

Item: 8

Development and Infrastructure Committee: 12 November 2019.

Burial Grounds.

Report by Executive Director of Development and Infrastructure.

1. Purpose of Report

To advise of progress in implementing recommendations arising from an Internal Audit Report.

2. Recommendations

The Committee is invited to note:

2.1.

That, following an internal audit report on burial grounds presented to the Monitoring and Audit Committee on 26 September 2019, a number of management actions have been proposed, as detailed in Appendix 1 to this report.

2.2.

That, in light of the proposed management actions, the current Burial Grounds – Code of Practice, approved by Council in 2015, has been redrafted and is attached as Appendix 2 to this report.

2.3.

That implementation of the revised Code of Practice will require an assessment of existing, and any future, necessary resources, with initial options attached as Appendix 3 to this report.

2.4.

That a final version of the Burial Grounds – Code of Practice will be presented to the Development and Infrastructure Committee in Spring 2020, following feedback from the Roads and Environmental Services Consultative Group, and taking account of any comments from Elected Members.

2.5.

That, when the final Code of Practice is presented to Committee, the Executive Director of Development and Infrastructure should include any financial implications to the Council in respect of resources to deliver the Code of Practice.

3. Background

3.1.

Orkney Islands Council is responsible for the management and maintenance of 47 burial grounds throughout the County. Whilst many of these are currently in use, others are not, and in many cases, date over several centuries. The burial grounds can be in a wide range of conditions and, as well as providing an essential setting for family burials, many are important from historical and cultural perspectives in addition to functioning as a key part of our local communities.

3.2.

In May/June 2018, following a fatal accident in a Glasgow cemetery, and subsequent correspondence from the Scottish Government, the Council embarked on a rigorous inspection programme of local burial grounds, mindful of the fact that it had been over ten years since a comprehensive survey had taken place.

3.3.

In September 2019, an internal audit report on burial grounds was presented to the Monitoring and Audit Committee, which included a number of recommendations to address ways to improve management of the Burial Grounds service. The proposed actions to address the recommendations of the audit report are attached as Appendix 1 to this report.

3.4.

In order to take account of the actions from the internal audit report, the current Burial Grounds – Code of Practice, adopted by Council in 2015, requires to be updated.

4. Code of Practice

4.1.

The Code of Practice sets out the proposed approach to the management of burial grounds for which the Council is responsible and sets out the process and key steps for inspection, maintenance and repair.

4.2.

The draft Code of Practice, attached as Appendix 2 to this report, takes into account the Scottish Government Burial Ground Memorial Safety: Local Authority Guidance, published in June 2019, in terms of the guidance on practices for local authorities to consider incorporating into their memorial inspection processes. It is noted that this guidance is advisory only and not mandatory.

4.3.

It is proposed to incorporate Members' feedback into the draft Code of Practice, with the document being further developed through engagement with the Roads and

Environmental Services Consultative Group in February 2020. A final version will then be presented to the Development and Infrastructure Committee in Spring 2020.

4.4.

Implementation of the revised Code of Practice will require an assessment of the necessary resource, together with a review of existing available resource. An initial assessment of options is attached as Appendix 3, noting that Development and Infrastructure does not control all aspects of burial ground management.

5. Links to Council Plan

5.1.

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Council Plan strategic priority of Quality of Life.

5.2.

The proposals in this report relate directly to Priority 5.20 of the Council Delivery Plan, which states “continue investment for the care and expansion (where necessary) of burial grounds across Orkney”, with one of the measures being “Revised Customer Charter/Investment Programme for Post 2020”.

6. Links to Local Outcomes Improvement Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priority of Strong Communities.

7. Financial Implications

7.1.

There are no financial implications arising directly from the recommendations contained in this report.

7.2.

The potential changes to the delivery model for burial grounds will be fully costed and developed into an options appraisal to be brought back to the Development and Infrastructure Committee. Appendix 3 sets out the initial approach to this options appraisal.

8. Legal Aspects

There are no legal implications arising directly from the recommendations contained in this report.

9. Contact Officers

Gavin Barr, Executive Director of Development and Infrastructure, extension 2301,
Email gavin.barr@orkney.gov.uk

Darren Richardson, Head of Infrastructure and Strategic Projects, extension 2310,
Email darren.richardson@orkney.gov.uk

Lorna Richardson, Strategic Policy and Projects Manager, extension 2322, Email
lorna.richardson@orkney.gov.uk

10. Appendices

Appendix 1: Proposed Actions from Internal Audit Report.

Appendix 2: Draft Burial Grounds Code of Practice.

Appendix 3: Initial Appraisal of Options.

Appendix 1

Burial Grounds

Relevant recommendations of Monitoring and Audit Report 26 September 2019

Ref	Recommendation	Relevant section in Code of Practice
2	The council should have a process to advise Historic Environment Scotland of any works carried out under Class V	Burial Grounds Inspection Programme
3	The council should prepare and approve both policy and procedural documents that can now incorporate Scottish Government guidance	Full document plus related documents
4	The lair holder's responsibility should be added to the Council's Code of Practice and be emphasised in correspondence with purchasers of lairs, possibly also emphasises on the certificate of ownership itself	2.3.10 2.3.11 2.7.5
5	The Council should carry out a full inspection programme at least every 5 years. Larger monuments that are at risk (e.g. identified as already starting to lean) may require more frequent inspection e.g. every 2 years or even annually.	Burial Grounds Inspection Programme
6	Staff and contractors who work in burial grounds should be reminded that they should report to the Council any headstones that appear to have become dangerous	Burial Grounds Inspection Programme
7	Going forward, inspection criteria approach should be further developed to fully consider different types of memorials, with tolerance levels set by type and specific local knowledge, including heritage value of the headstone	Burial Grounds Inspection Programme
11	When laying flat an unsafe memorial which has failed an assessment supporting headstones with a gentle slope should be considered, especially in kirkyards prone to water logging.	2.7.7

