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**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE  
SERVICES COMMITTEE ON 5 SEPTEMBER 2023**

**SUBJECT: UPDATED MANAGEMENT RULES FOR CEMETERIES AND  
BURIAL GROUNDS**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND  
FINANCE)**

**1. REASON FOR REPORT**

- 1.1 To inform the Committee of the proposed revised management rules for Council owned or controlled Cemeteries and Burial Grounds, incorporated under the Local Government (Scotland) Act 1994.
- 1.2 This report is submitted to Committee in terms of Section III (F) (14) of the Council's Scheme of Administration relating to the provision and maintenance of all burial grounds.

**2. REASON FOR URGENCY**

- 2.1.1 This report is submitted to Committee in terms of the Local Government (Access to Information) Act 1985, on the Chair certifying that, in his opinion it requires to be considered on the grounds of urgency as it is essential that policy context per the report is set before next stage of the 24/25 budget process where role of burial ground charges are likely to be considered within wider future charging approaches, with finalisation having been delayed by the involvement of officers in the budget briefing process with members

**3. RECOMMENDATION**

**3.1 It is recommended the Committee agree:**

- i) the revised Cemetery Management Rules as outlined at APPENDIX I and;**
- ii) that the revised Cemetery Management Rules supersede any previous management rules for cemetery and burial grounds.**

**4. BACKGROUND**

- 4.1 Under the Local Government (Scotland) Act 1994 the Council in exercise of the powers conferred on them by the Civic Government (Scotland) Act 1982, Section 112, have the authority to set management rules applicable to

Cemeteries and Burial Grounds managed, regulated or controlled by the Council.

- 4.2 Any management rules for Cemeteries and Burial Grounds must comply with any regulations introduced by Scottish Ministers by virtue of powers contained within the Burial and Cremation (Scotland) Act 2016. Whilst there are no Regulations published yet for burials these are anticipated to come forward in due course and therefore future revisions to these Rules will be required as these emerge
- 4.3 The Council currently manages and maintains 63 cemeteries and churchyards across Moray. The management rules currently in place to govern these sites have not been reviewed for a number of years.
- 4.4 The review of the management rules has presented an opportunity to revise some of the current practices to not only make the operational running of sites more streamlined and efficient, but also to enhance the customer experience and prolong the life expectancy of cemeteries and burial grounds. They will also provide a sound basis for any future modernisation and efficiencies.
- 4.5 The main proposed changes contained within the revised management rules outlined at **APPENDIX I** relate to:
- The removal of the ability to pre-purchase lairs.
  - The removal of the option for customers to select lairs within the cemetery or burials ground.
  - The provision of allocated burial times.
  - Specification for the size of headstones.
- 4.6 The current rules allow for the pre-purchasing of lairs by customers for future use. Around 69 lairs are pre-purchased each year which currently generates an annual income in the region of £63,000.
- 4.7 On 4 December 2018, this Committee approved a Future Cemetery Provision Strategy. The Committee Report can be viewed at <https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/231/Committee/9/SelectedTab/Documents/Default.aspx>. As well as detailing the life expectancy of the cemeteries (the life expectancies will have reduced by approximately 5 years from the dates shown within the report) the strategy provided a strategic vision for the more sustainable provision, development and efficient management and maintenance of cemeteries. Within this strategy it was agreed that where the availability of burial ground within a cemetery equates to less than ten years remaining capacity, the Council reserves the right to sell lairs for immediate use only.
- 4.8 If approved, the revised management rules for cemeteries and burial grounds will be publicised through the following means:
- Available on the website
  - Available through the Burial/Registration Service
  - Electronic copy sent to do all Funeral Directors and Memorialisation Masons

- Provision of the rules to the lair owner at the point lair sale

## **5. PROPOSED REVISIONS**

### **Pre Purchase of Lairs**

- 5.1 An unintended consequence of this rule is that either lairs remain empty within a cemetery or burial ground, as lair owners are buried or cremated at alternative sites, or, the excavation of the lair is made more difficult at the point of being dug. This is due to the fact that excavations occur in areas where burials have already taken place and so there is a need to manage and work sympathetically on top of existing lairs or around existing headstones.
- 5.2 A consequence of having unused lairs within cemeteries and burial grounds is that the life expectancy of the site is compromised. This is particularly pertinent when sites are nearing the end of their operational life, and lair space is at a premium, and empty lairs cannot be allocated to customers at the point of need (the Council has 11 cemeteries which are estimated to have less than 10 years burial capacity).
- 5.3 When lairs are pre-purchased the cost of the lair is in line with the fees and charges for the respective year. The price for lairs generally increases year on year in line with increased service delivery costs.
- 5.4 In most cases the use of a lair is many years later than the date of purchase. The result is that the payment received for the lair does not align to the cost to deliver the burial service, at the point of use, and so does not cover service costs.
- 5.5 Whilst immediate income generation would be lost through the withdrawal of a pre-purchasing system, the income is most likely to still be received, but at the time the burial is needed and at a point when fees are reflective of the current costs. Therefore as an operating model this creates a more efficient service. It should also be noted that an exercise is currently underway to review the full cost of the burial service. This information can then be used to inform the fees and charges for future years based on full cost recovery
- 5.6 If the withdrawal of the option to pre-purchase lairs is approved as proposed at Rule 3 (ii), the intention would be to still honour those lairs which have already been pre-purchased.

