

## **Item: 7**

**Development and Infrastructure Committee: 8 September 2020.**

**Burial Grounds.**

**Report by Executive Director of Development and Infrastructure.**

### **1. Purpose of Report**

To consider a revised Code of Practice for Burial Grounds, comprising a Code of Practice, Management Plan and Customer Charter, and to review the associated resource and financial implications.

### **2. Recommendations**

The Committee is invited to note:

#### **2.1.**

That, on 12 November 2019, the Development and Infrastructure Committee noted that, as a result of proposed management actions arising from an internal audit report on memorial safety works within burial grounds, the Burial Grounds Code of Practice should be reviewed, with a final version presented to Committee in Spring 2020, including any financial implications in respect of resources to deliver the Code of Practice.

#### **2.2.**

The revised Code of Practice for Burial Grounds, comprising the Code of Practice, the Burial Grounds Management Plan and the Customer Charter, attached as Appendix 1 to this report, which places a number of additional obligations on the Council, most notably with regard to inspection and maintenance of memorials within burial grounds.

#### **2.3.**

The options appraisal, including the necessary resources to deliver the proposed revised Code of Practice, attached as Appendix 2 to this report, with the preferred option being Option 4, namely further increased resource.

**It is recommended:**

#### **2.4.**

That, in principle, the Development and Infrastructure Committee support Option 4, namely further increased resource to enable full compliance with the recommendations arising from the internal audit report on memorial safety works within burial grounds and thereafter implementation of the revised Code of Practice.

## **2.5.**

That the Executive Director for Development and Infrastructure should submit a report, to the Policy and Resources Committee, setting out the financial and other implications of Option 4.

## **2.6.**

That, subject to the necessary funding being identified and made available to the Development and Infrastructure Service, the revised Code of Practice, attached as Appendix 1 to this report, be adopted.

# **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 the 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.

## **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, has now been revised.

## **3.5.**

The revised Code of Practice places a number of clear additional obligations on the Council, most notably with regards to inspection and maintenance of memorials within the burial grounds. These additional obligations will require additional resource to be allocated to the burial grounds service before the Code of Practice can be fully implemented.

## **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 as well as the process and key steps for inspection, maintenance and repair.

### **4.2.**

The proposed Code of Practice, which now comprises a Code of Practice, Management Plan and Customer Charter, attached as Appendix 1 to this report, reflects the legal obligations placed on the Council, as Burial Authority, by the Burial and Cremation (Scotland) Act 2016. It also 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.**

Members' feedback has been incorporated into the Code of Practice, through engagement with the Roads and Environmental Services Consultative Group in February 2020 and an all Members seminar in August 2020. Community Councils were also consulted during development of the documents.

### **4.4.**

A number of critical points were raised during these discussions as follows:

#### **4.4.1.**

The Burial and Cremation (Scotland) Act 2016 requires that the Exclusive Right of Burial (ERoB), previously referred to as lair ownership, applies initially for 25 years, with the option for subsequent renewals, each limited to 10 years at a time. This is a significant change, as current burial rights apply in perpetuity. Whilst the Act came into force in 2016, the associated Regulations have not yet been fully implemented, and this part of the legislation has not yet been applied. However, it will be necessary to bring this into force at some point. Having consulted with other Burial Authorities, the proposal is to implement this change in due course, in line with national direction. In the meantime, burial rights will continue to be sold in perpetuity.

#### **4.4.2.**

Memorial safety has been under increasing scrutiny in recent years and the Council, as Burial Authority, has a clear obligation to ensure that all memorials placed in its burial grounds do not present a danger to visitors. As a result of this, amended procedures around memorial erection, inspection and maintenance have been included in the Code of Practice. Of particular interest is the proposal that all future memorials will require a permit prior to being erected. The purpose of this is to ensure that the procedure is done in accordance with industry standards and

guidance and that the memorials therefore meet appropriate safety standards. Whilst consideration was given to restricting the height of an individual memorial, guidance received from the professional body responsible for technical specifications was that it would be more appropriate to instead control and manage construction and erection procedures.

#### **4.4.3.**

Many Burial Authorities prohibit the placement of adornments on lairs, other than a simple headstone and vase, and do not allow additional features such as kerbs, chips, railings or additional planting. Whilst these features do enable families to differentiate the lair and to create a more personalised memorial area, this does need to be balanced against the operational practicalities around maintenance of the burial ground. The previous Code of Practice noted that these adornments and features could be allowed, at the discretion of the Burial Authority. The new Code of Practice proposes that this discretion remains, but that further information is provided regarding the considerations and issues that will be taken into account. In particular this will articulate the level of obligation that will be placed on rights holders regarding maintenance of these adornments, together with removal of liability from the Council regarding any accidental damage caused during routine activities.