13	Individual records should be kept incorporating each of the categories detailed in recent guidance	2.7.5
14	Photographs should be kept of all headstones laid over	2.7.5
15	We recommend that the tracing and communication with lair owners be focused on where this is reasonably practical in achieving success	2.7.6
16	It should be explored to see if local funeral directors and stonemasons may be willing and able to forward letters on behalf of the Council	2.7.3
17	It should be considered that headstones at the risk of being laid down are published on the Council's website in parallel with the other processes now in place	Burial Grounds Inspection Programme
18	Social media should be considered as a means of enhancing awareness to the issue of monument safety	2.7.3
19	It should be ensured Community Councils are given adequate notice as to when works will commence	Burial Grounds Inspection Programme
20	Community Councils should be provided with a list of memorials identified as dangerous	2.7.3
22	Secondary signage to be placed advising of when works are scheduled to take place at each kirkyard	Burial Grounds Inspection Programme

Appendix 2

Burial Grounds

Burial Grounds Code of Practice - DRAFT

DRAFT

Orkney Islands Council

CUSTOMER CHARTER

and

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 thereby kirkyards and the burial grounds were a local asset, cared for and maintained to a high standard locally. The Council is now the custodian for many of them, 47 in total spread across the Mainland and the other Isles.

It is fair to say that, over the passage of time, as this local capacity to maintain has diminished and as health and safety and other national guidance has arisen, the approach has needed to change. In recent times there has been incidents that have caused Government to reflect on the approach and seek to strengthen it through the issue of new guidance, particularly as in the guidance document referenced in this Code of Practice following the tragic death of a child in Glasgow.

Orkney Islands Council, like many other councils, acted to address Government concerns in May 2018 in parallel to its ongoing 5 year burial grounds improvement plan (2015 to 2020). This has seen the creation of new extensions in the areas where lair space was a premium, necessary major improvements to existing assets addressed and resolution of other minor issues through a total investment of £1.6m.

This Code of Practice and the associated documents explain how we manage our burial ground assets, what standards we work to and what we expect of our lair owners and the specialist contractors who may be engaged on work within them.

This is not without challenge in terms of the available resources and given the annual financial pressures local government faces. It is important that for some aspects of burial ground management that we continue to consider all options for community involvement, ensuring that our high standards are maintained into the future and that we discharge our duties for public safety as so clearly raised by Government in recent times.

Chair – Development and Infrastructure Committee

Picture

Graham Sinclair

Contents

- 1 Introduction
- 2 The Burial Grounds Code of Practice
 - i. Roles and Responsibilities
 - ii. Policies and Operational Procedures
 - iii. Application for a Lair - Terms and Conditions of use/sale
 - iv. The “Burial” Record procedure
 - v. The Burial “plot” or “lair” requirement
 - vi. The Burial Grounds Maintenance Standard
 - vii. The Burial Grounds Inspection procedure
 - viii. The erection of a headstone/memorial procedure
- 3 The Customer Charter

DRAFT

1 Introduction

- 1.1 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 assets. The Council provides its burials service to the public and to undertakers through the council's registrars, administered locally by burial clerks. The physical assets are currently managed by the Development and Infrastructure Directorate, within the Development and Infrastructure Committee Governance structure.
- 1.2 All aspects of policy, strategy and operational approach are managed through the Infrastructure and Strategic Projects 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 and the role of "the Keeper", as embodied by the Burial Grounds Officer.
- 1.3 The Code of Practice for the management of burial grounds in Orkney 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, and where appropriate, have been incorporated in either the technical specification or the statement of procedures.

2 The Burial Grounds Code of Practice

2.1 Roles and Responsibilities – Policy approach

2.1.1 The parties to 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 assets are safe and accessible, and any work therein is undertaken to appropriate standards
- c) Ensuring that prescribed periodic surveys/inspections are undertaken and necessary action taken to ensure public safety
- d) Ensuring where practicable lair owners are contacted in advance of any required maintenance work
- e) Ensuring the process of undertaking a burial is done in accordance the approved approach and in line with prevailing legislation, regulation or guidance.

2.1.2 There are several parties involved in the management of the burial grounds, internal and external to the council; these are summarised below detailing what function currently sits within each directorate area;

Environmental Services - Burial Grounds team

1. Asset management – Lair provision, major and general maintenance, associated operational management policy and strategies
2. Compliance with legislation, regulation, statutory guidance or advisory best practice
3. Fees and Charges – pricing for lair purchase and any other interment cost issues
4. The management of burial clerks for lair reservation/purchase and customer engagement
5. The keeper of records through the appointed Burial Clerks who identify lair ownership by keeping details of all burials, including the identity of the deceased, the letter and/or number of the section and lair where the deceased is buried for their respective burial ground(s) referenced against the burial ground plan kept by the Council.
6. Operational processes – The ongoing survey/inspection to address public safety, the physical process of grave digging/filling and coordination of all associated maintenance processes within the kirkyards.
7. Communication and engagement with departments/organisations wishing to work within the burial's grounds and/or perform duties such as grass cutting.
8. Setting the acceptable standard for workmanship and terms and conditions for lair sale and upkeep for lair owners/responsible person(s) maintenance

Environmental Services – Operational Services (Roads)

1. To liaise with the registrars and funeral directors on the actual grave digging requirements and associated timings before filling the grave

Registrars – Corporate Services Directorate

1. The administrative process of getting approval to carry out a burial, including liaison with funeral directors to achieve this in a timely manner

Democratic Services – Chief Executives Service

1. The administration of community-based works such as grass cutting

Funeral Directors

1. To liaise closely with the registrars to get agreement on the details of burial requirements. To agree with the operational team in terms of advance notice for grave digging and filling
2. Where a memorial mason is commissioned to erect the headstone or memorial that they ensure all works are carried out to the prevailing standard and they are qualified, trained and approved to do so in accordance with BS 8415:2018.
3. To ensure that customers are suitably advised on the Code of Practice requirements for lair owners (thereby reinforcing what is on the terms and conditions of sale and the maintenance requirements).

