

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

Burial Policy Applicable to Gallant Garden

PURPOSE

This paper briefs Members on the current policy applicable to the earth burial of civil servants **died** on duty at Gallant Garden.

BACKGROUND

2. The proposal for Government to provide burial spaces for civil servants died on duty was first raised by the Staff Side of Disciplined Services Consultative Council (DSCC) in June 1990. The Administration supported the idea and this resulted in a plot of land with an area of approximately 1,600 sq. m. in Wo Hop Shek Public Cemetery being allocated for burial of officers died on duty.

3. This burial plot, named as “Gallant Garden”, was commissioned in November 1996. It has 110 earth burial spaces, 165 urn spaces and a columbarium consisting of 120 niches. The Gallant Garden is managed and maintained by the Food and Environmental Hygiene Department (FEHD). 14 earth burial spaces, 5 niches and 2 urn spaces have been taken up. In addition, a memorial plaque will be erected inside Gallant Garden to register civil servants died on duty to commemorate their contribution.

ELIGIBILITY FOR BURIAL

4. The burial spaces and niches in Gallant Garden are reserved only for civil servants died on duty. An officer is considered to have died on duty if he/she dies as a result of injuries received :

- (a) in the actual discharge of his duty;
- (b) without his own serious and wilful misconduct; and

- (c) on account of circumstances attributable to the nature of his duty.

This could include cases where an officer suffered a heart attack in his office and subsequently passed away or where an officer who was killed by a car accident while performing outdoor duties.

THE SIX-YEAR EXHUMATION POLICY

5. As the Gallant Garden is part of the Wo Hop Shek Public Cemetery, the prevailing six-year exhumation policy, which applies to all public cemeteries, also applies to the earth burials in Gallant Garden. The exhumation policy is necessary to conserve land, which is a limited resource. Under the policy, earth burials in Gallant Garden are subject to exhumation in a fixed period of six years, at the end of which the remains of the deceased would have to be exhumed for re-interment in permanent urn spaces, or in niches or columbarium after cremation, inside the garden.

6. Although the Staff Sides have been fully informed of the time limitation of earth burials arrangement from the very beginning, they, in particular the Disciplined Services Consultative Council and Police Force Council have, since the commissioning of Gallant Garden, remained of the view that permanent earth burial, or as an alternative option, a longer exhumation time limit than six years should be further considered.

7. We have sought the advice of the Department of Justice on whether it would be in order to extend the earth burial cycle of the remains of civil servants who have died on duty to more than six years. The Department of Justice advised that to allow the remains of these civil servants permanent earth burial but not for the remains of non-civil servants who also have died whilst on duty is likely to constitute discrimination within the meaning of Article 22 of Hong Kong Bill of Rights Ordinance (HKBOR) and Article 26 of International Covenant on Civil and Political Rights (ICCPR). Article 26 of the ICCPR, which applies to Hong Kong and remains in force by virtue of Article 39 of the Basic Law, prohibits and protects against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Giving different treatment to the remains of a deceased on the basis of his employment status whilst alive is likely to constitute discrimination and to offend Article 26 of the ICCPR.

EXEMPTION FROM THE SIX-YEAR EXHUMATION POLICY

8. Following the death of the late Mr. Leung Kam-kwong, Senior Immigration Officer, after the arson attack at Immigration Headquarters last year, we reviewed the arrangements for

civil servants died on duty and considered the case for making exception to the six-year exhumation policy for civil servants who lost their lives carrying out an exceptional act of bravery. On 12 September 2000, the Executive Council advised and the Chief Executive ordered that permanent earth burial should be given to Mr. Leung. In addition, on request from family members of the deceased civil servants who have died whilst performing an *exceptional bravery act* in their final duties should be granted permanent earth burial in Gallant Garden. The same treatment should apply to non-civil servants so that on request of family members of the deceased, permanent earth burial in public cemeteries should be given to citizens who have died whilst performing exceptional acts of bravery. As to what constitutes exceptional acts of bravery, it is normally expected that the act should be recognisable by the award of a bravery medal granted by the Chief Executive on the recommendation of the Honours Committee.

9. As the decision to grant permanent earth burial to those who die or are killed in their final duties whilst performing an exceptional act of bravery is applicable to both civil servants and non-civil servants alike, the policy is in line with the legal consideration set out in paragraph 7.

Civil Service Bureau
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