

Orkney Islands Council

Code of Practice

for the Management of Burial Grounds

Foreword by the Chair of the Development and Infrastructure Committee

Our burial grounds are an important part of Orkney's history and our communities. They reflect a time when communities were smaller and burial grounds were a local asset; cared for and maintained to a high standard locally. The Council is now the custodian for 47 burial grounds across the mainland and isles.

The growth and management of burial grounds is a key part of our work within the Development and Infrastructure team, and this includes ensuring our burial grounds can meet the needs of our communities and are safe and pleasant places for people to visit.

Orkney Islands Council, like many other councils, has responsibilities to uphold and must be compliant with national legislation relating to burials and burial grounds in the Burial and Cremation (Scotland) Act 2016. This has meant some changes to the ways we work and how burials are recorded and undertaken.

This Code of Practice and the associated Management Plan and Customer Charter explain how we manage our burial ground assets, what standards we work to and the contractors who work within our sites such as masons and grave diggers, and the rights and responsibilities of our local communities when they are owners of a right of burial in our burial grounds.

Managing and maintaining our burial grounds is not without challenge in terms of the available resources and given the annual financial pressures local government faces. It is also important that we continue to consider all options for community involvement, to keep our unique heritage and communities at the heart of all we do. However, through this Code of Practice we endeavour to bring best practice and industry through approved approaches to our work while continuing to cherish and protect these critically important community assets.

Chair – Development and Infrastructure Committee

Picture

Graham Sinclair

1) Introduction

- i) Orkney Islands Council, through the requirements of the Burial and Cremation (Scotland) Act 2016, is responsible for the overall management of council owned burial grounds. The Council provides its burials service to the public and to undertakers through the council's registrars, administered locally by burial clerks in some areas. The physical assets are currently managed by the Environmental, Property & IT Services Directorate, within the Development and Infrastructure Committee Governance structure
- ii) All aspects of policy, strategy and operational approach are managed through the Roads, Fleet and Waste Service as part of an Environmental Services burial grounds function. This includes the duties and responsibilities as "Burial Grounds Authority" including all matters relating to the lair provision, maintenance and management of all assets contained in each burial ground
- iii) The Code of Practice for the management of burial grounds in Orkney, and the accompanying Burial Ground Management Plan, outlines the procedures and practices for interments and the management and operation of burial grounds. Earlier versions of the rules and regulations which apply to individual burial grounds are superseded by this Code of Practice

2) Interpretation of Terms

In this Code of Practice, the following words and expressions have been used with the following meanings assigned to them:

- i) "The Burial Authority" and "The Council" refers to Orkney Islands Council
- ii) "Lair" refers to the piece of ground within the cemetery under the control of the Council in which the Exclusive Rights of Burial are granted by a certificate
- iii) "Certificate" refers to the Certificate of Right of Burial granted by the Council or its statutory predecessors
- iv) "Owner" refers to the person to whom the Certificate of Right of Burial is granted and his/her heirs
- v) "Memorial" refers to any headstone, monument, tombstone or grave marker placed on a lair

3) Roles and Responsibilities – Policy approach

The parties with the day-to-day management of burials and burial grounds have different roles and responsibilities. Set out below are the key functions managed through the Code of Practice and the principal roles of each party with regards to;

- a) Developing, implementing, reviewing and monitoring all aspects of policies, strategy and operational procedures relating to provision and upkeep of the asset
- b) Ensuring that all burial grounds are safe and accessible, and any work therein is undertaken to appropriate standards
- c) Ensuring that prescribed inspections are undertaken and any subsequent necessary action taken to ensure public safety
- d) Ensuring where possible, lair owners are contacted in advance of any required maintenance work
- e) Ensuring the process of undertaking a burial is done in accordance with Council guidelines and in line with prevailing legislation, regulation or guidance

These functions are fulfilled by several parties both internal and external to the council;

Environmental Services - Burial Grounds team

- (a) Asset management – Lair provision, major and general maintenance, associated operational management policy and strategies
- (b) Compliance with legislation, regulation, statutory guidance or advisory best practice
- (c) Fees and Charges – pricing for purchase of right of burial and any other interment cost issues
- (d) To manage queries from the general public through the Burial Grounds Officer
- (e) To ensure the ongoing inspections of burial grounds and memorials to address public safety and coordination of all associated maintenance works
- (f) To ensure Historic Environment Scotland is contacted in relation to any works required to memorials in line with Class V of the Class Consent Order 1996 (relating to urgent works on historic monuments)
- (g) Communication and engagement with Council departments, Community Councils and other organisations wishing to work within the burial grounds.
- (h) Setting the terms and conditions for sale of rights of burial
- (i) To ensure any mason commissioned to erect a memorial or memorial is appropriately qualified, trained and approved to do so.