2.2 Policy Drivers and Operational Procedures

- 2.2.1 The responsibility for the provision of lairs, major improvements and minor works is a Development and Infrastructure Directorate Service. The service deals with 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.
- 2.2.2 Our approach ensures that we comply with current legislation, regulation and guidance, whether advisory or mandatory. 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, clearly setting out our approach across several function areas, including but not limited to;
 1. The periodic headstone/memorial inspection approach
 2. The follow-on process to address a headstone/memorial risk (i.e. marking up, cordoning, laying down, communication etc.)
 3. The standard for initial placement of headstones/memorials and the repair approach
 4. The lair owner's responsibility (i.e. 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.

5. The Customer charter – Our service level targets, mainly reflective of the conditions of sale requirements for the lair owner, but also the service they can expect from the council in their management of its assets.
6. The pricing schedule in reserving or purchasing a lair, inclusive of an option for future maintenance for a specified period of time.
7. The maintenance standard we are able to give in terms of contracted works such as grass cutting (cuts per year, height etc.), noting that where community councils manage this it can vary area to area and that standards are subject to available funding.
8. The records system for lair occupancy (plans) and other lair information such as any required safety work planned/done as well as the available lair owners' details.
9. The reporting process in terms of any defect, damage or other issue that may need a repair and how that is managed.
10. Access and egress requirements for vehicles entering a burial ground (i.e. normally restricted to the Hearse, maintenance vehicles or in special circumstances for disabled/elderly persons)

2.2.3 The day to day administration of these policies, and operational procedures are managed by the Burial Grounds Officer, in close liaison with several other areas noted in section 2.1.2 above.

2.2.4 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 provided by the Burial Grounds Officer who liaises closely with the registrars to ensure that records are up to date and always available

2.2.5 An undertaker is usually engaged for individual funeral arrangements. The burials clerk will liaise with the Funeral Director 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 such a person.

2.2.6 The Council is responsible for the provision of burial grounds and for the maintenance of the assets within such as, but not exclusively;

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. the digging and refilling of graves (any topping up over time)
8. settlement (depressions or hollows forming)
9. signage (noting this may include warnings or other advice on access)
10. pest control
11. drainage systems in place
12. lighting (where present, few sites are lit as visits are normally a daytime matter)
13. gates

14. Headstones/memorial that following formal inspection may be at risk of causing injury (noting that intervention will only arise following a robust attempt to make contact except in cases where significant danger is identified).

2.2.7 This is a maintenance function to ensure that such assets are safe in use and fit for their purpose, this does not include replacement unless beyond economical repair and does not include any betterment (upgrade) these are functional and if replaced that will be on a "like for like" basis.

2.2.8 In terms of each lair there are responsibilities for the maintenance and upkeep of headstones and memorials to ensure they do not present a public safety risk. This code of practice relates to Orkney Islands Council Burial Grounds.

2.3 Application for a Lair - terms and conditions

2.3.1 An application for the reservation of a lair or lairs shall be made to the burial ground clerk who, on receipt of the prescribed fee as determined by the Council, shall issue a Registry Certificate giving the named person and his or her heirs the exclusive right of burial in the reserved lair or lairs.

2.3.2 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 Head of Service.

2.3.3 Joint proprietorship 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 shall not be entitled to sell any lair belonging to them except to the Council. The written consent of the proprietor of a lair will be required prior to the transfer of a lair to another person. **The council shall be informed of any changes to lair detail and kept up to date of who is responsible should contact need to be made.**

2.3.4 The proprietor of a lair shall not for pecuniary or other consideration or for any other reason allow any person other than members of their family to be interred in the lair unless with the consent of the Islands Council.

2.3.5 Charges for lair purchase will be in accordance with the Council Charges Register valid at the time of purchase. These are published on the council's website and reviewed periodically.

2.3.6 After reserving a lair, the named person may be permitted to change the lair for which a Registry Certificate has been issued by applying to the appropriate burial clerk. A specific lair request is not permitted unless this is the next to be released except in exceptional circumstances.

2.3.7 The burial ground clerk shall, as requested, and on a regular basis, 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 and the monies accrued therefore.

- 2.3.8 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).
- 2.3.9 Enquiries regarding the interment of a cremation urn or casket or the scattering of ashes shall be made to the burial ground clerk. A *Notice to Keeper* is required in respect of the interment of a cremation urn or casket and, for the scattering of ashes, the burial ground clerk shall record details in the register for the respective burial ground.
- 2.3.10 At the point of purchase or reservation a prospective lair owner will be notified that the council offers a “with maintenance” or “without maintenance” option. This is aimed at addressing, for an initial 25-year period, any physical repair requirements following ongoing 5-year inspection. This means that the eventual lair owner would not need to be notified of any future defect arising, this would be automatically repaired.
- 2.3.11 Alternatively, the without maintenance option means the lair owner needs to act once a risk had been identified and appoint a suitably qualified, trained and certified specialist to undertake repairs. There may be a preference to remove the risk by laying down the headstone or memorial, this is a lair owners’ choice, this would equally need to be undertaken by a qualified, trained, certified specialist. The maintenance option cost is published on the council’s website and reviewed periodically.

2.4 The “Burial” Record Procedure

- 2.4.1 The burial ground clerk, upon intimation of an impending interment, shall issue a *Notice to Keeper* which shall be forwarded immediately to the Burial Grounds Officer.
- 2.4.2 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 Grounds Officer 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.
- 2.4.3 After the burial, it is the responsibility of the Burial Grounds Officer to ensure that the Certificate of Registration of Death and the Notice to Keeper are available for retention by the Council as a complete record of the burial.

