

Report

Report to:	Community Services Committee
Date of Meeting:	30 October 2012
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	Review of Operating Procedures and Management Rules for Cemeteries
----------	---

1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ request the Committee to consider and approve the Management Rules for Cemeteries and its associated Operating Procedures

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s)

- (1) that the Management Rules and Operation Procedures for Cemeteries are approved.
- (2) that a process of consultation on the Management Rules and Operating Procedures are introduced; and
- (3) that following the consultation exercise, the Executive Director be authorised to consider any objections received and to decide whether the Management Rules should be made with or without, modification, and thereafter to authorise the making of the Management Rules and their introduction in the operation of the Council's Cemeteries

3. Background

- 3.1. South Lanarkshire Council has a statutory obligation to provide and maintain cemeteries and burial grounds as outlined under the Burial Grounds (Scotland) Act 1855. On behalf of the Council, Grounds Services currently manage and maintain 54 cemeteries and churchyards which includes the strategic provision of new cemeteries or extensions, the delivery of the burial service from the initial administrative booking through to the interment (or exhumation), the grounds maintenance, record management and memorialisation.
- 3.2 Through the terms of the Civic Government (Scotland) Act 1982, South Lanarkshire Council may make Management Rules which are intended to control the way in which people use cemeteries as well as how they behave whilst in a cemetery. These rules are considered essential in order to ensure that satisfactory levels of behaviour are adhered to by any user of the cemetery. The breaking of a Management Rule does not constitute a criminal offence. However, the Council may expel or exclude anyone who has broken one or more of the rules.

- 3.3 The Cemetery Operating Procedures provide a framework that covers areas like the purchase of Burial Rights, Succession to Burial Rights and the way in which burials should be arranged.
- 4. Proposal**
- 4.1 The proposed Management Rules and Operating Procedures for Cemeteries are appended to the report. If approved by Committee it is proposed to undertake a consultation exercise which would include: placing Notices in local newspapers and at the Cemeteries where the Management Rules will apply, and granting an opportunity to any objector who may wish to be heard.
- 4.2 It is proposed that following Committee approval and the public consultation exercise the Operating Procedures and Management Rules for Cemeteries will be displayed at all Council managed cemeteries.
- 5. Employee Implications**
- 5.1. There are no employee implications relative to the report.
- 6. Other Implications**
- 6.1. None
- 7. Financial Implications**
- 7.1. The cost of the public consultation and the displaying of the Management Rules in each of the Council's 54 cemeteries and churchyards will be met from within existing revenue budgets.
- 8. Equality Impact Assessment and Consultation Arrangements**
- 8.1. An equality impact assessment has been carried out.
- 8.2. Legal Services have been consulted on the proposals contained in the report and further consultation will be carried out as outlined in clause 4.1

Colin McDowall
Executive Director (Community and Enterprise Resources)
1 October 2012

Link(s) to Council Objectives/Values/Improvement Themes

- ◆ Improve Community Safety

Previous References

- ◆ None.

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Ian Guild, Grounds Services Manager

Ext: 815 7767 (Tel: 01698 717767)

E-mail: ian.guild@southlanarkshire.gov.uk

MANAGEMENT RULES FOR CEMETERIES

THROUGHOUT SOUTH LANARKSHIRE

These Rules (known as Management Rules) enacted under the provisions of the CIVIC GOVERNMENT (SCOTLAND) ACT 1982 have been made by South Lanarkshire Council to control the way in which people use public cemeteries and the behaviour of people while in them.

These Management Rules only apply to public cemeteries which are:

- (a) owned or managed by the Council (or managed on behalf of the Council) and
- (b) to which the public have access

These Rules do not apply to any cemeteries which have their own specific Management Rules.

