

Culture and Communities Committee

10.00am, Tuesday, 1 February 2022

Cemetery Management Rules

Executive/routine Wards Council Commitments	Executive All
---	------------------

1. Recommendations

- 1.1 It is recommended that the Culture and Communities Committee:
 - 1.1.1 Notes this report; and
 - 1.1.2 Approves the draft Cemetery Management Rules as set out in Appendix 2 to be issued for public inspection in accordance with section 112(4) of the Civic Government (Scotland) Act 1982.

Paul Lawrence

Executive Director of Place

Contact: Robbie Beattie, Senior Manager

E-mail: robbie.beattie@edinburgh.gov.uk | Tel: 0131 664 4314

Cemetery Management Rules

2. Executive Summary

- 2.1 This report presents an update to the Cemetery Strategy report which was submitted to and approved by this Committee on [16 November 2021](#).
- 2.2 A set of Cemetery Management Rules are proposed (Appendix 2) that will regulate activities in cemeteries.

3. Background

- 3.1 The Council own and operate 43 cemeteries, churchyards, and burial grounds across its area, which are listed in Appendix 1. For ease in the text they will all in generic terms be referred to as cemeteries. They occupy around 77 hectares of ground.
- 3.2 The Burial Grounds (Scotland) Act 1855 [section 17](#) previously made provision for Burial Authorities to create management rules. However the Burial and Cremation (Scotland) Act 2016 repealed that Act and via [commencement regulations](#) brought forward [section 6](#) which allows Scottish Ministers to make Regulations. There are no regulations published yet, but it is anticipated they may be made and enacted in 2023.
- 3.3 The Civic Government (Scotland) Act 1982 [section 112](#) permits local authorities to “... make rules to regulate any land or premises which is owned, occupied or managed by the authority or is otherwise under their control and to which the public have access.....”. Cemetery Management Rules made under this Act expire after ten years therefore new rules are required to be approved by Committee following the procedures laid down in section 112 of the Act.

4. Main report

- 4.1 This report presents an update from the Cemetery Strategy which was submitted to and approved by this Committee on 16 November 2021. The November report noted that officers would engage with Committee members and key stakeholder groups on the creation of proposed draft Cemetery Management Rules and would report back to Committee on 1 February 2022, to seek its approval.

- 4.2 The previous management rules had followed a national template agreed operationally amongst most Scottish local authorities several decades ago.
- 4.3 A workshop was held with members of this Committee on 17 November 2021 and provided a good opportunity to discuss the need for Cemetery Management Rules, what they should contain and how best to take them forward.
- 4.4 The workshop concluded that the parts of the rules regarding burial arrangements and memorialisation around graves/lairs should be removed from the Rules. Instead, these will now be included in the contractual terms and conditions for sale of an exclusive right of burial and service operational procedures. The service will liaise with the Council's Legal Team to draft this updated contract.
- 4.5 The draft cemetery management rules are set out at Appendix 2 and will be applicable in all cemeteries listed in Appendix 1.

Dogs in Cemeteries

- 4.6 There is one section in the draft rules to highlight to Committee - Section 4 of the draft Rules to Committee, which concerns dogs in cemeteries.
- 4.7 The current Cemetery Management Rules prohibit all dogs except assistance/guide dogs.
- 4.8 The Parks and Greenspace service has [management rules](#) which are aligned to the Outdoor Access Code allowing considerable freedom for dogs off the lead in those spaces. But this freedom for dogs is not appropriate in a cemetery setting as it is a space for remembrance and reflection.
- 4.9 An example of operational challenges for the service can be found at Warriston Cemetery. Although not considered a fully operational cemetery, there were coffin burials in each of the last three years and the interment of nine sets of cremated remains (ashes) in the same period. Bereaved families have a right to expect the cemetery to be a safe space for remembrance and reflection. However, between 3.00pm and 4.00pm on 30 December 2021 an officer noted at least 50 dogs in that one-hour period. Whilst most dogs were on leads or to heel there were a number that were running around prompting the officer to speak to the dog owners.
- 4.10 Recognising practical reality, it is proposed that the draft rules at Appendix 2 allow dogs in cemeteries. However, they must be on a lead and must not be allowed to foul in the cemetery. The [Dog Fouling \(Scotland\) Act 2003](#) provides legislative support for enforcement and penalties.
- 4.11 Committee are requested to approve that these draft Cemetery Management Rules be issued for public inspection in accordance with [section 112\(4\)](#) of the Civic Government (Scotland) Act 1982. At the end of the public notice period any responses will be collated. If there are no public responses which affect the rules coming into force then they will be issued in accordance with [section 112\(8\)](#) of the Act without further return to committee. If there are objections to the rules a further report will be submitted to Committee in accordance with [section 112\(7\)](#) of the Act.