2.5 The Burial “plot” or “lair” requirement

- 2.5.1 Each burial ground is divided into sections and further sub-divided into lairs which can accommodate one or more burials. Details of these sections will be 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.

- 2.5.2 Reservation of the lair confers the right of burial, not ownership of the plot of land. The right of burial can be used immediately or in the case of a reservation can be for
- a) a period of up to 25 years, after which the reservation is lost unless renewed by the lair owner, at no additional cost. This time limit reflects the fact in some cases reservations are made but never taken up, thereby using up space that could be taken at a future date when capacity issues are paramount
 - b) shall maintain in perpetuity
- 2.5.3 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.
- 2.5.4 All graves will be dug in accordance with a technical specification to ensure the works meet health and safety requirements, have a robust risk assessment, method statement where needed and safe system of work. This means in some circumstances that technical requirements may restrict access to some areas or reservations and an alternate may need to be considered. In the rare situation this arises, the lair owner should discuss with the burial clerk for an alternative, this will be at no additional cost.
- 2.5.5 In all circumstances care and attention to detail is important both in terms of health and safety issues and with regards to public perception of work being carried out. There may be a need for substantial items of plant and equipment at times, such as for shoring in poor ground or pumping in wet conditions, whose presence can cause concern in such sensitive sites. The council will do its utmost to carry out grave digging and filling carefully and sympathetically noting that given the nature of side by side lairs there will be the need to protect adjacent lairs whilst excavations are underway and possibly the need to remove and replace any item at risk of damage if an adjacent area needs protection.
- 2.5.6 In the event that damage arises through the actions of the council of an unintentional nature the lair owner can make contact with the Burial Grounds Officer and all attempts will be made to remedy the damage at no cost to the lair owner.
- 2.5.7 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 sufficient depth to ensure that the second coffin shall not be nearer the surface of the ground than the three feet (900mm) minimum. In practice this means that the first use of a grave 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.
- 2.5.8 The grave must be identified and marked out in accordance with the size specified on the *Notice to Keeper* and the Burial Grounds Officer must ensure

the precise location of the lair and that enough clearance is allowed over the coffin size.

- 2.5.9 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.
- 2.5.10 Lair owners must note that to maintain the appearance of the burial ground, withered floral tributes shall be removed by the Council. Floral tributes on a grave, after the initial period, should be placed at the base of the headstone or on the plinth to permit grass cutting. All tributes left on the grave shall be removed after a one-month minimum period.
- 2.5.11 For ease of maintenance and grass cutting, adornments should be placed at the concrete plinth/headstone base. Requests for any variation from the normal grass/turf finish such as fences, rails, kerbs, stone chips, trees, shrubs etc. should be raised to the Burial Grounds Officer in the first instance.
- 2.5.12 Trees, shrubs or flowers planted prior to the introduction of this Code of Practice will not be allowed to encroach on neighbouring ground and the Council reserve the right to cut back all such plants or to remove them permanently.

2.6 Burial Grounds Maintenance Standard

- 2.6.1 The Council is responsible for maintaining burial grounds in a fit and proper condition. This responsibility may, by agreement, be discharged in whole or in part to other groups such as a local Community Council. This would be accommodated within agreed revenue and/or capital budgets. War graves are managed by others.
- 2.6.2 The standards of maintenance required in a burial ground are dependent upon the frequency of visitors and the general use of the burial ground.
- 2.6.3 The minimum standards which will apply to historic or low-use burial grounds are for the grass on graves to be cut twice a year – once in the early summer and once in the autumn, and grass paths to be cut regularly to provide safe and reasonable access. The list of these burial grounds is contained in Appendix XX.
- 2.6.4 The higher standard required in other burial grounds involves more frequent grass cutting, weeding of paths, and the trimming of established trees and shrubs. Grass should not be allowed to grow longer than four inches (100mm) over graves and no longer than three inches (75mm) on paths. The cemeteries in which these standards are applied are listed in Appendix XX.
- 2.6.5 Levelling of graves will be carried out periodically when reported through the inspection process. Where resources permit this work may be addressed at time of inspection or planned when resources become available. The Council aims to address such issues in the financial year the report is raised or within the inspection cycle (i.e. rolling 5-year inspection programme). This may be

accelerated if deemed a public safety issue by the inspector. All works of a non-urgent nature are planned against a fixed annual budget.

- 2.6.7 Boundary walls or fences are to be kept intact and in good order to prevent entry to the burial ground by livestock, or in some cases vermin (i.e. pest control). Gates will be regularly painted or treated as required, hinges and catches will be oiled to ensure ease of use and wire mesh is to be provided to prevent access by rabbits where this is a problem.
- 2.6.8 With mutual agreement between the Service and Community Council, the Community Council may, on behalf of Orkney Islands Council, undertake the tendering process, award contracts and supervise burial grounds maintenance works such as grass cutting. The agreed scope of works will be invoiced and paid from the service budget, noting that such tender would need to be accommodated within the agreed revenue budget with any shortfall being met by the community council or specification changed to meet available funding.
- 2.6.9 Where other routine maintenance is requested and is not within the scope of works agreed for the Community Council to fund and undertake, this will be reported to the Burial Grounds Officer and prioritised for action within the financial year subject to its priority and availability of funding.

