

Culture and Communities Committee

10.00am, Tuesday, 16 August 2022

Cemetery Management Rules – Outcome of Consultation

Executive/routine Wards Council Commitments	Executive All
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1. Recommendations

- 1.1 Culture and Communities Committee is asked to:
 - 1.1.1 Note the contents of this report, including that the Council's statutory duties have been met in relation to the consultation;
 - 1.1.2 Consider the representations received during the statutory public consultation period, as attached at Appendices 2, 3 and 4; and
 - 1.1.3 Agree the cemetery rules, as set out at Appendix 1, with an effective date of 16 August 2022.

Paul Lawrence

Executive Director of Place

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Cemetery Management Rules – Outcome of Consultation

2 Executive Summary

- 2.1 This report follows the Cemetery Strategy report which was submitted to, and approved by, Committee on [16 November 2021](#) and the Committee's approval of the draft management rules for cemeteries, churchyards and burial grounds (Appendix 1) at its meeting on [1 February 2022](#). Committee instructed that the proposed rules should be submitted for public consultation, known more formally as 'publication and inspection of the draft rules' within the Act. This report asks Committee to agree the proposed management rules for cemeteries, churchyards and burial grounds, having considered the feedback received.

3 Background

- 3.1 The Council owns and operates 43 cemeteries, churchyards, and burial grounds occupying around 77 acres of ground. For ease of reference these are collectively referred to as cemeteries in this report.
- 3.2 Section 17 of the Burial Grounds (Scotland) Act 1855 previously made provision for Burial Authorities to create management rules. However, the Burial and Cremation (Scotland) Act 2016 repealed that Act and included section 6, which allows Scottish Ministers to make Regulations. There are no regulations published yet, but it is anticipated that these may be made and enacted in 2023.
- 3.3 Section 112 of the Civic Government (Scotland) Act 1982 ('the Act') allows local authorities more generally 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". The current rules require to be updated.

4 Main report

Statutory Consultation

- 4.1 On 1 February 2022, Committee agreed draft management rules for cemeteries, churchyards and burial grounds, which are attached at Appendix 1. Section 112 of the Civic Government (Scotland) Act 1982 requires that, before making management rules, a local authority shall advertise the draft rules and take into consideration any objections timeously received by them. The Council is also required to give any objector an opportunity to be heard before making any final decision.
- 4.2 As required by the Act, the draft rules were advertised in a local newspaper, namely the Edinburgh Evening News, on 17 March 2022. Interested parties were invited to submit representations or objections in writing by 25 April 2022. The draft rules were also advertised on the Consultation Hub on the Council's website where the public could also comment. Finally, they were also displayed at notice boards at cemeteries in the city.
- 4.3 In total, 118 responses were received. A summary of responses entered on the Consultation Hub is included at Appendix 2, and individual responses are attached at Appendix 3. Broad themes include the following:
- 4.3.1 The main issue was around whether dogs should be allowed in the cemeteries and, if so, whether the owner should be required to have the dog on a lead:
- 4.3.1.1 12 respondents agreed that dogs should always be on leads; and
- 4.3.1.2 37 respondents felt there were circumstances when it would be acceptable for dogs to be 'off the lead', with 12 respondents suggesting that the requirement should be for dogs to be 'under control'.
- 4.3.2 A number of responses raised the issue of whether professional dog walkers should be permitted to use the cemeteries. Four respondents specifically commented that professional dog walkers were generally responsible and kept dogs under control. Five respondents thought that these locations were not appropriate for use by professional dog walkers.
- 4.3.3 Several respondents noted that allowing dog walking in cemeteries provides a 'safe space' to do so (particularly for solo women and other vulnerable people). It was suggested that, if dogs were required to be kept on leads at all times, this would reduce the number of dog walkers in cemeteries, which could consequently reduce the perceived level of safety. In addition, several respondents noted that, particularly during the pandemic lockdown period, cemeteries provided a useful 'safe green space' in which to exercise dogs.
- 4.3.4 Although the Council encourages appropriate use and enjoyment of the cemetery spaces, this must accord with the core purpose of the spaces.

Cemeteries are places for burial and for the bereaved to visit, reflect and remember, and for contemplation in a quiet space. Any other use must not detract from that core purpose and whilst acknowledging that the presence of dog walkers may give additional reassurance, the presence of dogs has to be managed in a way that does not cause distress to the bereaved. Therefore, on this point no changes have been recommended to the draft rules as it is considered that they strike the appropriate balance on this issue.

