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| Agenda Item | 9. |
| Report No | CP/19/20 |

HIGHLAND COUNCIL

Committee: Communities and Place

Date: 25th November 2020

Report Title: Burial and Cremation Policy and Management Rules

Report By: Executive Chief Officer Communities and Place

1. Purpose/Executive Summary

- 1.1 The Council has statutory duties towards burials and cremation and this report sets out a refreshed policy to demonstrate the Council's commitment to meeting these requirements along with reviewed management rules for burial grounds and the crematorium.
- 1.2 The purpose of this report is to seek approval of the policy, to approve the review of the Management Rules and conduct a consultation exercise with relevant stakeholders.

2. Recommendations

- 2.1 Members are asked to:
 - I. note that the Council undertakes around 1500 burials and 1200 cremations a year across the Highland area. The Council currently has 268 burial grounds and operates Inverness Crematorium, located at Kilvean, Inverness;
 - II. note that further amendments may be required to the policy arising from the review undertaken by the Competition and Markets Authority and these would be reported to a future meeting of the Committee;
 - III. agree the refreshed burial and cremations policy attached at Appendix 1 which addresses the internal audit actions agreed;
 - IV. agree that consultation is undertaken on the updated draft management rules for burial grounds and the Inverness Crematorium as set out in Appendices 2 and 3, in keeping with the legislative requirements to consult;
 - V. agree that a report on the outcome of the consultation and the final management rules is considered at the next meeting of the Committee; and
 - VI. agree that appropriate guidance and signage is provided to communicate the final management rules.

3. Implications

- 3.1 Resource – A report on the project underway to increase burial ground capacity was considered at the August meeting of the C&P Committee. Capital resources to address burial ground extensions and memorial safety will be considered as part of the wider review of capital programme priorities in 2020/21.
- 3.2 Revenue expenditure of £4.696m is budgeted in 2020/21 for bereavement services, burials and cremations. As reported in the Q2 budget monitoring report a project is underway to clarify all sources of income and to profile income monthly.
- 3.3 The refreshed policy proposed at Appendix 1 sets out the financial management arrangements. It notes that prices for burials, foundations and lairs will be reviewed periodically. This report does not propose any changes to charging. That would be considered during the budget setting process.
- 3.4 Any costs associated with signage and communication of management rules can be accommodated within the current budget.
- 3.5 Legal – Highland Council has a statutory obligation to manage burial provision, memorial safety and cremations as set out in the Burial and Cremation (Scotland) Act 2016. The Council has the authority, through the Civic Government (Scotland) Act 1982, to create and enforce Management Rules regulating the use of and conduct of persons within burial grounds and the crematorium. There is a legal duty to consult on proposed changes to management rules. Any further changes arising from the Competition and Markets Authority investigations into the Funerals sector will be reported to the Committee and included in the refreshed policy.
- 3.6 Community (Equality, Poverty and Rural) – The refreshed policy and draft updated management rules ensure a transparent and consistent approach to meeting the statutory duties of the Council over the Highlands.
- 3.7 Public sector equality duty: The aims of the policy are primarily to improve administrative, financial and record keeping processes, and to define the Council's statutory obligations and the standards which Council employees and customers must adhere to. The new policy and management rules have been through an Equality Impact Assessment screening exercise. The policy has a clear commitment to respecting the religious and cultural needs of people of all faiths and those with no faith.
- 3.8 Fairer Scotland duty: this report does not propose any changes to charging which would be considered during the budget setting process and through a socio-economic impact assessment of proposals. Mitigating action is already in place as the Council's Welfare team will provide advice and guidance to those requiring support with funeral costs and to undertake public health funerals where required.
- 3.9 Public consultation is required on proposed changes to management rules and the proposals for this consultation are included in the report.
- 3.10 Climate Change / Carbon Clever – The Crematorium is operated under a permit and conditions issued by Scottish Environmental Protection Agency (SEPA) under the Pollution Prevention and Control (Scotland) Regulations 2012. For burial grounds, the Council will consult with SEPA on any new burial ground sites or extensions to ensure these will not cause pollution to the environment.

3.11 Risk

- The risk of insufficient burial ground capacity is being mitigated through the burial ground expansion project.
- The safety of staff and visitors in burial grounds is a statutory obligation for local authorities.
- There is a potential reputational risk to the Council regarding enforcement of the Management Rules in relation to memorabilia and ornaments on lairs. This can be mitigated by the sensitive approach to enforcement outlined in the report.
- An annual inspection of the Crematorium operations is undertaken by the Scottish Government's Inspector of Crematoria. Reports to date have been positive. The new policy and management arrangements provide further internal assurance. The next inspection report will be reported to Committee.

3.12 Gaelic – In line with the Council's Guidelines on the use of Gaelic, at burial grounds where new signs are being erected or existing signs require to be replaced, bilingual signs will be erected.

