

THORNTON LE DALE PARISH COUNCIL CEMETERY RULES & PROCESS FOR EXCLUSIVE RIGHTS OF BURIAL & INTERMENTS

Adopted June 2025 PCM

These rules and regulations relate to the control and proper management of the Cemetery, are made under the provisions of the Local Authorities Cemeteries Order 1977; and replace all previous rules and regulations. A summary is available for Family/Visitors.

These rules and regulations should be read in conjunction with Thornton le Dale Parish Council Cemetery risk management assessment document; details are available on the Parish Council website: <https://thorntonledale-pc.gov.uk/>

If you need help in interpreting the rules and regulations, please contact the Clerk & Responsible Financial Officer, Thornton le Dale Parish Council, email: parish.clerk@thorntonledale-pc.gov.uk

The Parish Clerk & Responsible Financial Officer acts as the Burial Officer on behalf of the Parish Council.

The Cemetery is Open Daily with open access. There are no locked gates.

1. DEFINITIONS

Throughout these rules and regulations, the following definitions apply:

- a. "The Parish Council" means Thornton le Dale Parish Council (PC)
- b. "The Cemetery" means the Cemetery provided by the Council; at Peaslands Lane, Thornton le Dale, North Yorkshire, YO18 7QX
- c. "Grave" means a burial place formed in the ground by excavation and without any internal wall of brickwork or stonework or any other artificial lining.
- d. "Memorial" means any gravestone, monument, cross, vase or other monumental work.
- e. The 'Clerk' is the Parish Clerk & Responsible Financial Officer of the Parish Council
- f. "Lessee" or "Owner" means a person to whom the Exclusive Right of Burial in a specific grave space has been granted.
- g. A 'resident' of Thornton le Dale parish shall include any person residing in the parish at the time of death, or who resided in the parish for a period of not less than two years within a ten-year period prior to death.

2. REGISTRAR

- 2.1 In England and Wales the death must be registered at the register office in the area where the death occurred. If the person died in North Yorkshire: You can register the death, **by appointment, at any registration office in the County**. You will receive certificates and relevant paperwork immediately.

- 2.2 None of the following can take place without required permission of or appropriate documentation from either the Registrar or Clerk:
- Burials or exhumations
 - Burial of ashes
 - Erection or fixing of a memorial
 - Inscription on a memorial.
 - Renovation of a memorial.
 - Removal and /or replacement of a memorial.
- 2.3 Cemetery Plans showing grave locations and numbers, and registers of grants of Exclusive Rights of Burial are kept and are available for public inspection, by prior arrangement. A charge will be made for searches of persons buried in the Cemetery.
- 2.4 A copy of these Rules and of the current Fees and charges are displayed on the Parish Council's website. Hard copies are available on request by email.
3. **CONDUCT**
- 3.1 **The *Local Authorities Cemeteries Order 1977*** provides that "No person shall":
- Wilfully create any disturbance in a Cemetery.
 - Commit any nuisance in a Cemetery.
 - Wilfully interfere with any burial taking place in a Cemetery.
 - Wilfully interfere with any grave, tombstone or other memorial, or any flowers, trees, shrubs or plants.
 - Play any game or sport in the Cemetery.
- 3.2 None of the acts described in the foregoing paragraph are therefore permitted in the Cemetery and in particular:
- No person is to enter, leave, seek to enter or seek to leave the Cemetery other than through the main entrance on Peasland Lane.
 - No person is to interrupt or delay a burial by his or her behaviour, nor is any person to obstruct, disturb or annoy any person lawfully using the Cemetery.
 - No person is to wilfully destroy or damage any grave, memorial, wall, fence, tree, plant or shrub in the Cemetery.
 - No person is to mark or disfigure any memorial, wall or fence in the Cemetery or put up any printed paper, handbill or sign.
 - No vehicles may enter or leave the Cemetery without specific permission from the Clerk.
 - Members of the public are not to cycle on the paths in the Cemetery.
 - No music is to be played in the Cemetery except with the specific agreement of the Parish Council or Clerk
 - Dogs are not allowed in the Cemetery (including on a lead)
- 3.3 Children under 14 are not allowed in the Cemetery unless they are under the care of a responsible adult.
- 3.4 Any damage in the Cemetery is to be made good at the expense of the person causing it.
- 3.5 The Parish Council reserves the right to exclude people from the Cemetery under exceptional circumstances.