### **Selection of Lairs**

- 5.7 The location of lairs within a cemetery or burial ground can currently be selected on the basis of customer preference. The unintended consequences of this system are that, not only does it create operational difficulties with regards excavation, due to the reasons as previously outlined pertaining to pre-purchased lairs, but it compromises the number of potential lairs within a cemetery or burial ground.
- 5.8 All lairs currently work on the principle of 4 feet between the lairs. Whilst the excavation of a lair can be planned and measured on the basis of the above parameters, due to cemeteries and burial grounds not necessarily being uniform in their design, the ability to maximise lair capacity can be

compromised. The impact of this becomes particularly pertinent when lair spaces becomes a premium within the cemetery or burial ground.

- 5.9 It is proposed that under the revised management rules the option to choose a lair location will be withdrawn as outlined at Rule 3 (i), and all lair locations will be allocated by Council Officers at the time the lair is needed. This will create improved cemetery and burial ground management. Again this change will not affect those lairs which have been pre purchased.
- 5.10 In general terms families would be offered the lair which is the next in line within the operational row, but this approach also allows Officers the freedom to manage the cemetery or burial ground based on the working knowledge of ground conditions and suitability for burials, for example avoiding areas within a cemetery or burial ground which, in the winter months, are prone to water ingress within the lair.

### **Burial Times**

- 5.11 A small team comprising of one Cemeteries Team Leader and 6 grave digging staff work from depots across Moray to provide the burial service. Burials administration is currently provided by the Council's Registration Service.
- 5.12 Currently funeral directors are able to book service times during the working hours of, 7.30am – 4pm Monday and Tuesday and 7.30am - 3pm Wednesday to Friday.
- 5.13 On occasions this leads to operational difficulties with other crews from within the Open Spaces operations team needing to be deployed on burials. It is also sometimes necessary to deploy teams who ordinarily work in a different area. This issue is caused when funeral services are booked for a similar time but in different cemeteries across Moray.
- 5.14 The result of the above is that the work of the Open Spaces service, such as grass cutting or weed control, is then delayed due to a reprioritisation of resources. The redeployment of resources also increases the service costs for the Council due to the travelling distances and leads to inefficient use of resources.
- 5.15 The implementation of dedicated service times would improve service planning, allow for better use of resources and improve the overall productivity of the Open Spaces operational teams.
- 5.16 The exact times will be set following consultation with Funeral Directors, however it is proposed that there will be two bookings available each morning and two each afternoon, Monday to Friday, with weekends using current special arrangements. This provides capacity for 20 burials each week, totalling around 1,000 per annum. Over recent years there have been between around 600 and 670 burials each year in Moray.

### **Specification of Headstones**

- 5.17 Burial Authorities are required to have systems in place to control the risks from unstable headstones to their employees, contractors, volunteers and members of the public. Responsibility for the overall safety (duty of care)

within a Cemetery lies with the Burial Authority, which has responsibilities under the Health and Safety at Work Act 1974 to ensure that, as far as is reasonably practicable, their sites are maintained in a safe condition.

- 5.18 The owner of the headstone is responsible for maintaining the memorial in good condition.
- 5.19 In 2022/23 the Council commenced a programme of headstone stability inspections and has procedures in place to manage headstones found to be unstable and posing a risk to those visiting and working within cemeteries. These include contacting lair holders to notify them of any defect and to request that repairs are arranged as soon as possible by the lair holder or, if deemed urgent, by taking action to make the memorial safe by cordoning off the area of risk or by 'trenching' the headstone into the ground pending repair by the lair holder. In the event that a lair holder cannot be found the headstone will remain trenched in the ground in front of the headstone plinth as this provides the safest solution in the absence of any repair.
- 5.20 Memorial masons are legally liable for the work they carry out and should ensure that memorials are erected safely and in accordance with current standards (BS8415/2018). The Council's Cemetery Management Rules (Rule 7(v)) requires headstones to be erected in accordance with the code of working practice of the National Association of Memorial Masons. An addition is proposed to this rule to ensure that headstone work meets the British Standard, and to limit the size of headstones.