4. **Burial and Cremation Policy**

- 4.1 As members will be aware there is an audit review (HCD07/001) on the administration of Burials and Cremations. The report identified several areas for improvement including a new policy on burials and cremations.
- 4.2 As members are aware this is a key service with the Council undertaking around 1500 burials and 1200 cremations in a year across the Highland area. The Council currently has 268 burial grounds and operates Inverness Crematorium, located at Kilvean, Inverness.
- 4.3 The previous policy was incorporated within a Policy and Procedures document issued in 2010 (Burial Grounds Policy & Procedures Issue 1 Rev. 5 - April 2010). The policy covered the Statutory Obligations of the Council, the Responsibilities of the Council as the Burial Authority and Standards of Service. The internal Audit report identified that the Burials Grounds Policy should be reviewed, revised and re-issued to all staff, along with relevant procedures to ensure a consistent service delivery across the area. A lean review is currently progressing work on detailed operational procedures.
- 4.4 A draft refreshed policy is detailed in **Appendix 1**. The policy sets out the commitment from Council, to deliver burial and cremation services to the specified standards and legislation primarily under the Burial and Cremation (Scotland) Act 2016.
- 4.5 The policy also details the responsibilities for the Council in terms of financial management and support, equality, standards of service, records, and the responsibilities of officers.
- 4.6 The new policy and management rules have been through an Equality Impact Assessment screening exercise. This found that the changes being proposed to the policy and procedures do not overly impact on the protected characteristics. It is anticipated that the principal area of concern amongst external stakeholders may be in relation to the proposed changes to the financial processes which will be addressed through the proposed socio-economic impact assessment of any future fee changes. Actions identified through the screening exercise are listed below:

- Any improvements to burial grounds should consider whether disabled access can be improved.
- Public communications (e.g. leaflets) should be in plain English and use standard Highland Council statements that information can be available in alternative formats and languages.
- Mitigating actions to address funeral poverty (where the price of a funeral is beyond a person's ability to pay) is already in place whereby the Council's Welfare Team will provide advice on help with funeral costs and help with related benefits.
- Where changes to burial or cremation costs affecting the public are proposed a socio-economic impact assessment will be carried out in order to understand who is likely to be affected and the extent of impact.

5. Management Rules

- 5.1 Section 112 of the Civic Government (Scotland) Act 1982 details the process by which local authorities can make Management Rules to regulate the use of, and the conduct of persons on, 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, whether on payment or not.
- 5.2 This legislation has been used by Councils to establish rules to regulate the use of and the conduct of persons in places such as parks, burial grounds and crematoria.
- 5.3 The legislation requires a period of public consultation when introducing management rules including ensuring the draft rules are made available for inspection for at least a month. Members of the public will require to be notified by way of a newspaper advertisement where the draft Management Rules may be inspected, and the address to which objections may be sent. Following the consultation and execution of the Management Rules the legislation states they will remain in force for a period of ten years unless revoked or amended and will be available for public inspection.
- 5.4 In Highland, the management rules for Burial Grounds and Inverness Crematorium were reviewed and updated versions presented to the Environment, Development and Infrastructure Committee on 31st January 2019. The Committee approved that the consultation exercise, however this was not progressed due to competing demands on the bereavement services team.
- 5.5 **Appendix 2 and 3** contain updated draft management rules for Burial Grounds and Inverness Crematorium.
- 5.6 These have been updated and the main changes are highlighted below:
- a) for clarity the combined rules have been separated into two sets of rules, one for Highland Burial Grounds and one for Inverness Crematorium;
 - b) the rules have been updated to the latest legislation, principally the Burial and Cremation (Scotland) Act 2016;
 - c) text generally updated to be clearer and more user-friendly;
 - d) specific text added to include existing guidance on the maximum size of headstones (Burial Grounds rule 5.6)
 - e) specific text added to clarify right of council to remove items out with permitted areas on burial lairs (Burial Grounds rule 5.8)
 - f) specific text added to clarify right of council to address unsafe memorials (Burial Grounds rule 5.11)
 - g) specific text added to clarify placing and use of memorial benches (Burial Grounds rule 5.13)

- h) specific text added on General Data Protection Regulation (GDPR) (Burial Grounds rule 6.1)
- i) specific text added on clarify penalties available under the Civic Government (Scotland) Act 1982 if there is a significant or repeated contravention of the management rules (Burial Grounds section 8, Crematorium rules section 9)

5.7 Generally, there has been good compliance with the burial ground rules and this ensures staff safety and that routine maintenance can be carried out in an efficient manner (e.g. grass cutting). However, there have been limited cases highlighted which can cause difficulties particularly with lairs. This can be with unauthorised items being placed out with permitted areas including in some cases turf being cut to allow installation of small fences and gravel. Some cases involve ornamentation (e.g. plastic solar lights) being placed. Members will be aware that enforcement of these aspects of the burial grounds rules requires sensitivity, tact and care.

5.8 To take forward a proportionate, fair, consistent approach to enforcement it is proposed that:

- a) following consultation, the finalised rules should be publicised for 2 months;
- b) plain English leaflets highlighting compliance and common problems will be supplied to lair purchasers. This information can be made in other formats or languages on request;
- c) signs highlighting compliance and common problems will be provided at burial grounds;
- d) clear guidance will be provided to staff on proportionate, fair, consistent enforcement approach to breaches of the management rules. This will include guidance on when it is appropriate to take action and action to be taken. For example, on minor breaches (e.g. plastic solar lights can be removed, stored for 28 days then disposed off), and then to escalation to management of new significant breaches (e.g. turf being cut to install a fence and gravel, where manager would contact lair holder with written explanation of breach with time scale for matter to be remedied). In significant cases, where no immediate safety risk, 2 written warnings would be provided to lair holder with a 4 week period in-between.
- e) Any concerns involving the graves of infants or children would be referred to the Bereavement Services Manager.
- f) Legal services have indicated applying the management rules to historic issues is likely to be challenged. It is therefore proposed that the enforcement will focus on application of the new rules following their date of implementation.