4. GRAVES

- 4.1. Graves are only to be dug by approved personnel appointed for this purpose via the Undertaker, or the Parish Council / Clerk and are dug at the expense of the person making the request.
- 4.2 Grave diggers are required to have at least £10m public liability insurance and Funeral Directors who have appointed Grave Diggers must supply the Parish Council with a copy of the Public Liability Insurance, both theirs (£10 million pounds minimum) and the Grave Digger's, and a relevant up to date Risk Assessment.
- 4.3 Grave Diggers must ensure that they comply with all relevant Health & Safety legislation relating to Grave Digging or excavation works and refer to the Cemetery Risk Assessment produced by the Parish Council. A signed acceptance of cemetery terms and conditions is required.
- 4.4 All bodies for interment are to be contained within a sealed container such as a wooden coffin, or suitable alternative such as environmentally friendly coffins. Such containers are to bear the identity of the person contained therein. Ashes must be within a suitable container.
- 4.5 Graves are to be dug to accommodate a coffin 78 inches in length and up to a maximum width of 26 inches. **Notice must be given if a coffin exceeds these limits and an extra fee may be payable.** Graves will be dug to a depth of 54 inches for a single burial plot. Double depth graves are allowed in the Cemetery. Once a burial has taken place **a further three cremated remains** can be buried in the same plot, providing the necessary Exclusive Rights of Burial are in place or relevant Proof of Ownership, Statutory Declaration and/or Transfer.

Please refer to section 6 of the Rules and Appendix for further information relating to the Proof of Ownership of Graves.
- 4.6 If a grave is re-opened for further burial, no human remains will be disturbed and no offensive soil will be removed.
- 4.7 Once the earth on a grave has settled, the Lessee/Owner may seek permission to erect a memorial, not before six months after the interment. Any holder for plants or flowers must form part of this memorial and must be constructed of a non-breakable material.
- 4.8 The Undertaker who has contracted the Grave Digger, or Grave Digger who has made direct arrangements with the Parish Council/ Clerk, are responsible for any levelling that the surface of the grave may require for up to 1 year after interment. This work must be carried out within 15 working days of a written request from the Parish Council, or the Parish Council will carry out the work and recharge the Undertaker. Suitable top-up soil may be left in an unused corner of the Cemetery.
- 4.9 In respect of any grave for which no Exclusive Rights of Burial has been granted, or in which the Exclusive Right has lapsed, the Parish Council may re-open graves to permit further interments, where these can be accommodated, after 5 years have elapsed from the date of the last interment.

5. EXHUMATIONS

- 5.1 No exhumation of remains can take place without the specific approval of the Secretary of State and, where appropriate Diocese.

6. EXCLUSIVE RIGHT OF BURIAL (ERoB)

- 6.1 No interment can take place in any private grave unless a prior grant of Exclusive Right to Burial in that grave has been made. The name and address of the owner of this Exclusive Right, known as the Owner/ Lessee, must be given to the Parish Clerk at the time of giving Notice of the Interment.

What is a grant of Exclusive Right of Burial:

The grant of Exclusive Right of Burial is a legal deed which is issued on the payment of the appropriate fee. It contains the name of the person (the Lessee/Owner) to whom the right to decide who may be buried in a specified grave plot has been given for a stated period. Grant of Exclusive Right of Burial at Thornton le Dale Cemetery lasts for fifty years from the date of issue. A further Right can be purchased up to a maximum of 49 years (99 years in total).

It is important to retain the Deed in a secure place, as it is the only legal document held by the Owner/ lessee confirming their entitlement to the burial right. It is also important to notify the Parish Council of any change of address.

Exclusive Right of Burial does not automatically transfer to any other person on the death of the holder. If a relevant Transfer of the ERoB has not taken place from the living owner, then in most cases it will transfer to the **Executor** of the holder's Estate, or the Administrator of the Estate if a Grant of Letters of Administration has been obtained. Further information about this is given below, and in Appendix 1 to these Rules.

For this reason, it is important to consider carefully who will hold Exclusive Right of Burial for a burial plot. The Parish Council/ Clerk can give further advice about this if necessary. Exclusive Right of Burial can be issued in up to four joint names, with each owner required to give written permission each time that the grave is used.