## **6. CONSULTATION WITH FUNERAL DIRECTORS AND MEMORIAL MASONS**

- 6.1 A consultation exercise on the proposed changes has been undertaken with the 12 Funeral Directors and 19 Memorial Masons which use the cemeteries and burial grounds in Moray. The consultation ran from 18 to 25 August 2023.
- 6.2 In general terms the responses to the consultation exercise were mixed, with some being supportive of the proposed changes and other being less so.
- 6.3 In relation to pre-purchase of lairs, 5 of the 8 funeral director responses indicated this would have a negative impact, citing family preferences as the reason to keep pre-purchase.
- 6.4 In relation to selection or allocation of lair, 4 of the 6 funeral director responses indicated allocation rather than selection would have an impact, again citing family preferences as the reason to keep site selection.
- 6.5 Regarding booking times for burials, 5 of the 7 responses indicated no impact by the introduction of fixed slots, although it should be noted that there were a variety of views about what appropriate booking times would be. As noted above, it is proposed that the final booking times are set following further dialogue with funeral directors to find the best balance for families, ministers/celebrants and the council as burial ground provider.
- 6.6 Only 3 responses were received from the memorial masons consulted

6.7 Whilst the concerns raised are worthy of noting, it is viewed that there were no issues raised which would prevent implementing the proposed changes and that there are greater benefits to the provision of the burial service from implementing the proposed changes.

6.8 A more detailed summary of the responses received are shown in **APPENDIX II**.

## **7. SUMMARY OF IMPLICATIONS**

### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The proposed changes to the Cemetery Management Rules contribute to the Council's Corporate Plan to ensure sustainable and efficient use of resources.

### **(b) Policy and Legal**

Legislation and policy for burial matters are fully devolved to the Scottish Government. Cemetery matters are covered in the Burial & Cremation (Scotland) Act 2016. The Civic Government (Scotland) Act 1982 (section 112) permits local authorities to "make regulations to regulate any land or premises which is owned, occupied or managed by the authority or is otherwise under their control and to which the public have access..." Cemetery management rules made under this act expire after ten years.

### **(c) Financial implications**

The Council currently receives an annual income of around £63,000 from the sale of pre-purchased lairs. The removal of the ability to pre-purchase a lair will create an immediate budget pressure. However, it is envisaged that receipt of the income would simply be deferred and received at the time the lair is needed rather than through an upfront payment. In the long term this not only results in the income stream being sustained, but in all likelihood increased, with lairs being purchased in accordance with the relevant cost at the time of purchase. The impact of this will be considered in terms of ongoing work on the costs of operation and income from burial fees.

When the Council approved the budget for 2023/24 on 1 March 2023 (paragraph 5 of the Minute refers) it balanced only by using reserves and one-off financial flexibilities. The indicative 3 year budget showed a likely requirement to continue to make savings in the order of £20 million in the next two years. All financial decisions must be made in this context and only essential additional expenditure should be agreed in the course of the year. In making this determination the committee should consider whether the financial risk to the Council of incurring additional expenditure outweighs the risk to the Council of not incurring that expenditure, as set out in the risk section below and whether a decision on funding could reasonably be deferred until the budget for future years is approved.

### **(d) Risk Implications**

The risks associated with not implementing the proposed management rules is that the future need for lair spaces will be compromised and services will continue to operate inefficiently.

**(e) Staffing Implications**

The proposals will enable the burials team to operate more efficiently ensuring that available resources are optimised.

**(f) Property**

There are no property implications arising directly from this report.

**(g) Equalities/Socio Economic Impact**

There are no equality/socio economic impacts arising directly from this report.

**(h) Climate Change and Biodiversity Impacts**

There are no equality/socio economic impacts arising directly from this report.

**(i) Consultations**

The Depute Chief Executive (Economy, Environment and Finance), Head of Environmental and Commercial Services, Equal Opportunities Officer, Legal Services Manager, Chief Financial Officer and Committee Services Officer have been consulted and any comments taken into consideration.

**8. CONCLUSION**

**8.1 The current management rules for Cemeteries and Burials Grounds have not been reviewed for a number of years.**

**8.2 The revised management rules for Cemeteries and Burial Grounds will improve the management of Cemeteries and Burial Grounds, will improve service planning, allow for better use of resources and improve the overall productivity the Land and Open Spaces teams.**

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Background Papers:

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