## **5. Resource Considerations**

### **5.1.**

In order to fully implement the revised Code of Practice and ensure that the Council complies with legal requirements and can demonstrate that it has followed best practice, an assessment of the necessary associated resource is required. The full details of this resource requirement is attached as Appendix 2, noting that existing resource is not sufficient to fully meet the obligations.

### **5.2.**

In accordance with Council policy, the Development and Infrastructure Service has investigated options for funding this additional required resource via internal mechanisms, efficiencies and compensatory savings. However, no appropriate opportunities could be identified, noting that activities relating to burial grounds are delivered across a range of services, each with ongoing, and competing, additional priorities.

### **5.3.**

Appendix 2 therefore sets out some proposed options for adding to the burial grounds management resource, noting that only Option 4 ensures that all regulatory requirements and best practice guidance are met. This option would require reconfiguration of some existing resources in Property plus the addition of a temporary technician post for 2 years and identification of a capital fund for necessary headstone remediation. It is estimated at a total cost of £247k over a five-year period, as summarised in the table below.

	Option 1	Option 2	Option 3	Option 4
Option 1	G7 (existing establishment) £38k			
Option 2		G6 (existing establishment) Charge to Burial Grounds budget £43k/year (first 2 years) £22k/year (thereafter)		
Option 3			Temporary (2 years) G5 post £30k/year	
Option 4				Additional funding for contractor work £7k/year
Additional Cost Y1	0	£43k	£73k	£80k
Additional Cost Y2	0	£43k	£73k	£80k
Additional Cost Y3	0	£22k	£22k	£29k
Additional Cost Y4	0	£22k	£22k	£29k
Additional Cost Y5	0	£22k	£22k	£29k

## 6. Links to Council Plan

### 6.1.

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.

### 6.2.

The proposals in this report relate directly to Priority 5.20 "Continue investment programme for the care and expansion (where necessary) of burial grounds across Orkney".

## 7. 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.

## **8. Financial Implications**

### **8.1.**

The potential changes to the delivery model for burial grounds have been costed and developed into an options appraisal as detailed in Appendix 2. Costs are provided for each of the four options, noting that Option 4, the preferred option, is estimated to cost £247k in total over a 5-year period.

### **8.2.**

It is a requirement for Service Committees to identify compensatory savings from within their own service area in the first instance and before giving due consideration to managing service pressures. In the event that the Service Committee is unable to identify compensatory savings, then it may be appropriate for a spending recommendation to be made to the Policy and Resources Committee. In doing so, it should be noted that approval of the proposed Code of Practice, including the Burial Grounds Management Plan and Customer Charter, is conditional upon additional resources being secured.

### **8.3.**

The current five-year capital programme project aimed at addressing burial ground capacity and at enabling major remediation works is currently in its final year and is due to finish in March 2021. This £1.67m programme has funded development of seven cemetery extensions of which five are now complete. In addition, it has enabled major repair work to be carried out on a number of assets. However, once this current programme is complete, there is no future provision for additional burial ground development, either to address potential capacity issues or to deliver any necessary future major renovation work.

### **8.4.**

The Burial Grounds revenue budgets have been overspent in the last two years, in the light of rising maintenance costs and reduced income as advance lair sales have reduced. This position is unlikely to change and could become worse as maintenance requirements increase with the addition of the new extensions.

### **8.5.**

During financial year 2019/20, additional exceptional costs were incurred by the Service in carrying out remedial works to headstones across burial grounds. This was funded by an additional contribution of £116,500 from the Repairs and Renewals Fund.

## **9. Legal Aspects**

### **9.1.**

The Burial and Cremation (Scotland) Act 2016, once fully implemented by regulations, imposes new obligations on the Council as Burial Authority. Most significantly, the Exclusive Right of Burial, previously referred to as lair ownership,

will apply initially for 25 years, with the option for subsequent renewals, each limited to 10 years at a time rather than in perpetuity which is the case at present.

## **9.2.**

Adopting the Code of Practice will enable the Council to comply with the legal obligations placed on it, as Burial Authority, by the Burial and Cremation (Scotland) Act 2016. The Code of Practice also takes into account the Scottish Government Burial Ground Memorial Safety: Local Authority Guidance which, whilst advisory rather than mandatory, will assist the Council in demonstrating that it has followed best practice in the event of any future claims relating to burial ground safety.

## **10. Contact Officers**

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## **11. Appendices**

Appendix 1: Burial Grounds Code of Practice, Burial Grounds Management Plan, Customer Charter.

Appendix 2: Appraisal of Resource Options.