5.9 An informal survey of other Scottish Councils has found similar issues. Most have rules in place for the safety of staff and to assist maintenance and some do permit items in immediate area of headstone. Generally, enforcement is not pursued unless it is impacting on ability to open the lair or has impact on safety or valid complaints are received. Many will write to lair holders before removal of items. All recognise that it must be approached with sensitivity and enforcement can be very challenging.

5.10 Once the notified period for consultation (which cannot be less than a month) has expired, it is proposed Bereavement Services will consider (following consultation with officers from Legal Services) whether any changes to the draft Management Rules are required. The final Management Rules will be presented for approval to the next Communities and Place Committee.

Designation: Executive Chief Officer Communities and Place

Date: 16 November 2020

Authors:

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Background Papers:

Report No EDI/13/19 dated 31 January 2019 Review of Management Rules for Cemeteries and Kilvean Crematorium

[https://www.highland.gov.uk/download/meetings/id/74824/item_17 -
_review_of_management_rules_for_cemeteries_and_kilvean_crematorium](https://www.highland.gov.uk/download/meetings/id/74824/item_17_-_review_of_management_rules_for_cemeteries_and_kilvean_crematorium)

Civic Government (Scotland) Act 1982

<https://www.legislation.gov.uk/ukpga/1982/45/part/IX/crossheading/management-rules>

Proposed Refreshed Burial and Cremation Policy



Burial and Cremation Policy

Document Control

Version History

| Version | Date | Author | Change |
|---------|--------------|------------|---|
| V2.0 | October 2020 | Alan Yates | Alignment with the Burial and Cremation (Scotland) Act 2016 |

Document Approval

| Name | Role | Reason |
|---|--------------------|----------------|
| Communities and Place Committee | | Approval |
| Hugh Gardiner, Angus Morrison, Dorothy Mackenzie, Katriona Green, Kathleen Campbell, Fiona Morrison, Viccie Masson, Suzanne Gowdy, Susan MacDonald, Annemarie MacAlpine | Policy Review Team | Review 7/11/19 |

Policy Statement

This Policy Statement sets out the commitment from The Highland Council, to deliver burial and cremation services to the specified standards and legislation set out under the

- a. Burial and Cremation (Scotland) Act 2016;
- b. Cremation (Scotland) Regulations 2019;
- c. Equality Act 2010
- d. Environmental Protection Act 1990;
- e. Civic Government (Scotland) Act 1982, to create and enforce Management Rules regulating the use of and conduct of persons within burial grounds and the crematorium; and
- f. Health and Safety at Work etc Act 1974

and their Implementation Updates, Guidance Notes and Codes of Practice, which will be issued periodically by the Scottish and UK Governments.

Definitions

The **Burial & Cremation Authority** means the local government authority, The Highland Council, hereafter referred to as The Council.

Statutory Obligations

Regarding the provision of burial and cremation facilities, the Burial and Cremation (Scotland) Act 2016 determines that The Council is statutorily obliged to provide at least one burial ground within its area. The Council currently operates 268 burial grounds. Additionally, The Council currently operates a crematorium, namely Inverness Crematorium, located at Kilvean, Inverness.

The Act also places a statutory duty on the Council to arrange the funeral for any person who has died or been found dead in the Council's area where no arrangements are being made e.g. where there are no traceable relatives or executor. The Environmental Health team has responsibility for these funerals, known as Public Health funerals.

The public sector equality duty (or general duty) in the Equality Act 2010 requires Scottish public authorities must have 'due regard' to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations. The Fairer Scotland Duty additionally requires certain public bodies to give due regard to socio-economic disadvantage in strategic decisions.

Responsibilities of the Highland Council

The Highland Council shall always ensure that:

- it has sufficient land space to fulfil its responsibilities to dispose of the dead;
- the burial grounds and Inverness crematorium, which it is responsible for, are properly equipped in order to provide the requisite services; with specific regard to the crematorium, our performance standards are independently inspected on an annual basis by the Inspector of Crematoria;
- it provides a response to cases where the Council has a statutory duty to arrange the funeral;
- the selection of any new burial ground sites or extensions shall not cause pollution to the environment, by complying with the relevant planning consents, environmental legislation, including the Scottish Environmental Protection Agency authorisation; and

- where there is any significant change to process and equipment within Inverness Crematorium the Inspector of Crematoria and the Scottish Environmental Protection Agency will be consulted to ensure compliance with all relevant legislation.

Financial Management

The collection of all income due to The Council will be in accordance with the Council's Financial Regulations Policy, which is founded by the Local Authority Accounts (Scotland) Regulations 2014.

The Council commits to publishing the prices for burial and cremation services.

The Council will provide advice and guidance to anyone who may have concerns or require support with funeral costs via it's Welfare Support Team. Where appropriate, this support will include claiming financial support to help pay for funeral expenses.

The Council commits to periodically reviewing the prices for burials and cremations. On each occasion, the review will be subject to a socio-economic impact assessment.