2.7 Burial Grounds Inspection procedure

- 2.7.1 Each of the 47 Orkney Islands Council managed burial grounds are formally inspected in accordance with the requirements laid out in the Burial Grounds Inspection Programme. This is a “rolling programme” over a 5-year period. This inspection takes into account the risk associated with any unstable headstone/memorial in terms of it posing a public safety risk and therefore what action needs to be taken and in what reasonable timescale, taking into account any imminent risk of “toppling”.
- 2.7.2 Each and every burial ground is visited and each and every headstone/memorial is tested in accordance with the guidance set out in the Burial Grounds Inspection Programme and associated risk assessment. In some cases, this means no risk is found and duly noted, in others the risk may be low, medium or high in terms of the public safety risk. In this case the interventions are;
1. Low risk – Process to be followed (mark and notify?)
 2. Medium risk– Process to be followed (mark, cordon and notify?)
 3. High risk– Process to be followed (make safe where possible, if not lay down and notify?)
- 2.7.3 In all cases where a repair cannot be undertaken at the time that it is identified by the Council inspection team **the lair owner will be notified of the risk and given the option to effect repair** (if needed). This must be in accordance with the standards required in this Code of Practice. This option may include the OIC effecting the repair as this may be more cost effective for the lair owner to do so, if traceable. Additional efforts to ensure that lair owners are aware of any potential issues will include publishing a list of

unsafe memorials on the Council website and working with the relevant Community Councils to attempt to trace the owners. Local funeral directors may also be approached for their help.

- 2.7.4 It is noted that some locations are more remote than others and the likelihood of a high volume of visitors coming across a high-risk issue may be perceived to be low. This Code of Practice seeks to put in place one standard across all burial grounds in terms of its maintenance approach for public safety. Staff and contractors are competent, trained and certified to undertake work to BS 8415:2018 standards.
- 2.7.5 The record system will note from the inspection and subsequent action all details for each location. These records are comprehensive in terms of a “before” and an “after” photographic record as well as other observational information from the qualified team attending.
- 2.7.6 The process set out in 2.7.2/3 is noted as a flowchart in Appendix YY detailing the steps undertaken to contact the lair owner in advance of undertaking any works. This code of practice addresses the recent (September 2019) Monitoring and Audit recommendations and the requirement of section 104 in the latest Scottish Government guidance (June 2019).

2.8 The erection of a headstone/ memorial procedure

- 2.8.1 The erection of a Headstone/Memorial shall only be permitted on purchased lairs. Prior to erection of a memorial, the lair owner must request permission, using the Memorial Permit form.
- 2.8.2 Headstones/memorials should be constructed in accordance with BS 8415:2018. Those undertaking the work should be suitably trained, qualified and certified to the COSVR 194 SQA Unit HA1J-04 Fix and Secure Memorial Masonry Award or equivalent. In addition, they should have appropriate public liability insurance.
- 2.8.3 The Burial Grounds Officer should be consulted before any headstone is placed or before any spring bulbs are planted on a grave. All headstones must be erected on the concrete plinth, where such is provided.
- 2.8.4 Kerbs, copes, railing, fences, gravel, corner stones or any other such ornamental additions to the lair shall not be permitted unless expressly approved in writing, noting that this does come with future maintenance liabilities the lair owner must address or seek a “with maintenance” agreement with the council.
- 2.8.5 The lair owner is responsible for the upkeep and maintenance of the headstone/memorial unless a “with maintenance” agreement is in place with the council and is liable for incident or damage arising from failure to maintain.
- 2.8.6 The Council shall not be responsible for the maintenance of headstones or other monuments as this duty rests with the family who have made the lair reservation and erected the memorial. Should work require to be undertaken

by the Council, for reasons of public safety, the Council reserves the right to seek recompense from that family and/or successors.

- 2.8.7 In the event of repairs to headstones or other monuments being required, the Council may require the family/owner of the stone or monument or his successor to arrange for the reinstatement or removal of the damaged item. The Council may, in the first instance, if a high public safety risk, need to lay an unsafe headstone or memorial flat along the length of the grave. The inscription will be placed face up.
- 2.8.8 For ease of identification and reference plans are kept however inclusion of the section of the cemetery and lair number cut plainly on the side of the memorial, at the expense of the person erecting the memorial is recommended. This can then be included in the records.
- 2.8.9 The lair owner shall not remove the headstone/memorial or part thereof from the cemetery without notification to the Council, this projects all parties from challenge of theft or risk of injury in doing so.

3 Customer Charter

1. Service levels
2. Agreements with lair owners
3. Agreed routes for notification and tracing of lair owners

Appendices

List of records

Register of burials

List of all graveyards, including plans, photographs, drone surveys

Records of memorials identified as unsafe, including photographs

Related documents – to be developed / finalised

XX List of burial grounds and associated maintenance standards

Burial ground inspection programme / procedures / criteria

Graveyards Risk Assessment and associated procedures for making headstones safe

YY Process flowchart / Communication Procedures

Questions / Issues to be discussed

Specifications for memorials?

Permits for memorials, including requirement for public liability insurance?

Lifetime maintenance costs included in lair sales?

Need to record section and lair number on memorial?

Should lairs be reserved in perpetuity or for a given time period (e.g. 25 years?)

Appendix 3

Burial Grounds

Option Appraisal: Resource Strategy

Background

The revised Burial Grounds Code of Practice includes a refresh of management practices, resource requirements and our method of approach in terms of ensuring burial grounds are managed and maintained in accordance with legislation, guidance, best practice and local considerations.

The proposed Code of Practice reflects Orkney Islands Council's approach but fundamentally has been drafted to incorporate the requirements of the following documents / legislation and council functions:

- Burial and Cremation (Scotland) Act 2016.
- Burial Ground Memorial Safety: local authority guidance (Scottish Government, June 2019).
- Managing the Safety of Burial Ground Memorials (Ministry of Justice, January 2009).
- Findings of the Monitoring and Audit Committee report on Burial Grounds Memorial Safety (OIC, September 2019).
- OIC contract standing orders and financial regulations.
- OIC health and safety policy and associated guidance documents.
- OIC Registrars and Burial Clerks.