# **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 Development and Infrastructure Directorate, within the Development and Infrastructure Committee Governance structure
- ii) 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
- 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

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### 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 accurate electronic recording of burials, purchasing and amendments of certificates of right of burial, and applications for erections of memorials
- (f) To ensure the ongoing inspections of burial grounds and memorials to address public safety and coordination of all associated maintenance works
- (g) 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)
- (h) Communication and engagement with Council departments, Community Councils and other organisations wishing to work within the burial grounds.
- (i) Setting the terms and conditions for sale of rights of burial
- (j) 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 adopted by Orkney Island Council in accordance with national guidance and direction of travel 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 be 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 with 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

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## 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 burial must be made by the undertaker or family member arranging the funeral on completion of the appropriate form which is emailed to [burial@orkney.gov.uk](mailto:burial@orkney.gov.uk)
- iv) 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
- v) Requests for burials must have all relevant information included on the application. Funeral dates will not be agreed until all required information is supplied
- vi) Burials can take place Monday-Saturday with times agreed depending on availability of resources
- vii) 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
- viii) 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 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.

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## 8) Appendices

List of Burial Grounds

Application form for Certificate for Right of Burial

Application form for renewal of Certificate for Right of Burial

Amendment/Cancellation form for Certificate for Right of Burial

Information Leaflet for Lair Owners

Application form for Permission to Erect or Repair a Memorial

Notification of Burial form

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This is a list of our 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.	Lyness Royal Naval Cemetery	Hoy
47.	Cross cemetery	Sanday

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# **Orkney Islands Council**

## **Burial Grounds**

### **Management Plan**

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## 1) Introduction

- a) This document is intended to be read in conjunction with the Burial Grounds Code of Practice and Burial Grounds Customer Charter to clarify and inform all parties using any of the 47 burial grounds currently being managed by the Council.
- b) This maintenance standard includes details on lair requirements, which can also be found in the Burial Grounds Code of Practice. There then follows specific guidance on maintenance standards and procedures which includes memorial maintenance and safety.

## 2) Lair Requirements

- a) 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.
- b) Graves will be excavated in accordance with 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.
- c) Burial of a deceased person must include the use of a suitable coffin.
- d) 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.
- e) The grave must be identified and marked out in accordance with the location specified on the certificate.
- f) Owners of the right of burial have the exclusive right of burial in a specified lair.
- g) 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.
- h) All tributes left on a lair shall be removed after a one-month period, to maintain the appearance of the burial ground. 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, noting that these additions pose substantial operational risks and that maintenance will remain the full responsibility of the burial rights owner. In addition, they may be asked to absolve the Council of any liability regarding accidental damage.

- i) 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.

### **3) Burial Grounds Maintenance Standard**

- a) 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 through the Commonwealth War Graves Commission.
- b) The standards of maintenance required in a burial ground are dependent upon the frequency of visitors and the general use of the burial ground.
- c) The minimum standards which apply to historic or low-use burial grounds are for grass paths to be cut and the grass on graves to be cut twice a year.
- d) 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.
- e) Trees, shrubs or flowers planted prior to the introduction of this management plan will not be allowed to encroach on neighbouring lairs and the Council reserve the right to cut back all such plants or to remove them permanently.
- f) 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. All works of a non-urgent nature are planned against a fixed annual budget.
- g) 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
- h) Maintenance work to all walls, fences and gates will be programmed and implemented as resources permit. Boundary walls or fences will be kept intact and in good order to prevent entry to the burial ground by livestock or vermin. Gates will be painted or treated as required, hinges and catches will be oiled

to ensure ease of use and wire mesh will be provided to prevent access by rabbits where necessary.

- i) With mutual agreement between the Council and any Community Council, the Community Council may, on behalf of the 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 fixed annual 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 the specification changed to meet available funding.
- j) 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 scheduled for action within the financial year subject to its priority and availability of funding.
- k) The Council will use contractors for specific works on the basis that those contractors are trained and qualified to undertake the work and have appropriate equipment, risk assessments and safe ways of working documentation in place.
- l) Substantial items of plant and equipment may be required at burial ground sites for ongoing maintenance such as repairs, drainage, and excavation of lairs. Works will be undertaken carefully and sympathetically by the Council and contractors, particularly in relation to protecting adjacent lairs.
- m) In the event that damage arises through the actions of the Council of an unintentional nature the lair owner can contact the Burial Grounds Officer by email [burialgrounds@orkney.gov.uk](mailto:burialgrounds@orkney.gov.uk) and all attempts will be made to remedy the damage at no cost to the lair owner.

#### **4) Burial Grounds Inspection Procedure**

- a) 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 considers public safety risks associated with any unstable memorial as detailed in the memorial procedure within this document.
- b) All burial grounds are regularly visited for inspections and every memorial is tested in accordance with published guidance. Inspections also include vegetation, walls, fencing, access gates, drainage systems, vehicle access, parking and lighting where applicable.
- c) The record system will note all inspections and subsequent actions for each location. These records will include full details including photographs of before and after works have been completed by the qualified team attending.