These Rules will come into force on

General Rules

1.0 Breaking the Rules

- 1.1 Any person who has broken or is about to break one or more of the Rules may be expelled from a public cemetery or part of a public cemetery.
- 1.2 Any person who is about to break one or more of these Rules may be refused entry to a public cemetery.
- 1.3 If the Council believes that a person who has persistently broken or attempts to break these Rules is likely to do so again, they may make an Exclusion Order.
- 1.4 An Exclusion Order forbids a person from entering any public cemetery mentioned in the Order. The person may not be allowed to enter the public cemetery for up to one year.
- 1.5 Any person who
 - (a) refuses to leave when requested to do so by the Council Officer;
 - (b) enters or attempts to enter a public cemetery despite being informed by the Council Officer that he/she is being refused entry, or
 - (c) enters or attempts to enter a public cemetery when not allowed to do so because of an Exclusion Order

is guilty of a criminal offence and may be liable to a fine.

2.0 Access to Public Cemetery

2.1 Unless otherwise stated public cemeteries shall be open to the public during the following hours:

- a) 08.00 to 20.00 Monday to Sunday inclusive –
1 April to 30 September
- b) 08.00 to 18.00 Monday to Sunday
1 October to 31 October
- c) 08.00 to 16.30 Monday to Sunday inclusive –
1 November to 28 February
- d) 08.00 to 18.00 Monday to Sunday Inclusive
1 March to 31 March

2.2 The Council may temporarily close a public cemetery or any part of a public cemetery for such time as it considers necessary. The Council in doing so will post a Notice specifying the times of the closure at any part of the public cemetery which is temporarily closed.

3.0 General Behaviour

3.1 Disturbance

Nobody shall fight or cause a disturbance or use violent, abusive or obscene language whilst in a public cemetery.

3.2 Disturbing other people

Nobody shall obstruct, disturb, interrupt or annoy any other person using a public cemetery including the Council Officer or other employee of the Council in the performance of his duties. For these Rules, behaviour forbidden includes (but is not restricted to) behaving in an obscene or indecent way.

3.3 Damaging Property

3.3.1 Nobody shall damage in any way any part of a public cemetery including buildings, walls, fences, barriers, railings and headstones.

3.3.2 Nobody shall write, deface or spray paint any part of a public cemetery.

4.0 Signs and Notices

4.1 All signs, notices, leaflets or petitions must be given to the Council Officer who will then decide whether they should be put up or made available. When deciding whether to put up or make available any signs, notices, letters or petitions, the Council Officer will bear in mind the purpose of the notice boards etc. These notice boards are primarily to be used for making available Council information, information from local community groups and organisations (but not commercial business or

activities unless linked to a tourism or community purpose) and local events. No signs, notices, leaflets or petitions will be made available if

- (a) by doing so this could result in disorder, or
- (b) their contents are political or relate to expression of political views, or
- (c) if the contents of the signs, notices, leaflets or petitions contain information which is illegal or defamatory to others

4.2 Nobody (other than the Council Officer) shall:

- (a) put up any signs or notices of any kind;
- (b) distribute or make available any leaflets;
- (c) hold any public charitable collection

in a public cemetery without the permission of the Council or authorised representative.

5.0 Litter

5.1 Nobody shall drop litter of any sort in a public cemetery other than in a bin provided by the Council.

6.0 Public Meetings

6.1 Nobody shall hold any public meetings, processions, demonstrations, exhibitions, religious service (except in connection with a funeral), political rally, lecture or concert in any public cemetery, without the consent of the Council.

6.2 This permission must be in writing and obtained prior to the holding of the public meeting etc.

7.0 Use of Public Cemetery

7.1 Nobody shall climb any wall, fence, gate, barrier or railing in or enclosing any public cemetery.

7.2 Nobody shall climb any tree or any seat, monument, statue or anything else erected on the ground of a public cemetery.

7.3 Nobody shall walk or run over any planted area or any grass, lawn or verge in a public cemetery which has a sign "Keep off the Grass".