What is, and what is not, meant by the Exclusive Right of Burial:

The right allows the recipient (owner/lessee) to decide who may be buried within the grave. This means that:

- the remains of up to two people may be buried **in a double depth plot** and up to two containers of cremated remains (the Exclusive Right of Burial for a double depth rather than single plot would need to be purchased at the time of the first burial), or
- the remains of one person may be buried in a single depth plot and up to three containers of cremated remains or
- up to four containers of cremated remains (usually within a specific cremated remains plot)

may be buried in the specified grave plot, or double depth grave plot, or cremated remains plot where appropriate. All relevant fees must be paid for the appropriate size plot e.g. single depth, double depth, or cremated remains, and for each subsequent interment where Proof of Ownership is provided. Purchase of a double depth plot is one on top of the other. If side by side plots are required, this is the purchase of two separate plots, side by side, and requires the purchase of Exclusive Rights of Burial for each plot.

Where it is intended that a grave space is used to accommodate both human and cremated remains, the human remains must be interred first.

The Exclusive Right of Burial does not confer ownership of the grave plot or the right to carry out any activity on it. ***The land remains in the ownership of the Parish Council.***

- 6.2 Grants of Exclusive Right of Burial (ERoB) are granted for a period of 50 years. At the expiry of a fixed period for which such an Exclusive Right has been granted, the Parish Council may offer the owner an opportunity to purchase a further number of years, up to a maximum of 49 year (99 years in total). The Parish Council may serve notice of determination on those graves where the grave does not appear to be tended and where the Exclusive Right has not been exercised for 10 years. The Right will then cease unless the owner notifies the Parish Council in writing of their wish to retain it for a further period. A relevant charge will be made in such a case.
- 6.3 An Owner/Lessee may be given a choice of grave space from those available, but any choice is subject to the approval of the Parish Council/ Clerk. Plot allocation is made by the Clerk. Plot allocation will be done to maximise the use of the existing space, which will be taken into consideration.
- 6.4 Before a grave, in respect of which an Exclusive Right of Burial has been granted, can be re-opened to admit a further interment, the Clerk/ Parish Council must be reasonably satisfied that the Owner agrees to the interment. The signature of the Owner on the Notice of Interment will suffice providing the particulars appear to agree with records.
- 6.5 Any Exclusive Right of Burial granted may be transferred by Transfer Deed by a living Owner to another person, but the transfer must be agreed and recorded by the Parish Council.

7. NOTICES OF INTERMENT

- 7.1 A **Notice of Interment** must be on the form provided by the Parish Council. Any instructions received by telephone, email or fax must be confirmed as soon as possible in writing and signed. The person making the request (the family member) must sign the Notice of Interment.
- 7.2 A **Notice of Interment Form must be completed** (provided by the Parish Council), and every notice must state:
 - a. The full name, age and residence of the deceased (and if such person is a minor, the names of the parents).
 - b. The date and place of death.
 - c. The day, date and time of the burial being requested
 - d. Details of the grave, including its depth and plot number
 - e. Full details of the existing Lessee/Owner including the Exclusive Right of Burial certificate
 - f. The dimensions of the coffin.
- 7.3 Notices of Interment must be received by the Parish Council (the Clerk) to allow a minimum of seven clear days' notice, (excluding weekends and public holidays)

8. INTERMENTS

- 8.1 No interment can take place unless the Clerk/ Parish Council has received a Certificate of Disposal from the Registrar of Births and Deaths or an Order for Burial from the Coroner, or a

Certificate of Cremation from a Crematorium, as appropriate. The Parish Council does not permit the scattering of cremated remains in the Cemetery.

8.2 Use of Exclusive Right of Burial to Permit a Burial to Take Place:

Only the holder of an Exclusive Right of Burial can give permission for a grave space to be used for a burial and will be required to sign a document giving permission for a burial to take place (unless the grant holder is the person to be interred into the grave), in accordance with Article 10(6) of the Local Authorities Cemeteries Order 1977. If the Exclusive Right of Burial is held in joint names, then all living persons named on the ERoB must sign to give their consent.