## 5) Memorial Procedure

- a) The erection of a memorial shall only be permitted on purchased lairs, and lair owners must request permission from the Council. No artefacts, painting or other erection work of any kind will be permitted.
- b) 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 and obtained a permit for erecting memorials from the Council.
- c) Any memorial should have the section and plot number of the lair cut plainly on the left side of the memorial at the expense of the person erecting the memorial. No other method of marking e.g. painting is allowed.
- d) All memorials must be erected on the concrete plinth, where such is provided.
- e) The owner of the right of burial for a lair is the owner of any memorial on that lair and must maintain their memorial in a safe and proper condition, in good order and repair, of which the Council will be sole judge. The owner is responsible for the upkeep and maintenance of the memorial. They are therefore also liable for any incident or damage arising from failure to maintain, or any damage sustained to the memorial e.g. through vandalism or acts of nature.
- f) The Council will notify the owner if the memorial on the lair is considered unsafe and requiring attention. The owner has 21 days in which to respond to the notification, and three months in which to arrange appropriate works. If the Council does not receive any communication from the owner after 21 days, or the required works have not been completed within three months of the notification, the Council will be entitled at the owner's expense to carry out either the repair of the memorial, removal or memorial, or laying down of memorial and recover such costs from the owner. Additional efforts to ensure that 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.
- g) Memorials will be categorised as no risk found, or risk may be noted as low, medium or high in terms of public safety. In this case the interventions are;
  - i) High Risk                      Cordon off, make safe if appropriate, attempt to identify and notify family
  - ii) Low-Medium Risk              Mark, attempt to identify and notify family
- h) If the Council considers in their judgement that a memorial is in a dangerous condition, the Council will be entitled to, without notice, take any action deemed necessary to make it safe. The owner of the memorial will be liable for any costs incurred by the Council. If the Council, after due and diligent enquiry, cannot ascertain the contact address of the owner, the Council can, without prejudice to its right to recover any costs associated with safety works undertaken, repair, remove or lay flat the memorial.

- i) Any works undertaken by the Council must be appropriately recorded including before and after photographs.
- j) 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.
- k) The owner shall not remove a memorial or part thereof from the cemetery without notification to the Council, and the appointment of an authorised and trained specialist who has the required permit from the Council. This protects all parties from challenge of theft or risk of injury.

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**Orkney Islands Council**  
**Burial Grounds**  
**Customer Charter**



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Memorials and Memorial Safety

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## **Introduction**

This document sets out various aspects of the maintenance standards for the public burial grounds managed by Orkney Islands Council.

There is a current list of all the managed burial grounds within Orkney, including historic sites that are no longer in active use.

The service level agreements of the Council are defined in relation to the 47 burial grounds that it manages in the role of keeper, as defined in the Burial and Cremation (Scotland) Act 2016, including the legal responsibilities of the Council to maintain those sites.

This document also clarifies the rights and responsibilities for owners of rights of burials in lairs within those burial grounds, and specific guidance on the management and maintenance of memorials that are erected in our burial grounds.

The document ends with an extensive FAQs relating to burials and burial ground management.

## Our Burial Grounds

Orkney Islands Council is responsible for 47 burial grounds throughout the county, including grounds which are no longer in active use and heritage sites. The burial grounds are managed by Development and Infrastructure. To arrange the purchase of the right of burial, or to discuss the erection of a memorial, the registration office can supply the details of the burial clerk for a specific burial ground.

This is a list of our 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.	Lyness Royal Naval Cemetery	Hoy
47.	Cross cemetery	Sanday

## **Our Commitment to You**

Our burial grounds are maintained to set standards which can be found in our Burial Grounds Management Plan. This includes grass cutting, maintaining pathways, entrances, boundaries, any vegetation or buildings that are owned by the Council, pest control, litter and lighting (where applicable).

One of the main purposes of this maintenance is to ensure all our burial grounds are pleasant and safe places for anyone visiting. This means we undertake regular inspections for health and safety which includes the memorials. The Council must ensure all memorials are safe and secure with no risk of any falling over and causing injury. This often means liaising with a lair owner to ensure work is undertaken to make a memorial safe.

Any queries, comments, complaints or compliments about the maintenance of the burial grounds can be directed to the Burial Grounds Officer by email [burialgrounds@orkney.gov.uk](mailto:burialgrounds@orkney.gov.uk) or calling 01856 873535.

## **Ownership of Right of Burial – Rights and Responsibilities**

When someone requires a lair, they can buy a Certificate of Right of Burial from the burial ground clerk responsible for their choice of burial ground. This means the person owns the rights to burial within the lair in perpetuity. The right to a subsequent burial in the same lair may be possible subject to ground conditions for that specific lair.