7.4 Nobody shall pluck, cut, destroy or remove any flower, plants or shrubs etc planted by the Council, from a public cemetery without the consent of the Council.

7.5 Nobody shall do anything to disturb any graves in a public cemetery.

8.0 Vehicles

- 8.1 Car parking facilities provided by the Council for the convenience of Patrons shall only be available at such times as the Cemetery is open. In all cases the directions of the Cemetery Staff must be complied with and all vehicles must be driven at a reasonable speed and with due care and attention. The Council shall not be held responsible for any damage to vehicles, or other property left in the car parking facilities, however such damage may be caused.
- 8.1 Vehicles conveying memorials or goods into the Cemetery grounds will be allowed only with the consent of the Council. The person or persons in charge of such a vehicle must comply with the directions of the Council whilst within the Cemetery Grounds.
- 8.2 No vehicle shall be parked in such a way that it causes an obstruction to vehicles and visitors to a public cemetery.
- 8.3 All vehicles driving through a public cemetery must be driven at a speed not exceeding 10mph.
- 8.4 Nobody shall carry out any repairs or other works to any vehicle whilst in a public cemetery except where the works are of an emergency nature.

9 Alcohol/Substances

- 9.1 Nobody shall drink or deposit any alcoholic beverages within a public cemetery
- 9.2 Nobody shall take any illegal substances whilst within a public cemetery.

10 Collections

- 10.1 Nobody shall collect money, gifts or subscriptions whilst within a public cemetery unless the prior written permission of the Council has been obtained.
- 10.2 Permission for public charitable collections must be obtained from the Council before the collection is held. This permission may be in writing and could be subject to such conditions as the Council may consider reasonable.

11 Games/Activities

- 11.1 Nobody shall play or take part in any game or activities or exercises in a public cemetery.

12 Animals

- 12.1 All dogs and other animals brought into a public cemetery must be kept under control and in particular, all dogs must be kept on a lead, and the animals must not cause annoyance to any person or damage any part of a public cemetery.

- 12.2 Nobody shall ride, train or exercise any horse or other animal in a public cemetery.
- 12.3 Horses may only enter and be ridden in a public cemetery when in connection with a funeral, and only with the consent of the Council. The consent must be in writing and be obtained prior to the relevant funeral taking place. Horses permitted to enter a public cemetery as so specified must not be ridden at any pace faster than walking.

13 Council Officers and Staff

- 13.1 Every person in a public cemetery must follow the instructions of the Council Officer and any of his/her staff. This includes leaving when requested to do so and to stop doing anything when instructed to do so.

14 Amendment

- 14.1 The Council shall be at liberty to alter these Rules and Regulations or any part of them, at any time as they may see fit and make and may enforce such others as they may consider necessary for the proper or better management of the Cemeteries.

Made by SOUTH LANARKSHIRE COUNCIL on ...

OPERATING PROCEDURES FOR CEMETERIES

1 THE REGULATIONS

Meanings of Words and Phrases

In these regulations certain words and phrases are used and they have the following meanings:

“Cemetery” means any ground used either currently or at one time as a burial ground for the interment of human remains.

“The Council” means the South Lanarkshire Council or any Council Officer who has delegated authority working on behalf of the Council.

“Exclusive Right of Burial” means the right to inter (bury) human remains in a lair (the ground remains in the ownership of the council). This also includes the right to erect a memorial on the lair.

“Lair” means the plot of ground to be used for the interment of human remains.

“Lair holder” means the person who has purchased the burial rights in the lair.

“Interment” means a burial

“Common Ground” means an area or a lair for the burial of those people who die with no means to pay for a burial or lair

2 Layout of Cemetery and Designation of Plots

- 2.1 The Council will designate plots of land within cemeteries under their control for use as individual graves or lairs.
- 2.2 Exclusive Rights of burial in the lairs may be purchased from the Council on payment of the fee fixed by the council and are available to both residents and non-residents of South Lanarkshire.
- 2.3 The Council will prepare a plan showing the layout of the cemetery identifying common burial ground and lairs.