Any amendment to the Code of Practice requires consideration through the Council's committee processes, typically where changes are significant and/or the impact affects several council areas. These proposals are significant as they seek to implement new policy in terms of a more in-depth approach to:

- inspection and maintenance procedure.
- the minimum standards of workmanship.
- the terms and conditions of sale for prospective lair owners.
- our asset management approach we seek from lair owners.
- visibility and accessibility of lair records.
- the systematic approach to records management and lair owner contact/communication.

This is a new approach and a fundamental change to the provision of the burial grounds service. Historically this has been managed as a part of one FTE post, reliant on the support and commitment of time from several other service areas as and when time and resources were available.

Given the recent high-profile issues leading to this review and supported by the recommendations of the Internal Audit considered by the Monitoring and Audit Committee in September 2019 that incorporates the changing national guidance, there is a need to pragmatically and robustly assess if the committed resource levels are realistic and adequate for the proposed amendments.

The paper below sets out a number of potential options with regards to identifying appropriate resource to implement the revised Code of Practice and take into account the recommendations of the internal audit report. These are initial considerations which will require to be fully developed and costed, in order to facilitate consultation with Members and any subsequent decisions. However, they are included here to highlight the risks and issues which it will be necessary to consider as the revised Code of Practice is brought into use.

Current Situation

The current resource capacity is set out below, this reflects the creation of one FTE dedicated to burial grounds work following post redesign after the retirement of a member of the Environmental Services team:

- Head of Service (part of 4 overall service areas).
- Strategic Policy and Projects Manager.
- Burial Grounds Officer (full-time dedicated officer).
- Traditional Stone Mason (principally engaged on Cathedral works, some potential part-time assistance to cover other OIC's assets).
- Property Services – Works and Inspection team (task-based prioritisation at expense of other OIC property assets – planned, cyclical, reactive and emergency).
- Burial Ground Clerks (part-time)
- Registrars (1 post, limited capacity to dedicate search time).

The only full-time resource dedicated is the Burial Grounds Officer. All other resources have a range of other duties and incorporate consideration of burial grounds into their day-to-day activities, managing the needs and requirements alongside other competing priorities.

There is no specific budget allocated for burial grounds inspection, maintenance and headstone repair. There is a historic limited general maintenance repair budget that addresses routine maintenance issues such as gates, fences, walls, paths etc. There is a constant demand for works and, in most situations, a “make safe” option is the only option until resources become available, which can be months if not years.

The Council has approved its first 5-year burial grounds capital improvement programme to address lair capacity issues (new extensions), major longstanding improvement issues and the backlog of minor improvement issues known at the time. This revised £1.6m programme seeks completion by March 2021 and seeks to address many legacy issues as part of an ongoing asset management strategy. At

present there is no additional funding beyond March 2021 for future extensions or for major or general improvements.

The new Burial Grounds Officer will report to the Strategic Policy and Projects Manager. The core purpose of the post is asset management, from the policy level through to the co-ordination and oversight of inspection and maintenance works. This includes the annual review of the Burial Grounds Code of Practice to ensure it remains current, the planned programmes of work and those cyclical, reactive and emergency service request issues. The post will also ensure that overall there is consultation, internal engagement and clear communication externally in accordance with the prescribed process. It should be noted that this resource alone will have little to no capacity for actual delivery of on-site activities such as inspection, maintenance and repair, this will be done by others subject to consideration and review of the options below.

Option Appraisal

Four options have been developed for consideration, aimed at addressing council obligations and responsibilities for the burial grounds which it owns and manages.

Each option is assessed against its ability to deliver the recommendations of the Internal Audit report, plus the inspection programme requirements listed in the document Burial Ground Memorial Safety; local authority guidance published by the Scottish Government in June 2019. In addition, potential issues, strengths or weaknesses associated with each option are highlighted.

Option 1 – No Change (Burial Grounds Officer with other existing resource)

This option is the least cost proposal, managing Council responsibilities through one dedicated post which will call on support from other internal services/functions, in particular lair record search, inspection, maintenance and communication. This is essentially the scenario which has been in place historically, except for the fact that the Burial Grounds Officer post is now more clearly dedicated to burial grounds than was the case with the previous post.

This would have significant weaknesses, in particular the fact that there are no dedicated resources in other teams allocated formally to burial grounds activities, such as the property team. This would mean that the required inspection and maintenance would need to be formally incorporated at the expense of other inspection work or requiring some element of additional resource. This risks a possibility of project slippage elsewhere or availability issue for the burial grounds service if officers are tied to other essential work.

The main function of the Burial Grounds Officer is to develop and implement systems and processes to ensure we are compliant and meet the recommendations of national legislative or best practice guidance and in line with our own internal recommendations. This does include contributing to government benchmarking and representation at a new Scottish Government led policy development group. They will become the council representative and custodian of legislation and regulation, making sure we can demonstrate that we are complying with these requirements and

adequately addressing our customer obligations. These requirements alone comprise a full-time role.

The role will not, however, be part of the actual delivery of any works required to address safety considerations, regulatory requirements or other issues identified either locally or at a national level. Firstly, they will not be technically competent to do so, but also at a practical level are likely to be involved in the management requirements as principal duty. This means that this aspect of “delivery on the ground” needs to be clear in terms of who is the team to call on and how is this coordinated.

It is clear, therefore, that there are some obvious potential weaknesses contained within this approach, noting that there has been considerable scrutiny of the burial grounds service and several forums have made subsequent recommendations (i.e. Monitoring and Audit Committee, the Scottish Government guidance and the Kirkyard Safety Programme Member Officer Working Group). Therefore, to ensure that there is a robust management regime in place there are resource implications associated with the various recommendations. All of which aim to increase the council’s capacity to manage the assets safely and thereby more effectively.

Option 2 – Maximising use of all available Service resources

This option is a variant on Option 1, looking to make best use of all potentially available service resources. This focuses on exploiting any current vacancies, principally in the Property Service area. It is important to note that this option has been the subject of detailed discussion and there is a recommendation to consider this approach via the Kirkyard Safety Programme Member Officer Working group.