Buying the right of burial in a lair means the owner also has the right to erect a memorial, subject to it meeting safety standards and being supplied and erected by a qualified and approved stonemason, who has received permission from the Council to undertake the work.

An owner has some responsibilities when they take up the right of burial. The owner must make sure the lair is maintained to the standards explained when they buy the certificate. This means following the guidelines on what can and cannot be placed on a lair and maintaining any memorial. Memorials may over time need maintenance, for example cleaning, repairing or refitting due to wear and tear, weather or ground movement. This would be the owner's responsibility to ensure work is undertaken by a qualified person, and the Council is notified prior to any works.

The owner of the right of burial also needs to ensure the Council has the correct contact details on file, so they can contact the owner, for example to notify of any damage to a memorial. If the Council is unable to contact the lair owner, they have the authority to undertake any maintenance works that is necessary to make a memorial safe, but this work would be chargeable to the owner.

## **Owner Guidance - Terms and Conditions**

Buying the right of burial in a lair means you are agreeing to the following terms and conditions as an owner:

You agree to take ownership of the right of burial in the assigned lair which is detailed on the Certificate issued with ownership.

If you wish to amend or cancel your ownership this can be discussed with the burial ground clerk.

The owner must ensure the burial ground clerk has relevant and up to date contact details throughout the term of the ownership.

Ownership of the right of burial in a lair permits the owner to erect a memorial. This must meet specified safety standards and be installed by a qualified and approved specialist. It must have the lair location inscribed on the side of the memorial.

Any other memorials, ornamentation, fencing or other objects on the lair can only be installed following specific permission from the Council. Requests for such additions should be made to the Burial Grounds Officer in the first instance.

Lair grass cutting will be managed by Orkney Island Council.

The memorial must be managed by the owner. If the memorial requires repair, renovation or removal the owner is required to arrange this using a qualified and approved stonemason. The Council needs to be notified of any works prior to taking place.

The Council will notify the owner if they determine a memorial is unsafe and needs repair. The owner will then be required to arrange the repair as stated above.

## **Memorials and Memorial Safety**

Memorial safety is especially important due to some serious accidents in burial grounds.

Memorials remain the property of the owner of right of burial, which means the owner must ensure they are maintained and safe to be in our burial grounds.

Orkney Islands Council has a responsibility to check every memorial is safe and ensure any dangerous memorials are made safe.

This means if a memorial is unsafe, we will ask you to arrange for it to be made safe by using a qualified and approved specialist, who has obtained a permit to undertake the work. The Council must be informed before and after it has been carried out.

If you cannot arrange the work to be undertaken, the Council will make the memorial safe for you, but there will be a charge for this service.

## **Visitor Guidance**

People are welcome at our burial grounds at any time.

We ask visitors to be respectful and use bins where provided or take any litter home.

Visitors are not allowed to bring dogs into the burial grounds, unless they are assistance dogs.

Visitors are not allowed to bring vehicles into the burial grounds but are requested to use parking spaces where present or roadside parking. Visitors with disabled blue badge permits may drive into the site if necessary, but please be aware that the Council accepts no liability for any vehicles which are on or parked next to burial grounds.

Please be aware some memorials may be unsafe so take care and maintain a safe distance where possible.



## **FAQs**

### **Who maintains the burial grounds?**

The Council has overall responsibility for all the burial grounds, but some of the maintenance work is undertaken by contracted services either through the Council or the regional community council.

### **When are the burial grounds open?**

The sites have open access for visitors.

### **How do I purchase a lair?**

You actually purchase the right of burial in a lair, not the lair itself. This can be done by contacting the relevant clerk for your preferred burial ground.

### **When purchasing a lair does the ground belong to the lair owner?**

No, it gives exclusive right of burial and erection of memorial only.

### **Who owns the lair?**

The Council continue to own the lair. Purchasing a lair means purchasing the right to burial within a lair, not the land itself.

### **If a right of burial in a lair is not used, what happens to it?**

The owner of the right of burial can sell the lair rights back to the Council through the burial clerk for that burial ground.

### **Can I pass ownership to another person?**

Yes you can. This can be arranged by the clerk responsible for the burial ground where the lair is located.

### **Can my family choose a specific lair within a burial ground?**

This is not possible, except in very specific cases for which requests must come through to the Burial Grounds Officer for consideration.

### **Can I see a plan of the burial ground where I have a lair?**

The burial ground clerks have access to plans which they can show anyone who owns, or is considering purchasing, a lair.

### **How do I arrange a burial?**

This is normally done through the funeral directors, but families can arrange a funeral independently if they wish and can contact the relevant services direct (any religious organisation, council registrars etc.)