Standards of Service

The Council shall use industry guidance minimum standards to provide a quality service to everyone using our burial grounds and Inverness crematorium. The guidance is produced by the Institute of Cemetery and Crematorium Management (ICCM) and the Federation of Burial and Cremation Authorities (FBCA).

Lair Purchase

A grant of exclusive Right of Burial can only be purchased from The Council by an individual.

Joint Lair Rights are expressly prohibited.

Funeral Rites

The Council will deliver professional, respectful and dignified burial and cremation services that will consider the religious and cultural needs of people of all faiths and those with no faith. consider the needs of all religious faiths and those of no faith.

Management Rules for Burial Grounds and Inverness Crematorium

The Council has the authority, through the Civic Government (Scotland) Act 1982, to create and enforce Management Rules regulating the use of and conduct of persons within burial grounds and Inverness crematorium. The Council will publish approved management rules and follow the statutory requirements on making such rules.

Cemetery Records

The Council is responsible for maintaining accurate, legible records which contain sufficient minimum information, and keeping them in a manner affording security from fire, flooding and vandalism. Where it is practical to do so, a back-up copy shall be retained at a separate location.

Complaints

The Council's complaints process supports this Policy and is accessible through the website www.highland.gov.uk

The Highland Council's Roles and Responsibilities

The Executive Chief Officer Communities and Place has a duty to ensure that:

- the Terms of Policy are managed according to statutory responsibilities and Council policies;
- relevant Service Managers follow the Policy within all burial grounds and the Crematorium; and
- partner organisations, the public and stakeholders are clearly informed of the Terms of this Policy.

The designated Service Lead and Manager must ensure that:

- the Terms of this Policy and all associated procedures, policies, practice, Management Rules and guidance are understood by all relevant staff and managers associated with the burial grounds and the crematorium, and that these are incorporated into routine practices;
- successful implementation of the Policy is supported by following agreed Highland Council approaches to record management, customer care, general maintenance and reporting of performance data and active participation in quality standard measurement tools; and
- emerging changes in legislation or professional industry guidance are communicated to staff teams and embedded in ongoing team practices, pending their inclusion in future reviews of this Policy.

Employees must ensure that:

- this policy and any associated procedures, guidance and manuals that are relevant to their work are read, understood and followed;
- any training that is deemed by management to be relevant to their post and will support them in the successful delivery of this Policy is completed and followed; and
- any risks identified, pertaining to this Policy, are reported to their line manager timeously.

Service Users' Responsibilities

Service users have the responsibility to ensure that they adhere to this Policy.

Review

In line with the Council's Policy Framework, this will be reviewed annually and as required by any significant changes to legislation, regulations or business practice.

Draft Management Rules for Burial Grounds

The Highland Council

Management Rules for Burial Grounds under the control of the Council

By virtue of the powers contained in Sections 112-118 of the Civic Government (Scotland) Act 1982, the Highland Council (“the Council”) hereby make and enact the following Management Rules to regulate the use of and the conduct of persons while in Burial Grounds under the control of the Council.

These Management Rules shall be read in conjunction with any regulations introduced by Scottish Ministers by virtue of powers contained within the Burial and Cremation (Scotland) Act 2016.

1. Interpretation of terms

- 1.1 In these management rules the following words and expressions shall have the following meanings assigned to them:
- a) “Authorised Officer” means a person who is authorised by the Council, either generally or specifically, to act in manners under these rules to act in connection with these Rules.
 - b) “Right of Burial” means the right to be buried in a lair, and the right to decide whose remains may be buried in the lair.
 - c) “Casket Lair” means a lair reserved for the burial of cremated remains only.
 - d) “Lair Holder” means the owner of the exclusive right of burial in a lair, and in whose name the Lair Certificate is registered
 - e) “Lair” means a grave suitable for the burial of coffins and/or cremation caskets.
 - f) “Memorial” means any commemorative marker placed over or upon a grave or lair (e.g. Headstone).

2. The Exclusive Right of Burial

- 2.1 The Council may sell a right of burial in a lair in one of its burial grounds on the application of any person. The right is only exercisable by the person in whom the right is vested.
- 2.2 Purchased lairs can only be allocated by an authorised officer. Allocations made by Funeral Directors or other persons will not be honoured, unless they have prior written permission from the Council to allocate a specific lair. Pre-purchasing of lairs without an associated burial will only be permitted where the anticipated capacity within a particular burial ground allows. The Council reserves the right to refuse pre-purchasing of lairs at any time.