Environmental Services – Operational Services (Roads)

- (a) To liaise with the registrars and funeral directors on grave digging, filling requirements and associated timings
- (b) To provide maintenance services as directed by the Burial Grounds Officer

Registrars – Corporate Services Directorate

- (a) The administrative process of getting approval to carry out a burial, including liaison with funeral directors to achieve this in a timely manner
- (b) The administrative processes in managing lair ownership including keeping accurate records, amendments, cancellations and renewals of certificates
- (c) Keeping accurate records of all purchases and any subsequent amendments of Right of Burial Certificates and burials including updating burial grounds plans

Democratic Services – Chief Executives Service

The administration of appropriate community-based works

Funeral Directors

- (a) To liaise closely with the registrars regarding details of burial requirements. To agree with the operational team regarding grave digging and filling
- (b) To ensure any guidance or advice supplied to customers is in line with Orkney Islands Council Customer Charter

4) Policy Drivers and Operational Procedures

- i) The Development and Infrastructure Directorate Service holds responsibility for the provision of lairs and major and minor improvements. The service is the custodianship of the policies, strategies and procedures relating to the general provision and upkeep of the burial grounds. This is discharged by the Environmental Services team, principally through the Burial Grounds Officer
- ii) Our approach ensures that we comply with current legislation, regulation and relevant guidance. In addition, our associated delivery policies, strategies and operational procedures address all aspects of compliance. This Code of Practice and associated documents are available for reference on the Council's website and clearly set out our approach across several function areas, including but not limited to;
 - (a) Regular inspections of burial grounds including memorials adopting a rolling 5-year programme
 - (b) Follow-on processes to address a memorial risk (e.g. marking up, cordoning, possible repair, communication etc.)
 - (c) Set standards for placement, maintenance and repair of memorials
 - (d) Setting lair owner's rights and responsibilities (e.g. on notification of an issue their need to act) or, if being unable to make contact, noting the action has needed to be taken in accordance with current Scottish Government guidance
 - (e) The Customer charter –The conditions of sale requirements for the owner of right of burial, but also the service they can expect from the council in their management of the burial grounds
 - (f) Pricing schedule to reserve or purchase a right of burial in a lair
 - (g) Setting maintenance standards, subject to available funding, for contracted works such as grass cutting (cuts per year, height etc). This includes supporting community councils that may manage and set their own maintenance standards for a specified burial ground.
 - (h) Managing the records system for lair occupancy and associated information e.g. owner details, required works etc
 - (i) Managing and facilitating reporting processes for damages, deterioration, depreciation and other issues that may need investigation including remedial works
 - (j) Access and egress requirements for vehicles entering a burial ground (i.e. normally restricted to the hearse, maintenance vehicles or in special circumstances vehicles for disabled persons)
 - (k) Access and egress requirements for pedestrians entering a burial ground
- iii) The day to day administration of these policies and operational procedures are managed by the Burial Grounds Officer, in close liaison with others noted in section 3 above
- iv) The burial ground clerk is the first point of contact for the reservation and or allocation of lairs. The clerk maintains the plan of the burial ground by recording the use or reservation of lairs. This is made available to the Burial Grounds Officer who liaises closely with the registrars to ensure that records are up to date and accessible

v) The Council is responsible for the provision of burial grounds and for the maintenance of the assets within, excluding memorials which remain the property and responsibility of the burial rights holder. This is a maintenance function to ensure that such assets are safe and fit for purpose. This does not include replacement unless beyond economical repair and does not necessarily include any betterment (upgrade). If replaced that will be on a “like for like” basis. Maintenance may include, but is not exclusive to:

- (1) Grass Cutting
- (2) Access Paths
- (3) Boundary Walls
- (4) Fences
- (5) Car Parks
- (6) Any buildings (unless formally taken over by other parties)
- (7) Digging and refilling of graves (including topping up over time)
- (8) Settlement (depressions or hollows forming)
- (9) Signage (including warnings or other advice on access)
- (10) Pest Control
- (11) Drainage Systems
- (12) Lighting (where present)
- (13) Gates