### **Can cremated remains be buried in the burial grounds?**

This can be accommodated by purchasing a right to burial certificate from the burial ground clerk. Cremated remains can also be interred in an existing lair that is in use with permission from the owner of the rights of burial in that lair.

### **Can pets be buried in the burial grounds?**

Pets are not allowed to be interred in the burial grounds.

### **How long do floral tributes remain on a lair?**

Flowers can be left on a lair for up to a maximum of one month. The Council has the right to remove any withered or deteriorated flowers, wreaths etc. Placing of flowers and wreaths on a grave is done at the persons own risk and the Council is not liable for any loss or damage due to weather, vermin, theft etc.

### **How do I get a memorial erected?**

Only a recognized, accredited specialist can be used to erect memorials in our burial grounds. The specialist should seek permission from the Council for erecting memorials by contacting the Burial Grounds Officer.

### **Who owns the memorial?**

A memorial is owned by the owner of the right of burial in the lair where it is erected. The Council do not own any memorials on a lair.

### **Can I be held responsible for my memorial?**

Owners of the right of burial in a lair are held responsible for memorials on that lair, and for the cost of any remedial work required to make the memorial safe should it become damaged, weathered etc.

### **Can I inspect and fix my own memorial?**

Members of the public are not allowed to inspect or carry out any works on memorials unless they are qualified specialists who has received permission from the Council authorising them to undertake such works. This is because it is dangerous and specialized work which requires training. The Council must be notified if any work is to be carried out on a memorial within a burial ground.

### **Can I re-erect my deceased relatives' memorial?**

Yes, this is possible. The Council must be informed and assured that a qualified specialist will undertake the work.

### **Who is responsible for the memorial once it is erected?**

The owner of right of burial is responsible for the memorial including any future maintenance. If the memorial needs repairing due to weathering, damage etc. The owner must arrange this with a qualified specialist and notify the Council.

### **Why does the Council carry out safety inspections within its burial grounds?**

The Council is required by law to ensure that the burial grounds are safe places to visit and work, and regular inspections help us to maintain that legal requirement.

### **What happens if a memorial is identified as unsafe?**

Memorials are inspected by trained staff. Should a memorial be identified as dangerous, then the Council needs to make it safe immediately to prevent any accidents. This can include staking and tying memorials as a temporary measure, or other methods deemed necessary such as ditching in (sheughing). Owners would be notified of this and their responsibilities to repair the memorial.

### **What happens to a memorial if there are no family, or owners cannot afford to carry out the repairs?**

Staking and tying is a temporary measure. The Council would continue to inspect and monitor all memorials, and if necessary, stake and tie, sheugh, lay flat, or any other remedial work that would need to be carried out to any memorials which have not had any repair work undertaken.

### **What if the owner cannot be traced and a memorial is unsafe?**

The Council will make every reasonable effort to make the memorial safe.

### **Are memorials removed from the burial ground?**

The Council does not remove memorials; however the Council reserves the right to remove any dangerous memorials from a burial ground if necessary, for safety.

### **Can I have more than one memorial or vase on a lair?**

Please contact the Burial Grounds Officer to discuss this request.

**Can I plant flowers or shrubs on a lair?**

This is generally not permitted on lairs but please contact the Burial Grounds Officer to discuss. Owners of older lairs which have vegetation are responsible for its maintenance, and the Council has the right to cut back or remove any vegetation if it is not being maintained by the lair owner.

**Can I section off part of the lair with a fence or kerb?**

Please contact the Burial Grounds Officer to discuss.

**Can I place a seat in the cemetery?**

This is not permitted.

**Why has the ground sunk on some lairs?**

This is due to soil movement after the interment etc. The Council levels lairs after a period following an interment, and all lairs are inspected and monitored regularly as part of ongoing burial ground maintenance.

**Can I walk my dog in the burial ground?**

Dogs are not permitted unless they are assistance dogs.

**Can I drive into a burial ground?**

This is not permitted except for visitors with disability requirements, and for funeral vehicles such as hearse and cortege.

**Where can I complain or comment about any problems relating to the burial ground?**

Any complaints, comments or compliments can be directed to the burial grounds officer by emailing [burialgrounds@orkney.gov.uk](mailto:burialgrounds@orkney.gov.uk)

## Appendix 2.

# Options Appraisal – Resource Strategy

## 1. Background

### 1.1.

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.

### 1.2.

The Code of Practice reflects Orkney Islands Council's approach 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 Internal Audit report on Burial Grounds Memorial Safety (OIC, Monitoring and Audit Committee, September 2019).
- OIC Contract Standing Orders and Financial Regulations.
- OIC health and safety policy and associated guidance documents.
- OIC Registrars and Burial Clerks.