When the Parish Council receives a request to arrange an interment ***the family member arranging the burial must identify the holder of Exclusive Right of Burial and obtain their permission***. Any person wishing to arrange a burial in a grave plot where the holder of Exclusive Right of Burial is deceased and where the grant has not passed to another living person, or where the Exclusive Right has expired, will be asked to first transfer ownership using a Statutory Declaration form and this must be witnessed by a Magistrate or Commissioner for Oath. The Parish Council may permit a burial to take place with the appropriate documents being provided after the burial, but this is at the Parish Council's discretion. Please refer to section 6 and Appendix 1 for clarification of the process required for Proof of Ownership of a grave plot.

8.3 Transfer of the Right:

At the time of purchase of the ERoB, the Grant will be registered with the Parish Council in the name or names of the person or persons given to the Parish Council. As explained in these Rules the ERoB does not automatically pass to another family member on the holder's death. For a transfer of ownership to be lawful the ***possessor will need to prove legal entitlement to the grant***:

- by way of a formal Letter of Assignment, signed by the former registered owner passing the ownership of the grant to the deed possessor,
- where the original owner of the grave rights has died, and the grant has passed to the person or persons named as ***Executor or Executors on the last Will and Testament***. ***The PC will need to be supplied with a copy of Grant of Probate*** (not the ownership of Exclusive Rights of Burial does not automatically transfer to the next of kin upon death of the Owner).
- where the deceased left no Will, Grant of Letters of Administration was obtained, and the grant has passed to the person named as Administrator. The PC will need to see a copy of the Grant of Letters of Administration.

Transfer of the deed of Exclusive Right of Burial is an important legally required transaction and must be done correctly if permission is to be granted for future burials to take place, or for a memorial to be erected. This can sometimes become very complicated, and the PC / Clerk can advise on the correct process. Please also refer to Appendix 1. ***Please note it is the responsibility of the person making the interment or memorial request (or family member) to provide the proof of ownership.***

8.4 Repurchase of the Right:

The PC may buy back a grant of Exclusive Right of Burial but only at the price for which it was originally bought. It is not obliged to do so.

8.5 Common Graves:

Any grave where the Exclusive Right of Burial has not been purchased is known as a common grave. The Parish Council's policy on interment in a common grave is that parishioners only are entitled to be buried in them; non-parishioners will have to purchase Exclusive Rights of Burial and pay the appropriate fee.

Burial in a common grave does not confer any entitlement to the installation of a memorial.

Please be aware that the PC retains the right, in these cases, to carry out further unrelated burials in that grave.

- 8.3 No interment can take place unless the appropriate fees have been paid in advance (usually by BACS)
- 8.4 No interment can take place without the appropriate proof of ownership of the grave plot e.g. the Exclusive Right of Burial, or copies of relevant documentation (Grant of Probate, Transfer etc) as per Appendix 1 of these Rules
- 8.5 Interments can take place on any day, other than public holidays as agreed with the Parish Council.
- 8.6 The Lessee or their representative or appointed Funeral Director should advise the Registrar & Clerk/Parish Council if the deceased to be buried has died of an infectious disease which may require special arrangements.
- 8.7 Relatives or friends of the deceased must make their own arrangements for the conducting of any burial service. Any duly authorised or recognised minister, or any other duly authorised person, may officiate at interments providing the ceremony is conducted with due decorum.
- 8.8 All persons, excluding Parish Council employees, engaged for an interment, or where family or friends of the deceased are making the arrangements, ***must have public liability insurance to a value of £5 million.***
- 8.9 Relatives or friends of the deceased who are carrying the coffin and/or interring it must ensure that they are wearing suitable clothing, in particular suitably grippy footwear, and that they have discussed with the Undertaker the procedure, risk, and health and safety precautions.

9. MEMORIALS

- 9.1 No memorial, with or without inscription, can be erected or fixed in the Cemetery without the written agreement of the Parish Council (or the Clerk on behalf of the Council). The Clerk has delegated authority to approve memorials which they consider in keeping with existing memorials. If the Clerk has any reservations, applications will instead be considered at a meeting of the Parish Council. The relevant Proof of Ownership of the grave must be provided before any approval will be given – ***See Section 6 and Appendix 1 of these Rules.***
- 9.2 Lessees wishing to erect a memorial should contact a stonemason (who should be listed on the British Register of Accredited Memorial Masons BRAMM or be a member of NAMM - National Association of Memorial Masons) who must complete an application for a permit to undertake monumental work. Completed forms/ requests must incorporate a drawing of any

proposed memorial, inscription, dimensions, the method of fixing and must carry the signature of the Lessee authorising the stonemason to undertake the work.