- 2.3 The Council shall provide the Lair Holder with a lair certificate describing the lair. A lair holder duly recorded by the council shall have exclusive right of permitting the lair to be opened and/or apply to have a memorial erected/altered/removed. Entry in the Council's interment books shall be conclusive as to the ownership of the right of burial. In the absence of any reliable record held by the Council, the production of a certificate will be held as sufficient authority.
- 2.4 As per 17(4) of the Burial and Cremation (Scotland) Act (2016), the Council will amend any detail of their records as necessary to keep those records accurate.
- 2.5 With the exception of trustees, only one person shall be registered as the Lair Holder of a lair or lairs. Joint succession to or division of the exclusive rights for any lair is expressly prohibited. No lair holder shall be entitled to transfer any or all of his/her lair rights during his/her lifetime without the approval of the Council. The lair right may be handed back to the Council and a refund at current lair charge less an administrative charge if the lair is still unused. Where, due to ground conditions, two single-depth lairs were sold in lieu of one double-depth lair, one double-depth charge will be refunded.
- 2.6 The exclusive right of burial is considered to be part of the Lair Holder's estate and shall be treated in accordance with the terms of Succession (Scotland) Act 1964 as amended and all relevant regulations made thereunder (providing they were domiciled in Scotland at the time of their death). Where a registered lair holder and their spouse / civil partner have died, the lair may only be opened for burial with the permission of all legal successors, whether as an isolated event or as part of the permanent transfer of lair rights.
- 2.7 The written permission of all legal successors is preferred but if this is not appropriate or possible then a declaration may be made by the applicant that all legal successors have been informed and no objections have been made. The Council shall not be responsible for accepting in good faith this claim, or a claim of legal succession if it is subsequently ascertained that such a claim is unfounded. This approach also applies to applications for erection of Memorials.
- 2.8 The Council will prepare and maintain a register on each of its burial grounds, containing the following information:
- a) Information about lairs in the burial ground in which rights to burial have been sold
 - b) The date on which these rights were sold
 - c) The names and addresses of the persons the Council sold the rights to
 - d) The names and address of the right-holders if different to the person originally sold the rights. If the Council is unaware of and cannot ascertain this information after reasonable enquiry then this will not be recorded.

Burial Registers will be kept indefinitely. These registers and copies of entries will be supplied to members of the public on request, subject to an administration fee.

- 2.9 Lair rights can be transferred within or between cemeteries, subject to an administrative fee.

3. Interments

- 3.1 All Burials must be authorised by the Burial Authority prior to funeral arrangements being publicly announced. The person instructing the burial is liable for all burial dues and fees.
- 3.2 All requests must be made in writing. The Council will not be liable for any failure in arrangements for burial due to circumstances beyond its control.
- 3.3 Any request for interment, including cremated remains, must be submitted to the Council on an approved form and be completed to the satisfaction of the Council. The authorisation of the burial will not be granted unless the form is submitted at least 2 full working days prior to the burial taking place. Burials do not require 2 days' notice in cases of death from epidemic disease, or other interments required to take place immediately upon the production of a certificate from a Procurator Fiscal or a Medical Practitioner, or in the case of a body found at sea or washed ashore. If the applicant wishes to choose a new lair, then the 2 full working days start at the time the new lair is chosen. Weekends and public holidays are not considered to be working days.
- 3.4 Any request for interment must include any information deemed necessary by the Council. Interments may only take place during times fixed by the Council, except for circumstances meeting the criteria of the above point.
- 3.5 A statutory Certificate of Registration of Death, Cremation or Still Birth, shall be provided by the undertaker/agent to the Council prior to an interment taking place.
- 3.6 The Council will not accept a body for interment unless the body is properly enclosed in a suitably lined coffin.
- 3.7 The Funeral Director/Agent will be responsible for the provision of sufficient bearers to convey the coffin reverently from the hearse to the graveside and for lowering the coffin into the grave. Where Council employees are asked to assist neither they nor the Burial Authority it will not be held responsible for damage to the hearse or coffin howsoever caused.
- 3.8 No coffin or casket shall be disturbed or removed from any grave under any circumstances unless permitted/instructed in writing by the Council.
- 3.9 No coffin shall be interred unless there is a minimum of a 60cm (approx. 2 ft) layer of earth available between the top of the final coffin and the surface ground level. Coffins in the same lair must be separated from one another by a layer of earth not less than 15cm (approx. 0.5 ft) in thickness. No coffin shall be interred nearer than 75cm (approx. 2.5 ft) from the foundation or any part of a boundary, wall or building in a cemetery.
- 3.10 The number of burials which can be accommodated in any particular lair may be indicated on the Lair Certificate, but it must be noted this cannot be guaranteed as ground conditions may limit capacity. The number of burials which can be accommodated in a specific lair will be the decision of the authorised officer whose decision shall be final. Generally, adult lairs can hold at least one adult coffin alongside up to six cremation caskets, although

some lairs can hold up to three adult coffins. Infant coffins may be accepted in adult lairs, subject to size and ground conditions.

- 3.11 The Council will record every interment specifying the lair number, the burial ground, the depth of the lair, the date of interment, the name, last address and age of the person buried, burial depth and any other relevant information. An extract from a burial register, duly certified as a true copy by the Council, is sufficient evidence of the burial entered in it for the purposes of any court proceedings.
- 3.12 In order to respect other mourners, any proposals to play music inside a burial ground (including but not limited to bagpipes and drums) must be authorised by the Council prior to the interment.
- 3.13 Where it is known in advance that a large attendance at a funeral is expected, prior notification should be made to the Council.
- 3.14 The Council will be responsible for fixing sunken lairs when notified by a relevant party.

4. Areas for Cremated Remains

- 4.1 Designated areas for cremated remains are only available in some burial grounds. These designated areas will be capable of holding up to four cremation caskets.
- 4.2 No cremation casket shall be interred unless there is a minimum of 30cm (approx. 1 ft) layer of earth available between the top of the casket and the surface ground level.
- 4.3 Cremated remains must not be scattered in any part of a burial ground.