### 1.3.

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.
- Minimum standards of workmanship.
- Terms and conditions of sale for prospective lair owners.
- Our asset management approach we seek from lair owners.
- Visibility and accessibility of lair records.
- Systematic approach to records management and lair owner contact/communication.

### 1.4.

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 where available.

### **1.5.**

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.

### **1.6.**

This paper 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. Note that these options are for illustrative purpose only and for information. Prior to any request being submitted to Policy and Resources, all details and costs will be fully defined.

## **2. Current Resource Situation – Finance and Personnel**

### **2.1.**

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).

### **2.2.**

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.

### **2.3.**

The Burial Grounds Officer reports to the Strategic Policy and Projects Manager. The core purpose of the post is asset management, from the policy level through to 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 also ensures 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.

## **2.4.**

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.

## **2.5.**

In 2019/20 the Burial Grounds budget was overspent by £128k with a final out-turn of £384k against a budget of £256k. Whilst there was additional expenditure in this financial year relating to the headstone remediation work, this was all accounted for in the budget, therefore the overspend relates to other issues. In the main, this overspend is related to fixed maintenance costs (grass-cutting) which are far higher than budgeted for. In addition, income generated was lower than budgeted for. There is therefore no scope within the existing budgets for additional resource or for increased levels of maintenance. In fact, realistically the grass-cutting costs use up the entire maintenance budget with nothing left over for other work.

## **2.6.**

The revised £1.67m 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 is due to complete 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.

## **2.7.**

Lair sales have in the past masked a historic underfunded burial grounds service. Advance sales were driven by the introduction of pre-purchase funeral plans by the local Funeral Director plus, possibly, a concern that space in some burial grounds was running out. However, sales have been decreasing in the last few years, from a peak of 177 in 2016/17 to 109 in the last financial year.

## **2.8.**

Analysis of burial fees around Scotland demonstrates that Orkney is in the lowest quartile, as is Shetland Islands Council. Therefore, whilst there may be some scope to increase fees, it remains to be seen whether these could be increased to a level that would cover increased costs associated with maintenance and headstone repair.

## **2.9.**

An option to amend lair charges so that they can be sold “with maintenance” or “without maintenance” has been considered. The “with maintenance” option would provide the Council with a working fund which could be used to cover maintenance costs and remove the fear of significant repair costs for lair owners in future years. However, as all future lairs will be sold with stringent conditions regarding memorial standards, the liability for future repairs will be managed through insurance and/or contract conditions between the memorial mason and the family thus reducing both Council responsibilities and the risk for the lair owner. It is considered therefore that the “with maintenance” option would not be attractive to purchasers, would place additional administrative burden on the Council and will not be offered.

## **3. Option Appraisal**

### **3.1.**

Current Council policy has a presumption against new commitments. Therefore, any additional financial resources which could be made available to the burial grounds revenue budget will need to be considered in the context of Council priorities and the opportunities available to the Development and Infrastructure Service Committee to identify any compensatory savings across its range of service functions.

### **3.2.**

The key tasks within the Burial Grounds function that require to be undertaken fall into the following categories:

- Policy development and implementation.
- Annual maintenance (grass-cutting, weeding).
- Routine maintenance (lair settlement; repairs to walls, gates, fences; pest control etc.).
- Memorial inspection.
- Memorial repair.
- Record keeping.
- Communication with community councils, lair owners, wider public.

### **3.3.**

As noted above, the Burial Grounds Officer has capacity to manage policy development, to co-ordinate annual and routine maintenance and to develop and oversee appropriate record keeping systems. The current revenue budget barely covers both annual and routine maintenance, with no additional funds for further work. Therefore, consideration needs to be given as to how the tasks associated with memorial inspection and repair and the associated communication requirements can be resourced and funded.



### **3.4.**

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

### **3.5.**

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.

## **3.6. Option 1 – No Change (Burial Grounds Officer with other existing resource)**

### **3.6.1.**

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 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. Availability of this support is not guaranteed, given other, on-going priorities and commitments. Therefore, there is a risk that, through these calls for support, these other service areas may also face resource pressure, leading in turn to additional call for support from these areas.

### **3.6.2.**

This option does 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 incorporated at the expense of other inspection work or require 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.

### **3.6.3.**

The main function of the Burial Grounds Officer is to develop and implement systems and processes to ensure we are compliant and meet legislation or best practice guidance and in line with our own internal recommendations. This includes 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.

#### **3.6.4.**

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 this is co-ordinated.

#### **3.6.5.**

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 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.