All memorials must be fitted to the British Standard (BS8415:18), of naturally quarried materials, be dignified in design and the colour and wording must be approved by the Parish Council (Clerk).

The relevant grave number is to be inscribed on any monument or gravestone.

- 9.3 Approval of the permit by the Parish Council is to be taken as conferring to the Lessee/ Owner a grant of a right to place and maintain a memorial on the respective grave. Such right will expire on the same date as that of the Exclusive Right of Burial.
- 9.4 If a grant of Exclusive Right of Burial for a grave expires and is not extended, the Council may serve notice on the Lessee/ Owner to remove any memorial from that grave and will display appropriate notices of intent in a local newspaper and in the Cemetery grounds. If after three months the memorial has not been removed, the Council may then remove and deal with it as it sees fit.
- 9.5 Any person employed to erect or fix any memorial must work under the direction of the Parish Clerk. The ground is to be filled up and levelled, or slightly mounded, and all bricks, stone, rubbish or other materials are to be removed from the graveside to the spoil heap adjacent to the Cemetery. Any damage to adjoining graves or memorials is to be made good. Mortar to be used must be brought in ready mixed.
- 9.6 The dimensions of memorials placed on graves in which the exclusive rights of burial have been granted may not exceed:
- a. headstones 30 inches in height x 24 inches in width x 4 inches in depth
 - b. plinth 4 inches in height x 30 inches in width x 12 inches in depth
- The total height from ground level must not exceed 30 inches (incl. plinth).**

Cremated remains

- a. Tablet 15" square and 2" depth, flush with the ground (tapered tablets are permitted 4" to 2")
- b. Upright memorial. Maximum Height 30", x 24 inches in width x 4 inches in depth (to include any plinth).

Once the existing rows of upright memorials are full, no more will be allowed.

In the interests of safety, monuments should be mounted only on approved bases.

- 9.7 For grounds maintenance and health and safety reasons, the placing of fencing, enclosures, kerb surrounds, border stones, chipping stones or pebbles is not permitted on any grave space. Some memorabilia may be placed on the grave space for grieving purposes but must be removed within a 6-month period to comply with these rules and regulations.
- 9.8 A programme of memorial testing will be carried out ensuring every memorial is tested at least once every five years. All monuments are examined to ensure they pose no risk to users of the Cemetery. Where memorials are found to be loose or otherwise defective the Lessees/ Owner will be advised and given twenty-eight days to make the memorial safe.

- 9.9 In the event of a memorial posing an immediate threat to users of the Cemetery or where Lessees, having been advised that their memorial was unsafe and having not made good, immediate action will be taken by the Parish Council to make it safe. This may result in the memorial being laid down or removed.
- 9.10 The Council may remove any memorial, or inscriptions thereon, placed in the Cemetery without authorisation and recover any costs so incurred.
- 9.11 Thornton le Dale Parish Council has determined to use only members of the BRITISH REGISTER OF ACCREDITED MEMORIAL MASONS (BRAMM) or NAMM - National Association of Memorial Masons so only approved monumental masons are permitted to carry out work in the Cemetery. All memorials should be erected in accordance with the relevant official Association code. A signed acceptance of cemetery terms and conditions is required.
- 9.12 The Council will not be responsible for any accidents or damage to any memorial caused by vandalism, storm, wind, lighting, subsidence, general grounds maintenance or any cause that is beyond the Councils control. Owners of memorials are advised to take out appropriate insurance cover against theft or damage.
- 9.13 Memorial Benches: please contact the Clerk for further information and advice.
- 9.14 Change of address: - We request that you notify the Clerk of any change of address as soon as possible so that the appropriate records can be updated.