5. Memorials

- 5.1 The erection of memorials shall only be permitted on lairs where a Right of Burial has been granted and paid for in full. Any applications made before the Right of Burial has been paid for in full will be refused.
- 5.2 A lair holder shall be entitled to have a memorial erected provided it complies with current specifications as determined by the Council and that it will not intrude in any way over that part of the lair that may require to be opened for future burials. No memorial shall be erected or inscription added within any burial ground until a plan or sketch thereof showing suitable scale and inscription has been submitted on an appropriate application form and approved by an authorised officer. The stonemason must not proceed until they have received written approval from an authorised officer.
- 5.3 The application for the erection of a memorial must be made in writing at least 21 days before it is proposed to erect the memorial. Any inscription on a memorial must be approved by and must conform to the administrative requirements of the Council applicable at that time.
- 5.4 All work in connection with the erection of any memorial shall be undertaken by a mason who is accredited under the approved schemes managed by NAMM, or BRAMM or an equivalent approved scheme, and carried out to the

satisfaction of an authorised officer. The whole expense of such erection and the fixing any damage to council or any other property shall be borne by the person instructing the erection of such memorial. Foundations for all memorials must be constructed in accordance with such recommendations issued by NAMM, or BRAMM. Memorials are erected at the owners own risk and the Council will not be responsible for any loss or damage howsoever caused.

5.5 The section and number of a lair must be clearly and permanently marked / cut upon the side of the memorial at the expense of the person erecting the memorial. Any headstone which provides for two or more lairs must have all lair numbers marked on the side of the memorial. The memorial mason will inscribe his identifying mark on the base of the headstone.

5.6 Maximum Dimensions for Headstones are:

| | Height | Width* | Depth |
|--------------------|---------------|---------------|--------------|
| Coffin Lair | 150 cm | 90 cm | 45 cm |
| Casket Lair | 75 cm | 85 cm | 30 cm |
| Baby Plot | 45 cm | 60 cm | 30 cm |

*Width must be 15 cm less than the width of the lair

Any proposed variations to these measurements to be by written request to the Council who shall at its sole discretion have powers to waive or modify this regulation.

5.7 There should be no inscriptions or decoration of any kind on the rear of the memorial, and nothing which could be construed as offensive. Please keep in mind that other users of the burial ground are likely to be grieving and have the right to use the space for peaceful reflection and mourning, without being encroached upon by untidy or disrespectful lair decorations.

5.8 No kerbs, stones, footstones, railings, fences or any other structures (other than authorised memorials) are permitted.

5.9 The base of the memorial may contain a flower vase holder. Additional forms of memorials, vases, ornaments will only be permitted within 45cm out from the base of the headstone. When temporary memorials, vases and other ornamentation is placed in this space it will be the responsibility of the lair holder to maintain the grass within this boundary. Any items out with this area will be removed by the Council without prior notice and stored for 28 days before disposal. Glass and pottery items are not permitted, nor are any noise-emitting items (e.g. wind chimes). These items will be removed by the Council without prior notice and stored for 28 days before disposal. The Council will not be responsible for any loss or damage to such items.

5.10 The planting of trees and shrubs shall not be permitted, and any such planting will be removed by the Council without prior notice. Any previous planting which is considered by an authorised officer to be inappropriate because of potential interference to any memorial, grave or maintenance of the burial ground will be removed without prior notice.

5.11 The lair holder shall keep any memorial clean and in a safe condition of repair of which an authorised officer shall be the sole judge. If the lair holder

fails to make safe a memorial 21 days after written notice to the lair holder at their last known address, the Council shall be entitled at the holder's expense either to repair any memorials on that lair, lay the memorial flat, or have them removed in the name of public safety. Until the cost of such repairs or removals are paid, any further rights associated with the lair shall be withheld. Sometimes memorials are too unstable to leave standing for 21 days and will be laid flat immediately, and the Council will seek to notify the lair holder in this instance. The Council is not bound to re-erect any memorial. The lair holder is advised to avail themselves of appropriate insurance cover in relation to their memorial.

- 5.12 Where a lair holder is deceased, their legal successors assume liability in regard to the above point.
- 5.13 Memorial benches may be placed within burial grounds only with the authorisation of the Council, and all benches must be to the specification and design as decided by the Council. All benches are available for use by any and all visitors to the burial ground. Maintenance will be the responsibility of the person purchasing the bench. The Council will not be responsible for any damage sustained either by vandalism or storms. If the bench is deemed to be unsafe or beyond economical repair the Council will be free to remove the bench and is under no obligation to replace it. Notification will be sent to the last known address of the purchaser in this instance.
- 5.14 No memorial or part thereof shall be removed from the cemetery without notification to the Council.

6. General

- 6.1 Information recorded in respect of the deceased, i.e. name, age, occupation, place of death, and burial location is deemed to be in the public domain. This includes the details of a deceased lair holder. Information recorded in relation to a lair holder who is not deceased is subject to General Data Protection Regulation (GDPR) and will only be used by the Council in relation to the burial service. Identifying information of a living lair holder such as name, address, and relationship to any previous lair holder will not be disclosed to any third party, including stonemasons and funeral directors, without the written unambiguous consent of the living lair holder.
- 6.2 Any burial grounds which are not permanently open shall have opening times at the main entrances. No person shall enter or wilfully remain in a burial ground except during the hours it is advertised as being open to the public by the Council. The Council may by notices posted at or near the place to which it refers, close any part to the public for such time as it may consider necessary.
- 6.3 No dogs shall be permitted into any burial ground with the exception of guide dogs.
- 6.4 Memorial wreaths will be removed when they wither or otherwise become unsightly in the opinion of an authorised officer. The timing of this may vary according to the season, however they will be left in place for at least 14 days. Families are advised to remove any tribute cards within this time. Christmas wreaths shall generally not be removed for disposal until after the

end of January, unless their appearance has substantially declined. The Council does not accept any responsibility or liability for any damage to memorials, ornamentation or flowers in any burial ground, howsoever caused. All items/memorials/flowers are left at the owners' risk.