Consideration of the consultation

- 4.4 Committee should consider the consultation responses and any further representations made at the Committee meeting itself. Taking these into account, if Committee agrees that the draft rules (Appendix 1) are a proportionate response to the issues raised since the approved Cemetery Strategy report (16 November 2021), and also the issues discussed at the meeting of 1 February 2022, it is recommended that Committee agrees the cemetery rules, as set out at Appendix 1, with an effective date of 16 August 2022.
- 4.5 The majority of comments not supporting the new cemetery rules favour a more extensive use of cemeteries to facilitate dog walking, which was not part of the consultation nor conform with the core purpose of cemeteries. As noted in paragraph 4.3.4, Cemeteries in Edinburgh are quiet spaces for the burial of deceased persons and cremated remains. The use of these spaces for more than this purpose is welcome, however the understanding of, and respect for, their primary purpose must remain at the heart of any other activities that take place. In February 2022, Committee heard from a bereaved parent, who shared their own story and experience in support of the new rules.
- 4.6 Adopting the rules will allow the Bereavement Service to control the use of cemetery spaces to ensure that the needs of the bereaved are met. Cemetery staff, events officers and street enforcement colleagues will be able to either respond proportionately to specific reports of a breach, or enforce the rules whilst they are on site carrying out other duties. Elected Members will be aware that cemeteries are not constantly patrolled. Therefore, it is hoped that with education and a clear policy, those wishing to use a cemetery will understand and respect its main purpose. Any breach of the rules could result in exclusion from the cemetery under the terms of the legislation.

5 Next Steps

- 5.1 If Committee approves the recommendations in this report:
- 5.1.1 All known parties that will be affected by the changes will be contacted; and
 - 5.1.2 Statutory notification procedures in relation to the revised cemetery rules will be implemented, with the new rules taking effect from 16 August 2022.

- 5.2 To aid public compliance with the proposed rules, the Council's communication and media team will prepare an additional graphical version of the rules for display on cemetery notice boards.

6 Financial impact

- 6.1 If the rules are 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 approved budgets.

7 Stakeholder/Community Impact

- 7.1 There has been consultation with various Friends of Cemetery Groups, members of this Committee and other Elected Members prior to the committee's consideration of the previous report on 1 February 2022.
- 7.2 The proposals are intended to ensure good governance and regulatory compliance, as well as good management of cemeteries. They clearly set out the purpose of the space, which in turn clarifies expectations of visitors.

8 Background reading/external references

- 8.1 [City of Edinburgh Cemeteries and burials information](#)

9 Appendices

- 9.1 Appendix 1 - Proposed cemetery rules.
- 9.2 Appendix 2 – Summary of consultation responses submitted on Consultation Hub.
- 9.3 Appendix 3a – Individual consultation responses submitted on Consultation Hub (Exempt by virtue of paragraph(s) 3, 6, 12, 14 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973).
- 9.4 Appendix 3b – Individual consultation responses submitted by email (Exempt by virtue of paragraph(s) 3, 6, 12, 14 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973).

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

Cemetery Management Rules 2022

<https://consultationhub.edinburgh.gov.uk/sfc/cemetery-management-rules-2022>

This report was created on Tuesday 26 April 2022 at 15:02

The activity ran from 17/03/2022 to 25/04/2022

Responses to this survey: **105**

1: What is your name?

Name

There were 101 responses to this part of the question.

2: What is your email address?

Email

There were 99 responses to this part of the question.

3: We want to hear what people in the local community think.

What are your views on the proposed Cemetery Management Rules?

Do you have any issues or concerns arising from the proposal?

Do you have any additional comments?

Please give us your comments.

There were 105 responses to this part of the question.

4: Please choose which of the following applies to you.

Respondent organisation

There were 105 responses to this part of the question.

Option	Total	Percent
Resident	93	88.57%
Community Council representative	0	0.00%
Trade organisation (please give details below)	0	0.00%
Other business (please give details below)	0	0.00%
Other (please give details below)	12	11.43%
Not Answered	0	0.00%

The remaining questions concerned demographic information. The responses which were made can be provided on request.