10. GRAVE MAINTENANCE

- 10.1 All grave spaces and memorials are to be kept in good repair by the Lessee/Owner.
- 10.2 No surrounds, palisading, soft toys, glass vases, jars or tins may be placed on grave spaces. Neither will balloons, wind chimes and lights be allowed. Encroachment onto pathways and adjacent plots is not permitted.
- 10.3 All graves will be lawned for maintenance purposes and consequently any shrubs or plants placed on a grave will be removed. Anyone undertaking the maintenance of graves must make their own arrangements to remove any excess soil or stones from the Cemetery.
- 10.4 Artificial shrubs, plants or flowers may be placed on graves but will be removed by the Parish Council or its officers when faded or appearing unsightly.
- 10.5 Dead flowers, wastepaper and other refuse is to be put in the appropriate bins provided for that use and not left for disposal elsewhere in the Cemetery grounds. The content of the bins is monitored by the Parish Council and misuse of the bins could result in them not being emptied.
- 10.6 The Parish Council or its officers (staff) will remove floral tributes, when wilted or decayed.
- 10.7 Christmas and other festive season tributes (wreaths etc.) will be removed within 3 months after the festival.

11. GENERAL

- 11.1 The above rules and regulations are not exhaustive and where matters arise that are not specifically covered the Clerk is authorised to make such decisions as they consider to be reasonable and necessary for the day-to-day management and control of the Cemetery.
- 11.2 **Any person or persons who knowingly or wilfully contravenes the Cemetery Rules and Regulations maybe the subject of criminal prosecution (*Local Authorities' Cemeteries Order 1977(Section 19)*).**
- 11.3 Restricted Grave Access – the Parish Council asks you to note that at some time in the future the grave to the side of plots may need to be excavated and spoil may be placed on neighbouring plots. This may prevent visiting the area for a short period. The grave area will be made clean and left neat and tidy after the funeral.
- 11.4 **Difference or Disputes** - Should any difference or dispute arise as to the real intent, meaning or interpretation of these Rules and Regulations, the decision of Thornton le Dale Parish Council as the Burial Authority shall be final.
- 11.5 **Alterations to regulations** – Thornton le Dale Parish Council reserves the right to alter these regulations from time to time as it sees fit.

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THORNTON LE DALE PARISH COUNCIL CEMETERY RULES

APPENDIX 1 – Process for Proof of Ownership of a Grave (Exclusive Right of Burial)

Process to be used when permission is requested for a burial to take place and the holder of the Exclusive Right of Burial is deceased (***except for when the person to be interred is the holder of the Right***).

If there is a Will	If the deceased died Intestate (No Will)
Can the family use the Will to establish if there is an Executor? If necessary, the family can use Find a Will on Gov.UK website for a small cost to obtain a copy of the will: https://probatesearch.service.gov.uk/#wills Exclusive Right of Burial transfers to the Executor(s) named on the will and he or she needs to sign the permission slip for the burial to take place. A copy of the Grant of Probate or the Will should be provided to prove who holds Exclusive Right of Burial e.g. the name(s) of the Executor The family then need to decide whether to leave Exclusive Right of Burial in the Executor's name, or Transfer this to someone else using a Letter of Assignment. If the Executor cannot sign this permission slip then a family member can claim Exclusive Right of Burial using the Statutory Declaration. This should only be done where the Parish Council is confident that the Executor cannot sign, and a copy of the Will should still be provided. It is the person making the application who is responsible for proving their rightful ownership. An Exclusive Right does not automatically pass to the next of kin. If there are joint Executors, then one or more of them can choose to have their name removed from the Exclusive Right of Burial using a Renunciation Form. If this has not been done, then they all must sign the permission slip.	Was Grant of Letters of Administration obtained? If so Exclusive Right of Burial transfers to whoever is named on this document as Administrator and they can sign the permission slip for the interment. The Parish Council will require a copy of the Grant of Letters of Administration. If the person named on this Letter of Administration cannot sign, then a Statutory Declaration must be completed. The family then need to decide whether to leave Exclusive Right of Burial in the Administrator's name or Transfer this to someone else using a Letter of Assignment. If no Grant of Letters of Administration was obtained the family must complete a Statutory Declaration. In the event of no letters of Administration the Exclusive Rights pass to the living next of kin, who would complete the Statutory Declaration. Statutory Declaration documents and / or Transfers must be witnessed by a Commissioner for Oaths or Magistrate.

This Appendix should be read in conjunction with the Cemetery Rules which provide information regarding the Exclusive Rights of Burial and Interments process for Thornton le Dale Parish Council as set out in the *Local Authorities Cemeteries Order 1977*.

Please refer to the **Example Statutory Declaration Form** available on the PC website:
<https://thorntonledale-pc.gov.uk/>