3 Purchase of Burial Rights

- 3.1 *Lairs will only be sold in advance where there is sufficient capacity in each cemetery to do so. Where a cemetery has, based on the average number of new lairs purchased annually, less than five years capacity, advanced sale of lairs will not be permitted.*
- 3.2 *Fees for the purchase of burial rights will be set by the Council on an annual basis.*

- 3.3 A table of Interment Fees and other charges shall be kept within the Bereavement Services Office, South Lanarkshire Crematorium, Sydes Brae, Blantyre and published on the council's website. In addition, all fees and charges in connection with interments, Lair Certificates, etc., shall be acknowledged on official printed receipt forms.**
- 3.4 The selection of the lair purchased and to be opened for interment will be at the discretion of the Council. At all times the Council will attempt to allocate a desired lair but cannot guarantee being able to do so.**
- 3.5 On payment of the fee, the Council will grant to the purchaser of the burial rights a Lair Certificate confirming that the lair holder has purchased the rights to be buried in the lair specified in the Certificate.**
- 3.6 All rights of burial and associated memorial rights within South Lanarkshire Council Cemeteries will be sold in perpetuity. The rights of the Council to terminate burial rights under certain circumstances are discussed in paragraph 9.

4 Succession to Burial Rights

On the death of the Lairholder, their executor shall be entitled on production of evidence of their appointment as such executor, the right, to have registered as Lairholder in the Council's records either (i) the said executor or (ii) any other person whom the executor shall nominate to be Lairholder.

In such cases a new certificate will be prepared to include the amended details on the original Lair Certificate or a new Certificate issued, but no new Certificates shall be issued until the original is produced and surrendered to the Council or accounted for satisfactorily.

If a Lairholder dies leaving a lawful spouse/ civil partner and children and shall have made no valid bequest of the lair, the Lairholder's spouse/civil partner and children, shall have the right to interment in the lair for themselves. In the absence of any of the Lairholder's immediate offspring surviving the Lairholder, the right of interment shall devolve to the children of the Lairholder's children (the Lairholder's grandchildren), and so on until there are no further descendants of the Lairholder.

Where there is no agreement on the succession of the rights of burial between any of the appropriate parties, the council will suspend the use of the lair until agreement has been reached.

A lair holder may specify his/her successor by either bequeathing the rights to an individual in his/her will or notifying the Council of the identity of the successor to the rights on his death.

On succession to the burial rights, the new lair holder may request the Council on payment of the appropriate fee fixed by the Council, to change the name in the register of lair holders to his or her own name.

In the interests of protecting the rights of all parties any transfer of Exclusive Right of Burial shall be subject to the appropriate provisions in the Statutory Declaration Act 1835. This ensures the necessary confirmation of the facts in a legal context.

The Council does not accept any liability for any loss suffered as a result of an error arising from the acceptance of the Council in good faith of evidence provided to them.

5 Non-Transferable Rights

- 5.1 No lair holder will be entitled to sell their burial rights unless the rights are being sold to the Council in return for the original fee paid by the lair holder.
- 5.2 A lair holder will be entitled to exercise his/her burial rights in relation to the interment of anyone who is not a member of the lair holder's family, but only where the lair holder does not receive any monetary or other consideration for doing so.

6 Burials

- 6.1 In the first instance Burial bookings are taken at the Bereavement Services Office, South Lanarkshire Crematorium, Sydes Brae, Blantyre
- 6.2 Completed funeral notices are not confirmed until all the relevant paperwork has been received by the cemeteries office and must reach the Council no later than 48 hours before the intended time of the burial.
- 6.3 All burials must be authorised by the Council prior to funeral arrangements being publicly announced.
- 6.4 No lair will be opened without the written consent of the lair holder
- 6.5 Burials will take place between 9.00 and 15.30 on Monday to Friday and between 0900 and 11.30 on a Saturday. Burials out with these times can be arranged at the discretion of the council.
- 6.6 The procedures detailed above apply to both full burial and the burial of cremated remains.
- 6.7 The scattering of cremated remains is permitted in specific areas of the cemeteries; all scattering of remains must be approved by the council.
- 6.8 The Funeral Director is responsible for the provision of sufficient bearers to convey the coffin from the hearse to the graveside.

