Death Certificate

6.29 Affidavit from local SAPS, substantiated by an official letter from a Social Worker, Mayor, or a Ward Councillor. The said documentation must indicate the reasons for this request.

6.30 Proof from the family member/relative that they cannot bury the deceased.

Interview and processing of the application

6.31 The applicant will be interviewed by an authorised official within the Parks and Amenities Department.

6.32 The Manager Parks and Amenities will provide a recommendation for either the granting or refusal of the application for a destitute burial or cremation.

6.32.1 The Manager Parks and Amenities, authorised official within the Parks department has discretion to provide an alternative recommendation of either a burial or cremation, where the application for either a burial or cremation cannot be granted but where the alternative option is available instead.

6.32.2 Where an application is refused or where an alternative recommendation is made, reasons will be provided to the applicant.

6.33 The applicant has a right of appeal and may appeal against that decision in terms of section 62 of the Local Government: Municipal Systems Act (Act No. 32 of 2000).

6.34 If the application is recommended by the Manager Parks and Amenities, it must be submitted to the Director: Community Services for processing and approval. Once approval is granted, an official purchase order will be provided for the burial or cremation to the appointed service provider who will then proceed with the burial or cremation.

6.35 The Manager Parks and Amenities or authorised official within the Parks department, may on reasonable grounds interview or call for a statement under oath, or relevant documentation, from the next of kin, relative, other person, NGO or welfare organisation.

6.36 The applicant can establish if the application has been successful by contacting the Manager Parks and Amenities or authorised official within the department.

Service provided

6.37 The designated service provider, will provide the following service on behalf of the Langeberg Municipality:

6.37.1 Book the burial or cremation at the Parks and Amenities department.

6.37.2 Collect the body from the relevant mortuary.

6.37.3 Provide a biodegradable non-emission type coffin.

6.37.4 Where a service is required, transport the deceased to a church or other place of worship or to a house for a simple, dignified service and then to the cemetery or crematorium.

6.38 A cemetery official must record the grave number and application number in an indigent/ pauper burial register together with any personal information provided regarding the deceased.

7. IMPLEMENTATION PROGRAMME

7.1. This policy will apply upon approval by the Council of Langeberg Municipality.

8. MONITORING, EVALUATION AND REVIEW

8.1. The details of the burial or cremation will be recorded in the burial register.

8.2. The policy will be monitored regularly and reviewed on a (5) five-year basis.

APPLICATION FOR A PAUPER BURIAL

1. PARTICULARS OF APPLICANT

.....(Full names and Surname)
Position.....
ID Number.....
Physical Address.....
Postal Address Code.....

Hereby apply for the burial of the following deceased whom I identify as:

2. PARTICULARS OF THE DECEASED PERSON

ID Number.....
Full Names and Surname.....
Home Address(if known).....
Next of Kin.....

3. BRIEF DESCRIPTION OF CAUSE OF DEATH

(To be certified by a Medical Doctor wherever possible)

.....
.....
.....
.....

Signed On:.....Day of.....2013

If the person died in Hospital, this form must be completed by duly authorised doctor or nurse and completed by authorised and to certified by a police officer where the deceased was found out of hospital premises

Full Names of the person certifying death.....
Designation.....
Practice Number/Service Number.....
Personal ID Number.....
Physical Address.....

Case Register/Case or Inquest number to be provided as when needed

4. CLEARLY STATE WHY SHOULD THE BODY BURIED AS A PAUPER

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.....

5. DECLARATION

.....

Here by declare under oath that the information supplied herein is the best of truth to the best of my knowledge

Signed.....at.....on.....2013.....
Witness (1).....Witness(2).....

6. INDEMNITY TO THE MUNICIPALITY

We the undersigned hereby indemnify the Municipality from anything that may arise as a result of any mistake lack of proper tracing of relatives and anything that may result in the exhumation of the deceased and the related expenses