This would see the creation of a dedicated team, within the Development and Infrastructure Property Services team, led by the Traditional Stone Mason. This is aimed at moving beyond the current contractor led approach currently addressing laid down headstones. It creates, through vacancies, a long-term team that would be trained to the standards required and thereby both “find and fix” those headstones in need of attention.

This would therefore be a proactive function that removes the risk before it becomes serious and from a communication perspective negates the need to make contact in advance with Lair owners/responsible person(s) as any risk would be fixed there and then.

The funding comes from an existing (reworked) Property Services team vacancy and the option to take back “in-house” property expenditure on other mason’s work. This therefore creates a team of two, also providing sufficient tools, equipment and material to undertake a mixed range of mason type repairs. This would enhance the ability to address Cathedral work (a core requirement of the Traditional Stone Mason) as well as create the capacity for other demands including the burial grounds after the backlog is removed.

This would reduce the workload on the building inspectors as the new team, in consultation with the Burial Grounds Officer, could inspect and repair. This could be

a rolling programme of inspection and repair in accordance with the prescribed guidance and would become routine and pre-planned.

In times where the inspection process highlighted more repairs than available capacity, there would remain the option to engage external contractor resource, but this would be infrequent.

All works would be communicated in terms of advance notice of works commencing (to community councils, social media, signage) thereby unless a complex issue arises there is little or no need to proactively contact lair owners. In this way any associated potential distress is minimised and it is expected that no stones might be laid flat for a lengthy period of time, unless in exceptional circumstances. As part of the inspection process, depending on the volume of repairs identified, there would still be a need for consideration of the intermediate steps (e.g. marking, cordoning off or lying flat high-risk headstones) until the team could act.

This option does not propose demand for new financial resources, it seeks to use vacant resources and monies currently being spent externally to create the in-house capacity. This is not dissimilar to the issue of property boiler maintenance where an in-house Building Energy Engineer post was created, funded by a reduction in external contractor costs.

Whilst this option does allow for an increased focus on inspection and maintenance, and creates repair capacity for future years, it does not fully address the risk that when the May/June 2018 inspection process is fully repeated (i.e. some lairs every two years, most every 5), we expect to see a spike in demand that the new team may not be able to address, such as;

- the resources associated with tracing lair owners and ensuring appropriate notification is given, or actions agreed prior to any remediation works.
- In the event of a high volume of risks being identified the reality that the new team would not be able to repair there and then and instead may have to cordon, mark up or lay down (if high risk) and therefore possibly a need to procure external specialists to carry out the necessary repairs.
- Funding for any spike in demand for repair works.

Further, although the “find and fix” approach is a well-recognised and supported approach, deployed by several Scottish Authorities and recommended by our training experts, it does mean that although it is clearly the lair owner responsibility to ensure that memorials are made safe, we, the council, take over that responsibility. Therefore, this option also does not address;

When the lair owners are subsequently traced (most likely still retrospectively) are full or nominal costs of the repair recovered?

If lair owners can be contacted in advance of the works (i.e. a lair marked up/cordoned or potentially laid flat) do they have the option to effect repairs (in the approved/prescribed manner) themselves? If find and fix proceeds, we do effectively remove that option.

The Code of Practice is currently in draft and will be discussed at a meeting of the Roads and Environmental Services Consultative Group before finalisation through the Development and Infrastructure Committee. Some of the questions raised in Option 2 will need consideration at the consultative group, together with addressing whether this proposed resource option adequately encompasses the approach required to address the known issues.

Option 3 – Service resource and some additional support

Whereas Option 2 makes maximum use of the existing establishment there are potential risks with that approach. To be fully robust across all areas of the council involved in burial ground management/processes we must be reasonably sure that in the event of significant inspection findings we can react thoroughly and empathetically, we can engage on matters of detail in a proactive and timely manner, we can communicate clearly and concisely with our community representatives, as well as undertaking the operational responsibilities and the time spent tracing and liaising with lair owners.

Option 3 proposes closing these gaps or potential weaknesses through use of limited but additional resource. The Burial Grounds Officer will focus on the development of systems and processes to ensure there is robust management of the overall asset and specifically memorials found to be unsafe. However, an additional “technician” or similar level post would be created to do the ground work to ensure there is robust communication, information, awareness and promotion of these planned activities.

Until the first 5 year inspection process is completed (2018 – 2023) there may well be a spike in the volume of identified works. This technician post would do the direct liaison with community councils, registrars, democratic services, technical support team and the customer services team. They would ensure there was timely engagement with lair owners (where possible) and ensuing meetings and correspondence. They would liaise on a day to day basis with the property find and fix team on inspections and needed repairs, translating this daily information into contact information for lair owners/responsible person(s).

There is a significant change in the requirement for more robust records management and communication. Therefore, data becomes critical both in terms of collecting it from several sources, verifying it is correct and entering into the eventual management system. This comes in parallel with the need to ensure works are planned, coordinated and delivered. The demand for this cannot be underestimated especially through the first full cycle of inspections (i.e. May/June 2018 to 2023) which will be several years of intense work.

It is envisaged that this would be a technician level post, temporary for up to 3 years on the basis that following the first 5-year intensive period work should then become less and more routine.

Lair sales at present mask a historic underfunded burials ground service. Both in terms of routine work like grass cutting and general maintenance, demand outstrips supply. To move towards being more “self-financing” through fees and charges is a current council budget strategy. To do so for maintenance via the sale of lairs is a

consideration by the Roads and Environmental Services Consultative Group (early 2020), prior to the final code of practice report being completed before the end of the 2019/20 financial year.