7 Memorialisation

- 7.1 A Lairholder shall be entitled to have a memorial erected but any monument shall not protrude in any way over that part of the lair to be opened for burial. The Lairholder is liable for the risks of any damage by or to any monument or memorial on the lair. Planting is permitted at the head of the lair but again shall not infringe in any way over that part of the lair to be opened for burial and shall only be permitted with the consent of the Council. Railings, kerbstones, fences, decorative chips, chains or boxes are not permitted The Council shall not be responsible for any loss or damage to memorials, vases or any other items placed on lairs.

- 7.2 All memorials and memorial foundations shall be constructed in accordance with such recommendations formulated by the National Association of Monumental Masons (NAMM) Code of Working Practice. A copy of the Code of Practice is available from the Council's Bereavement Services, NAMM Accredited Stonemasons or the NAMM web site at www.namm.org.uk
- 7.3 The Section and Lair Number must be cut plainly upon the left-hand side of the memorial at the expense of the person erecting the memorial.
- 7.4 No headstones or other monuments will be erected on common ground unless the written permission is granted by the Council.
- 7.5 The lair holder will be permitted to place small memorial globes, vases, shells, displays of flowers etc at the head of the lair. If these items are broken or damaged in any way and in the view of the Council constitutes risk to Health and Safety then the items will be removed by the Council and stored until such times as claimed by the lair holder.
- 7.6 The soil surrounding the grave must not be covered by any chips or stones (this will ensure the area can be maintained by cemetery staff). Lairs shall be laid out in turf and no fences, kerbs, rails, chains, boxes or other surrounds will be permitted.

8. Preparation of Lairs

- 8.1. Only the Council or its employees or persons appointed by the Council may prepare a lair burial. This includes the moving of headstones and other monuments.
- 8.2 Lair holders are prohibited from employing any person (other than in connection with any sculpture or masonry work) to perform any work is to be carried out by the Council.
- 8.3 Lairs shall be opened to accommodate three adult interments and up to six cremation caskets. However the capacity of each lair is dependant on grounds conditions and cannot be guaranteed prior to excavation of the lair in question.
- 8.4 Once the capacity of each lair, respectively, has been reached, no more burials may take place in that lair.

9 Termination of Burial Rights

- 9.1 Where all burial rights in respect of all of the lairs within a cemetery have been sold and the lair holder has not exercised the right of burial for a period of more than forty years from the date of original purchase , then the Council may terminate these rights of burial.
- 9.2 The Council will not be able to terminate these burial rights until one year after:
- (a) Sending a letter recorded delivery to the lair holder at his/her last known address advising of their intention to terminate these burial rights , and

- (b) Placing adverts in two editions of a national newspaper and two local newspapers, asking that any lair holder come forward to the Council.

- 9.3 If as a result of the termination of these burial rights any headstone or other monument will require to be removed, the Council will remove the headstone or monument and store the headstone or monument.

10 **Register of Burials**

- 10.1 The Council will keep a register detailing the name, age, date of death and last residence of all persons buried in the cemetery and will also detail the lair in which the persons have been buried.
- 10.2 The register will be available by members of the public under the supervision of council staff, free of charge.

11 **Charges and Fees**

- 11.1 All fees and charges to be paid by purchasers of lairs and lair holders in connection with burials will be detailed in a Table of Interment Fees, a copy of which is available for inspection at the office of the South Lanarkshire Crematorium, Sydes Brae, Blantyre.