5) Exclusive Right of Burial

- i) Reservation of a lair or lairs is made through application to the clerk responsible for the preferred burial ground. On receipt of the completed form and the prescribed fee as determined by the Council, the clerk shall issue a certificate giving the named person and his or her heirs the Exclusive Right of Burial in the reserved lair or lairs. The fees are published on the council's website and reviewed periodically.
- ii) Currently, the Exclusive Right of Burial applies in perpetuity. However, the Burial and Cremation (Scotland) Act 2016 requires that rights can only be sold for an initial period of 25 years. This requirement is not yet in place but will be considered by Orkney Islands Council in accordance with national guidance and local considerations at an appropriate time.
- iii) Lairs will be issued by the burial clerk of the cemetery, in full consideration of the available capacity remaining. Requests for specific lairs will only be accommodated in exceptional circumstances following written request to the Burial Grounds Officer
- iv) Joint ownership of the right of burial in any lair is prohibited and only one person shall be registered as the proprietor of any one lair. The proprietor is not entitled to sell any right of burial belonging to them except to the Council, through cancelling their ownership with the relevant clerk for that burial ground. The council is to be informed of any changes to lair detail and kept up to date of who is responsible should contact need to be made.
- v) Owners shall not for pecuniary or any other reason allow any person other than members of their family to be interred in the lair unless with the consent of the Council
- vi) The owner is permitted to request a change to the lair for which a certificate has been issued by applying to the appropriate burial clerk
- vii) The burial ground clerks will, as requested, and quarterly as a minimum, submit to the Council a record of all burials, including the interment of ashes and the scattering of ashes, together with a list of any lairs which have been reserved during the period. The Burial Grounds Officer will ensure records are maintained appropriately for this purpose
- viii) To ensure lairs are available for immediate burials it may be necessary to reserve capacity in cemeteries with insufficient long-term lair space. In this situation advice will be given on where there are alternate locations with space. If this is not preferred the request may need to be placed on a waiting list for any reservation. The reserved lair can be paid for at the current price (i.e. full pre-payment)
- ix) Enquiries regarding the interment of a cremation urn or casket, or the scattering of ashes must be made to the clerk for that burial ground. A certificate is required in respect of the interment of a cremation urn or casket, which can be for a lair that is already in use, or through purchasing a right of burial for the ashes. Scattering of ashes will be recorded by the clerk in the register of the respective burial ground

- x) Owners of the right of burial are responsible for any memorial that is erected on their lair and are therefore responsible for the maintenance of that memorial. The owner needs to act within 3 months once a risk has been identified by either themselves or through the Council inspection programme. The owner must appoint a suitably qualified, trained and certified specialist to undertake any repairs deemed necessary, who has the required permit to work on memorials within our burial grounds. The approved stonemasons will be listed on the Burials section of the council website.

6) Burial Record Procedure

- i) An undertaker is usually engaged for individual funeral arrangements. The burials clerk will liaise with the undertaker to ensure all funeral details are communicated and recorded. In some circumstances, a relative or friend of the deceased may assume this responsibility, in which case some of the obligations of the undertaker described in this document, would apply to that person
- ii) A burial can be recorded by the burial ground clerks once a Right of Burial has been established for the required lair. This may have been purchased in advance or will be purchased at the time of arranging the burial
- iii) Requests for burials will be processed Monday – Friday 8am-8pm. Requests can be sent via email at weekends and will be picked up by the duty officer on Monday. However, urgent requests can be accommodated if necessary.
- iv) Requests for burials must have all relevant information included on the application. Funeral dates will not be agreed until all required information is supplied
- v) Burials can normally take place Monday-Saturday with times agreed depending on availability of resources. Burials outwith these times can be arranged in the case of urgency, and with the consent of the appropriate officer.
- vi) At the time of burial, the undertaker or person acting in this role should give a Certificate of Registration of Death (Form 14) to the burial ground clerk and in the case of stillborn child, a Certificate of Registration of Stillbirth (Form 8). In the case of interment of a cremation urn or casket, the original Certificate of Cremation should be submitted to the burial ground clerk as soon as possible
- vii) It is the responsibility of the Burial Grounds Officer to ensure that the Certificate of Registration of Death and the certificate of Right of Burial are kept for retention by the Council as a complete record of the burial