### **3.7. Option 2 – Maximising use of all available Service resources**

#### **3.7.1.**

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 through the Kirkyard Safety Programme Member / Officer Working Group and there is a recommendation to consider this approach via that Group. Specific details, however, are still be worked out, including a clear approach to the redirection of funding and prioritisation through development of a Business Case. An indicative proposal, for illustrative purposes, is provided below.

#### **3.7.2.**

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 to addressing laid down headstones. It creates, through reallocation of an existing vacancy and associated funding, a long-term team that would be trained to the standards required and thereby both “find and fix” those headstones in need of attention.

#### **3.7.3.**

The funding comes from an existing (reworked) Property Services team vacancy (G6) 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 capacity for other demands including the burial grounds after the backlog is removed.

#### **3.7.4.**

This 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.

#### **3.7.5.**

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.

#### **3.7.6.**

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.

#### **3.7.8.**

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. It does, however, require reallocation of budget funds to the burial grounds budget to cover the charges for the service provided. It is anticipated that the rate charged to the burial grounds service would be in the region of £40/hour and that the role would be fully utilised on burial grounds inspection for at least the first 2 years. This results in an annual cost to the service of £43k, noting that, in general, using in-house resource results in savings of around 25% when compared to external resources. After the first 2 years it is anticipated that this role would also have capacity to work on other areas and would be used 50% of their time on burial grounds.

#### **3.7.9.**

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:

- 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.

### **3.7.10.**

It must be noted that, 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’s responsibility to ensure that memorials are made safe, the Council takes over that responsibility. Therefore, following any work which is carried out there will still be a need to trace lair owners and either recover the cost retrospectively or to liaise with them to give them the opportunity to carry out this work appropriately themselves.

### **3.7.11.**

Whilst there may be scope to fund this option through the generation of efficiency savings within the delivery of the corporate property maintenance programme managed by Asset Management Sub-Committee, this is outwith the remit of the Development and Infrastructure Service Committee. The business case is also not yet developed and proven. In any case, however, Option 2 may not adequately address the resource requirements necessary to address the issues identified with regards to inspection and maintenance of headstones.

## **3.8. Option 3 – Service resource and some additional support**

### **3.8.1.**

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.

### **3.8.2.**

Option 3 proposes closing these gaps or potential weaknesses through use of limited but additional resource. The Burial Grounds Officer will focus on 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.

### **3.8.3.**

Until the first 5 year inspection process is completed (2018 to 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). It is acknowledged, however, that this option does not address any associated additional strain on the existing resources listed above and that there is a consequential risk that those

services may also need additional resource to fully meet the demands arising from the inspection programme.

#### **3.8.4.**

There have been significant changes in the requirements 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, co-ordinated 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.

#### **3.8.5.**

It is envisaged that this would be a technician level (G5) post, temporary for up to 2 years on the basis that following the first 5-year intensive period work should then become less and more routine. Additional costs are therefore likely to be c£30k per year, should appropriate funding be identified.

### **3.9. Option 4 – Further increased resource**

#### **3.9.1.**

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.

#### **3.9.2.**

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 resulted 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.

#### **3.9.3.**

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.

#### **3.9.4.**

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.

### 3.9.5.

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, or around £350 per memorial. The costs of future remediation work, whilst potentially covered by families in line with their stated responsibilities, may still require some investment by the Council, for cases where lair owners cannot be traced or where they refuse to pay.

### 3.9.6.

Costs for repairing headstones where the family cannot be found or refuses to pay are estimated at £7k/year. This assumes that around 100 such headstones are identified over the 5-year inspection period.

### 3.9.7.

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. As with other options that intervene on behalf of lair owners, there is a need to address issues around tracing, consulting and, if necessary, cost-recovery. Nevertheless, this option is proposed to provide a full and comprehensive service.

## 4. Indicative Costs

### 4.1.

The table below shows how each of the options builds on the previous one, together with the cost.

	Option 1	Option 2	Option 3	Option 4
Option 1	G7 (existing establishment) £38k			
Option 2		G6 (existing establishment) £43k/year (first 2 years) £22k/year (thereafter)		
Option 3			Temporary (2 years) G5 post £30k/year	

	Option 1	Option 2	Option 3	Option 4
Option 4				Additional funding for contractor work £7k/year
Additional Cost Y1	0	£43k	£73k	£80k
Additional Cost Y2	0	£43k	£73k	£80k
Additional Cost Y3	0	£22k	£22k	£29k
Additional Cost Y4	0	£22k	£22k	£29k
Additional Cost Y5	0	£22k	£22k	£29k

## 5. Review of Options

### 5.1.

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

Recommendations 2, 3, 4, 6, 11, 14, 16, 18, 20 and 21 are dealt with through the updated Code of Practice suite of documentation and so are not dependent on whatever resource option is implemented.

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				



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

Subject	Option			
	1	2	3	4
Review of policy and its processes at agreed, set intervals				