- 6.5 No operation of any kind shall be permitted inside a burial ground without the sanction of an authorised officer who must be satisfied that the authority of the lair holder has been obtained before work commences.
- 6.6 Charges for permission to erect and place any memorial in the cemetery or to make any inscription shall be in accordance with the fees determined by the Council. A table of fees relating to burial ground charges shall be kept at local Council offices and published on the Council's website. All fees and charges in connection with the interments, lair certificates etc. shall be acknowledged on an official printed receipt form.
- 6.7 All vehicles on burial ground premises and in car parking facilities must be driven with due care and attention, and must not be driven in excess of 10mph. The Council shall not be held responsible for damage to vehicles or other property left in a burial ground, howsoever caused.

7. Nuisance

- 7.1 Whilst present in any of the Council's burial grounds, no person shall:
- a) Use offensive language or behave in an offensive, disorderly or insulting manner.
 - b) Wilfully or carelessly obstruct any employee of the Council in the exercise of their duties or in the execution of any works.
 - c) Wilfully or improperly interfere with any other person legitimately using the facilities provided by the Council or behave in such a manner as to endanger their own or any other person's safety.
 - d) Disobey any proper instructions given by any Council employee to ensure the safety and comfort of all persons using the burial ground.
 - e) Bring in any object or objects which may be considered by the Council to be dangerous.
 - f) Wilfully break, damage, deface, disfigure, tamper with or climb on any tree, shrub, wall, fence, railing, memorial, fountain, statue, building or other structure in the burial ground.
 - g) Wilfully or carelessly damage, destroy or improperly soil any article supplied for use by the Council.
 - h) Retain or remove any article supplied for use by the Council after it has been used .

8. Contravention of the rules

- 8.1 The following provisions apply to a contravention by any person of the Management Rules
- 8.2 An authorised officer may—
- a) if he/she has reasonable grounds for believing that a person has contravened, is contravening or is about to contravene a management rule, expel that person;
 - b) if he/she has reasonable grounds for believing that a person is about to contravene a management rule, exclude that person; from the land or premises to which the rule applies.

- 8.3 Any person who has persistently contravened or attempted to contravene the management rules and is in the opinion of the Council likely to contravene or attempt to contravene them again, may be made the subject of an exclusion order in terms of Section 117 of the Civic Government (Scotland) Act 1982.
- 8.4 Any person who :-
- a) on being required to leave the crematorium by an Authorised Officer who has reasonable ground for believing that the person has contravened or is contravening or is about to contravene any of the foregoing management rules fails to leave;
 - b) is subject to an exclusion order under Section 117 of the Civic Government (Scotland Act) 1982 and enters or attempts to enter the crematorium to which the exclusion order relates,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 of the standard scale of fines.
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Draft Management Rules for Inverness Crematorium

The Highland Council

Inverness Crematorium Management Rules

By virtue of the powers contained in Sections 112-118 of the Civic Government (Scotland) Act 1982, the Highland Council (“the Council”) hereby make and enact the following Management Rules to regulate the use of and the conduct of persons while at Inverness Crematorium.

These Management Rules shall be read in conjunction with any regulations introduced by Scottish Ministers by virtue of powers contained within the Burial and Cremation (Scotland) Act 2016.

1. Interpretation of Terms

1.1 In these management rules the following words and expressions shall have the following meanings assigned to them:

- g) “Authorised Officer” means a person who is authorised by the Council, either generally or specifically, to act in manners under these rules to act in connection with these Rules.
- h) “Crematorium” means the Inverness Crematorium buildings, associated facility, ground or access road pertaining thereto under the control of the Council.
- i) “Crematorium Attendants” means the person(s) who is employed to carry out cremation duties.
- j) “Crematorium Office” means the Administration Office at Inverness Crematorium, Kilvean Road, Inverness, IV3 8JN
- k) “Ashes” means the cremated remains of a deceased person
- l) “direct cremation” is a cremation with no funeral service, or ceremony performed beforehand at the Crematorium, and no attendees. The ashes will be returned to the family to do with as they wish or can be scattered in garden of remembrance.

2. Cremation arrangements

2.1 Application for cremation must be made to Crematorium Office. The applications for cremations must be received by the Crematorium Office no later than 10am, two working days before the cremation is due to take place. Weekends and public holidays are not considered to be working days. A statutory Certificate of Registration of Death, Cremation or Still Birth, or any other relevant forms must be provided by the undertaker/agent to the Council before any cremation can take place.