7) Lair Requirements

- i) Each burial ground is divided into sections and further sub-divided into lairs which can accommodate one or more burials. Details of these sections are recorded in a burial ground plan. In the newer burial grounds, lairs identified by plinths on the ground, measure nine feet by four feet (2750mm by 1200mm). In older burial grounds dimensions of lairs will generally vary
- ii) Graves will be excavated in accordance with Council health and safety requirements. Where private contractors are engaged to excavate graves, they will be required to submit appropriate risk assessments to the Burial Grounds Officer and ensure that the lair is excavated in accordance with Orkney Islands Council procedures. In some circumstances technical requirements may restrict access and an alternative may be considered. In the rare situation this arises, the owner of the right of burial should discuss with the burial clerk for an alternative at no additional cost.
- iii) Burial of a deceased person must include the use of a suitable coffin
- iv) No coffin shall be laid nearer to the surface than three feet (900mm). When two interments are intended in the same grave, the first coffin shall be at a depth of six feet (1800mm). A second burial can then be made at a depth of four feet six inches (1400mm). No coffin shall be removed from any grave with a view to making room for an additional interment
- v) The grave must be identified and marked out in accordance with the location specified on the certificate
- vi) Personnel attending a burial for the purpose of re-filling the grave shall wear suitable clean attire and while waiting to complete the burial, staff and their equipment shall remain as unobtrusive as practicable in terms of their physical presence and that of tools, equipment and/or vehicles from the proximity of the graveside
- vii) Owners have the right of burial in the specified lair.
- viii) The first burial in a lair confers the right of a subsequent burial in the lair, subject to ground conditions and conditions relating to the minimum depth of burial. The right of consequent burial is not subject to further charges other than those relating to the re-excavation of the grave. The details of such charges are published on the council's website and reviewed periodically
- ix) Owners must note that to maintain the appearance of the burial ground, withered floral tributes shall be removed by the Council. All tributes left on the grave shall be removed after a one-month period.
- x) Kerbs, copes, railing, fences, gravel, corner stones or any other such ornamental additions to the lair will only be permitted at the discretion of the Burial Authority and on application to the Burial Grounds Officer. Any unauthorised memorials, artefacts, vases or planting are liable to be removed by the Council and the costs recovered from the lair owner

- xi) Any memorials which are erected on a lair must be done in accordance with the requirements set out in the Burial Grounds Management Plan. All memorials remain the responsibility of the lair owner.

List of council-managed burial grounds throughout Orkney:

No.	Burial Ground	Location
1	North Ronaldsay	Main Road, North Ronaldsay
2	St Boniface Cemetery	Central Road, Papa Westray
3	Ladykirk Cemetery	The Quarry Road, Pierowall, Westray
4	Scar Cemetery	Burness, Sanday
5	Cross Kirk	Tuquoy Road, Westray
6.	Rapness Cemetery	Rapness, Westray
7.	Lady Kirkyard	Nr Overbister, Sanday
8.	Faray Cemetery	Faray Island, Eday
9.	St Johns Cemetery	Kirk Road, Eday
10.	Old Eday Cemetery	Kirk Road, Eday
11.	Wasbister Cemetery	Wasbister Road, Rousay
12.	St Magnus Church	Pier Road, Egilsay
13.	St Peter's Cemetery	Whitehall Road, Whitehall, Stronsay
14.	Brinian Cemetery	Brinian Road, Rousay
15.	St Magnus Cemetery	The Palace, Birsay
16.	Birsay Cemetery	Birsay
17.	Old Evie Cemetery	Aikerness Road, Evie
18.	Evie Cemetery	Evie
19.	Chapel Cemetery	Russness Road, Wyre
20.	Lady Cemetery	Bay Road, Bay, Stronsay
21.	St Nicholas Cemetery	Holland Road, Holland, Stronsay
22.	Sandwick Cemetery	Sandwick
23.	Rendall Old Cemetery	Hinderayre Road, Rendall
24.	Rendall Cemetery	Gorseness Road, Rendall
25.	St Michael's Church	Church Road, Harray
26.	Shapinsay Cemetery	Sands Road, Shapinsay
27.	Firth Cemetery	Firth, Finstown
28.	Stennes Cemetery	Churchyard Road, Stennes
29.	St Magnus Cathedral	Broad Street, Kirkwall
30.	St Olaf's Cemetery	Orquil Road, St Ola

31.	Hall of Tankerness Cemetery	Tankerness Hall Road, Tankerness,
32.	Warbeth Cemetery	Warbeth Road, Stromness
33.	St Andrews Tankerness	Churchyard Road, Tankerness
34.	Deerness Cemetery	Deerness
35.	Round Church	Gyre Road, Orphir
36.	Graemsay Cemetery	Kirk Road, Graemsay
37.	North Hoy Cemetery	North Hoy
38.	St Nicholas Cemetery	Cornquoy Road, Holm
39.	St Laurence	Ness Road, Burray
40.	Flotta Cemetery	Church Road, Flotta
41.	St Johns Cemetery	B9047 Hoy
42.	St Peters	Kirkhouse Road, South Ronaldsay
43.	Osmandwall Cemetery and Peedie Kirk	Cantick Road, Hoy
44.	Flaws Cemetery	Halcro Road, South Ronaldsay
45.	St Marys	Burwick, South Ronaldsay
46.	Cross Cemetery	Sanday
47.	Leaquoy	Stronsay