5. Next Steps

- 5.1 If Committee approve the proposals outlined above, the Cemetery Management Rules will be issued for public inspection, as set out in paragraph 4.11. To aid public compliance with the proposed rules the council communication and media team colleagues will prepare an additional graphical version of the rules for display on cemetery notice boards.

6. Financial impact

- 6.1 If approved by Committee there will be a requirement to update signage in all cemeteries at an estimated cost of up to £1,000 which will be contained within current approved budget.

7. Stakeholder/Community Impact

- 7.1 During preparation of this report there has been consultation with various Friends of Cemetery Groups, members of this Committee and other Elected Members.
- 7.2 The proposals are intended to maintain good health and safety, governance and regulatory compliance.

8. Background reading/external references

- 8.1 None.

9. Appendices

- 9.1 Appendix 1 – List of City of Edinburgh Council Cemeteries.
- 9.2 Appendix 2 - Cemetery Management Rules.

Appendix 1 – List of City of Edinburgh Council Cemeteries

Buccleuch Churchyard	Morningside
Canongate Churchyard	Mortonhall
Colinton	Mount Alvernia Convent
Colinton Churchyard	New Calton
Comely Bank	Newington
Corstorphine Churchyard	North Leith Churchyard
Corstorphine Hill	North Merchiston
Craigmillar Castle Park	Old Calton
Cramond Churchyard	Portobello
Currie	Queensferry Vennel
Currie Churchyard	Ratho
Dalmeny Churchyard	Rosebank
Dalry	Saughton
Duddingston Churchyard	Sciennes Jewish
East Preston Street	South Leith Churchyard
Gogar	South Queensferry
Grange	St Cuthbert's Churchyard
Greyfriars Kirkyard	St Mary's Ratho
Kirkliston	St Triduana's Restalrig
Kirkliston Churchyard	Warriston
Liberton	Wauchope/Greendykes
Liberton Churchyard	

Management Rules

for Cemeteries, Churchyards and Burial Grounds

The City of Edinburgh Council (Burial Authority) make the following rules under the terms of Section 112 of the Civic Government (Scotland) Act 1982.

Interpretation

'Burial Authority' means City of Edinburgh Council.

'Council Officer' means any person employed by the City of Edinburgh Council or any person authorised by them to enforce these rules.

'Cemetery' means any land used for burial including churchyards kirkyards and burial grounds which are owned, occupied or under the management of City of Edinburgh Council.

General - the following acts are prohibited:

- 1.1 Behaviour which causes (or in the opinion of a Council Officer is likely to cause) annoyance, offence, alarm or distress to any other Cemetery visitor.
- 1.2 Any wilful or careless act which damages or removes any artefact or memorial, plant, tree, shrub, building, structure, equipment, furniture including benches or signage.
- 1.3 Depositing litter except in litter bins provided for the purpose.
- 1.4 Pursuing any activity which endangers (or in the opinion of a Council Officer is likely to endanger) any person or property including entering or exiting the cemetery not by the designated means.
- 1.5 Entering or wilfully remaining in a cemetery when it is closed to the public.

General - the following acts are prohibited unless written permission has been obtained:

- 2.1 Engaging in any commercial activity including but not limited to, filming, photography and drone recording.
- 2.2 Giving displays or performances including begging or busking.
- 2.3 Tours whether paid or not in a Cemetery which is subject to the tour guide registration scheme if the operator has not registered with the Burial Authority.
- 2.4 Any organised event whether paid for or not within the cemetery including but not limited to art classes, teaching, ghost hunting, and parties.

Dogs and Horses – the following acts are prohibited

- 3.1 Failing to keep your dog on a lead whilst in the cemetery.



- 3.2 Commercial dog walking.

- 3.3 Allowing a dog to foul in a cemetery contrary to the provisions of the Dog Fouling (Scotland) Act 2003.

- 3.4 Leading, riding, training or exercising a horse.

Vehicles - the following acts are prohibited:

- 4.1 Parking on grass or grass verges whilst in a Cemetery.
- 4.2 Parking in a Cemetery for a purpose other than Cemetery use.
- 4.3 Parking in a way that prohibits other users from accessing another part of the cemetery.
- 4.4 Parking in designated disabled parking bays without displaying a Blue Badge.



General Information

Please contact Bereavement Services on
Working Hours 0131 664 4314
Out of Hours 0131 200 2000
or email
bereavement@edinburgh.gov.uk