- 2.2 Cremation timings and arrangements must not be made public until confirmed by the Council. All requests must be made in writing. The Council will not be liable for any failure in arrangements for cremation due to circumstances beyond its control.
- 2.3 The Council will publish details of the specific time slots for cremation services and drop off times for direct cremations.
- 2.4 Arrangement may be made for Cremation at other times in only in exceptional special circumstances at the discretion of the Council.
- 2.5 Funeral Directors are responsible for ensuring that any coffin brought for Cremation bears the Name, Age, and Date of death of the deceased contained therein. If there appears to be any discrepancy regarding the details recorded on the coffin against those in the application for cremation, the Appropriate Officer will refuse the coffin access until he/she is satisfied the correct details are contained thereon.

3. Services

- 3.1 Any Funeral Service at the Crematorium shall be subject in all things to the control of the Crematorium Attendant.
- 3.2 The 45 minutes allocated for each service includes the entrance and exit of all mourners. Late arrival of a cortege may result in a service being postponed until later in the day. All persons attending the funeral shall leave the building immediately after the conclusion of the service.
- 3.3 In order to respect other mourners and users of the crematorium, any proposals to play music inside or outside the building (including but not limited to bagpipes and drums) must be authorised by the Council prior to the service.
- 3.4 The Funeral Director must provide sufficient bearers to convey the coffin from the hearse to the catafalque. The coffin must be placed correctly in position on the catafalque. Where the Council is asked to assist, it will not be held responsible for damage to the hearse or coffin howsoever caused.
- 3.5 Funeral Directors must follow any rules published by the Council on suitability of coffins for cremation.

4. Collection of Ashes

- 4.1 Ashes are normally available for collection after 10am on the next working day after the cremation. Weekends and public holidays are not considered to be working days. Ashes will only be released to the person/Funeral Director named on the original application. Any changes as to the identity of the collector must be made in writing by the original applicant or their legal successor/executor of their Will.
- 4.2 If requested by the applicant, the Council will scatter the ashes in one of its memorial gardens either with or without a ceremony, dependant on the applicant's request.

- 4.3 In the event of ashes not being collected the Council will follow the statutory requirements of the Cremation (Scotland) Regulations 2019, and any associated guidance, on handling and disposal of ashes. The Council will take all reasonable steps to contact the original applicant.
- 4.4 Ashes cannot be scattered in any burial ground. Ashes may only be spread in a garden of remembrance with the express permission of the Council.

5. Records

- 5.1 All cremations will be recorded in a Cremation Register, kept at the Crematorium Office. This register will contain information as required by legislation and statutory guidance. Cremation registers will be kept indefinitely. These registers and copies of entries will be supplied to members of the public on request, subject to an administration fee.

6. Remembrance

- 6.1 Memorial wreaths will be removed when they wither or otherwise become unsightly in the opinion of an authorised officer. The timing of this may vary according to the season, however they will be left in place for at least 14 days. Families are advised to remove any tribute cards within this time. Christmas wreaths shall generally not be removed for disposal until after the end of January, unless their appearance has substantially declined. The Council does not accept any responsibility or liability for any damage to memorials, ornamentation or flowers in any burial ground, howsoever caused. All items/memorials/flowers are left at the owners' risk.
- 6.2 The Wreath Courtyard will be open at all times the Crematorium grounds are open. Flowers may be placed in the courtyard by any person at any time. Glass and pottery items are not permitted, nor are any noise-emitting items (e.g. wind chimes). Prohibited items will be removed immediately without prior notice by the Council and will be stored for 14 days before disposal.

7. General

- 7.1 No dogs, except guide dogs, are permitted in the Crematorium at any time.
- 7.2 All vehicles on crematoria premises and in car parking facilities must be driven with due care and attention and must not be driven in excess of 10mph. The Council shall not be held responsible for damage to vehicles or other property left at the crematorium, howsoever caused.

8. Prevention of Nuisance

- 8.1 No person shall
- a) Use any profuse or offensive language or behave in an offensive, disorderly or insulting manner whilst in the crematorium.
 - b) Wilfully or improperly interfere with any other person using the facilities provided by the Council in any crematorium or behave in such a manner to endanger their own or other persons safety.
 - c) Wilfully or carelessly obstruct any employee of the Council in the exercise of their duties or in the execution of any works.

- d) Disobey any proper instructions given by any member of the Crematorium staff to ensure the safety and comfort of all persons using the crematorium.
- e) Bring into the crematorium any object or objects that may be considered by any member of the crematorium staff to be dangerous.
- f) Wilfully or carelessly damage, destroy, remove or improperly soil any article supplied for use by the Council.

9. Contravention of the rules

9.1 The following provisions apply to a contravention by any person of the Management Rules

9.2 An authorised officer may—

- a) if he/she has reasonable grounds for believing that a person has contravened, is contravening or is about to contravene a management rule, expel that person;
- b) if he/she has reasonable grounds for believing that a person is about to contravene a management rule, exclude that person; from the land or premises to which the rule applies.

9.3 Any person who has persistently contravened or attempted to contravene the management rules and is in the opinion of the Council likely to contravene or attempt to contravene them again, may be made the subject of an exclusion order in terms of Section 117 of the Civic Government (Scotland) Act 1982.

9.4 Any person who :-

- a) on being required to leave the crematorium by an Authorised Officer who has reasonable ground for believing that the person has contravened or is contravening or is about to contravene any of the foregoing management rules fails to leave;
 - b) is subject to an exclusion order under Section 117 of the Civic Government (Scotland Act) 1982 and enters or attempts to enter the crematorium to which the exclusion order relates,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 of the standard scale of fines.
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