In the face of severe budget pressures for Environmental Services there is a need to address cost pressures such as these. Possible consideration of amendment to the lair charges to be “with maintenance” or “without maintenance” in the lair sale price is a consideration. This could progressively build a working fund and remove the fear of significant repair costs for lair owners in future years.

Consideration could be given to this being a one-off, additional, cost, at the discretion of the purchaser, which enables the council to carry out repairs at a future date. Such a provision could be developed to list what is included in terms of repairs and what’s not. This would be a binding agreement for the life of the lair (noting in some places this can be set i.e. 25 years). Any income generated could make a substantial contribution to the costs of the service including this additional post.

There are other added benefits for other teams. The recent Internal Audit report highlighted that there are aspects of service delivery that could be done to greater effect if resources were available. Increasing the resource level would benefit capacity in the Property Services surveying team, registrars, democratic services and customer services as we would not need to rely on them as would be the case with option 1.

Option 4 – Further increased resource

Whilst Option 3 goes much of the way to fully addressing the requirements on the council and to making sure that strenuous efforts can be made to both identify and make safe memorials plus ensuring adequate and appropriate communication with communities and lair owners, it must still also be recognised that there is no clear understanding of the work that will actually be required.

The council is responsible for 47 graveyards across all of Orkney, some which are still in use and some which are historical. The initial inspection programme which commenced in 2018 investigated only 12 kirkyards, resulting in a total of 431 stones being laid flat. As is now known, all of these memorials were later assessed by independent experts who concurred that these memorials were unsafe and required remedial work. Whilst no clear conclusions can necessarily be drawn from these numbers, given the wide range in condition and age of the graveyards throughout the county, it does imply that future inspections are likely to find a large number of memorials which require remedial work.

In addition, the type of work which may be required is unknown and may be beyond the expertise available within the in-house teams. There is therefore a significant likelihood that additional resource will be required to enable the full repair programme.

Option 4 therefore also includes for the provision of additional funding to enable the procurement of external contractors to work with the in-house team. They would fix memorials close to point of inspection, carry out the more complex repairs which are

not able to be done timely by the Property Services find and fix team (in a reasonable period or to avoid laying down). The intent would be to use the in-house team as far as possible, however if their inspection process identified a significant number of repairs, beyond their capacity to implement, there would then be an ability to call on external contractors, if funded.

The likely level of funding within the 2018 to 2023 inspection period would be an estimate, perhaps similar to the expenditure to date if similar levels of headstone repairs were needed. At the present time the remedial work being carried out at the moment, on the 431 unsafe memorials, is estimated to have a final cost of around £150k.

This is basically an option 3+, delivering all the proposals in option 3 but with some provision in the first full inspection period to create a fund that will allow timely repair of headstones and memorials if in-house capacity is overstretched. Again, as with Option 3, any find and fix approach negates the need for extensive community contact or lair owner discussion as the repairs are done seamlessly. Like all options that intervene on behalf of lair owners, there is a need to reflect on whether this is a chargeable issue and, if traceable, whether it should be done without pre-consultation. Nevertheless, the option is proposed to provide a full and comprehensive service.

Review of Options

The table below lists the relevant recommendations of the Internal Audit report and identifies how well each option addresses each recommendation.

Green = fully addresses

Amber = may partially address

Red = will not address

.

Ref	Recommendation	Option			
		1	2	3	4
2	The council should have a process to advise Historic Environment Scotland of any works carried out under Class V				
3	The council should prepare and approve both policy and procedural documents that can now incorporate Scottish Government guidance				
4	The lair holder's responsibility should be added to the Council's Code of Practice and be emphasised in correspondence with purchasers of lairs, possibly also emphasises on the certificate of ownership itself				
5	The Council should carry out a full inspection programme at least every 5 years. Larger monuments that are at risk (e.g. identified as already starting to lean) may require more frequent inspection e.g. every 2 years or even annually.				
6	Staff and contractors who work in burial grounds should be reminded that they should report to the Council any headstones that appear to have become dangerous				
7	Going forward, inspection criteria approach should be further developed to fully consider different types of memorials, with tolerance levels set by type and specific local knowledge, including heritage value of the headstone				
11	When laying flat an unsafe memorial which has failed an assessment supporting headstones with a gentle slope should be considered, especially in kirkyards prone to water logging.				
13	Individual records should be kept incorporating each of the categories detailed in recent guidance				
14	Photographs should be kept of all headstones laid over				
15	We recommend that the tracing and communication with lair owners be focused on where this is reasonably practical in achieving success				
16	It should be explored to see if local funeral directors and stonemasons may be willing and able to forward letters on behalf of the Council				
17	It should be considered that headstones at the risk of being laid down are published on the Council's website in parallel with the other processes now in place				
18	Social media should be considered as a means of enhancing awareness to the issue of monument safety				
19	It should be ensured Community Councils are given adequate notice as to when works will commence				
20	Community Councils should be provided with a list of memorials identified as dangerous				

Ref	Recommendation	Option			
		1	2	3	4
22	Secondary signage to be placed advising of when works are scheduled to take place at each kirkyard				

In addition, the ability of each option to address the requirements of Burial Ground Memorial Safety; local authority guidance published by the Scottish Government in June 2019 has also been assessed as shown in the following table.

Subject	Option			
	1	2	3	4
Inspection Programme <ul style="list-style-type: none"> • Agree a policy • Consult stakeholders • Publish policy and commit to review 				
Training <ul style="list-style-type: none"> • Assess availability of specific training from identified organisations 				
Site and Zoning Risk Assessment <ul style="list-style-type: none"> • Prioritise the sequence of inspections across all locations 				
Notification of all relevant parties				
Inspections <ul style="list-style-type: none"> • Inspect all memorials • Record all inspections • Record all actions • Identify when re-inspections will take place • Complete inspections 				
Making Safe				
Reporting				
Review of policy and its processes at agreed, set intervals				