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EAST LOTHIAN COUNCIL BURIAL GROUND STRATEGY



EAST LoTHIAN COUNCIL
STRATEGY FOR
THE PROVISION AND MANAGEMENT OF BURIAL GROUNDS
EXECUTIVE SUMMARY

East Lothian Council has a statutory duty to provide space for burial of the dead and must plan for future provision. The Council currently provides an effective burial service that is held in high regard by stakeholders. Staff who deliver the service are highly skilled, experienced and motivated by a desire to deliver an exemplary public service.

However, the service needs to consider diminishing land resources, dilapidation of the existing amenities, changing trends towards environmentally friendly means of burial, best practice in service delivery and ongoing review of related legislation.

The Council's burial service administration and regulation processes were last reviewed in 2000 and since that time, service issues have been recorded and monitored and the emerging patterns governed the need for a further review of our procedures.

Most of the administration arrangements, regulations and procedures have been reviewed and the burial service is now being operated within those revised procedures which reflect best practice nationally. Formal adoption of the revised procedures will require approval by the Council.

There exists a need in most cases to extend the existing provision to meet the needs of the community for the next 50 – 75 years. The level of capital investment required to deliver the needs of the community currently exceeds the limitations of the Council and is likely to do so for a number of years to come. Accordingly, the investment programme needs to be carefully timetabled to eventually deliver the long-term needs while balancing available finance, income generated from within the burial service and alternative short and medium-term income generation opportunities that can be developed in parallel with the required land acquisition.

KEY OBJECTIVES OF THE STRATEGY

- To ensure adequate supply of burial space in East Lothian for a minimum of 50 years and build in options for a period of up to 75 years
- To regulate service provision and produce information and guidance in a manner that is clear, consistent with best practice and ensures customers have a full understanding of what their options and responsibilities are and expectations should be
- To develop and offer a wider choice and range of options that are inclusive and better fit the needs of the whole community
- To deliver a burial service that is sustainable for the long-term with regard to capital investment, revenue expenditure, income levels and meeting local needs
- To clarify inter-departmental areas of responsibility and establish service level agreements between stakeholders
- To reflect the outcome of the Scottish Government review of Death Certification, Burial and Cremation.
- To protect and develop record and administration systems that offer improved accuracy and options for digitisation and greater public access
- Explore alternatives to burial, such as crematorium provision through private sector or partnership arrangements
- To develop a range of helpful guidance, publications and information to better inform customers and stakeholders about service range, administrative and regulatory matters

MISSION STATEMENT

East Lothian Council will provide and manage its burial services to the highest possible standard of customer care, offering choice, compassionate and efficient professional management, consistency of service and best value in all aspects of delivery to provide a sustainable, environmentally friendly service that meets the needs of customers and stakeholders for the long-term.

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THE STRATEGY

1.0 Introduction

- 1.1 This strategy examines all aspects of burial ground provision and management to ensure that proper consideration is given to the future development of burial grounds in East Lothian. The strategy has been developed at a time of possible change for burial ground legislation in Scotland and a growing population within East Lothian. While some of the issues likely to be covered within any new legislation and predicted population increases are allowed for within the strategic recommendations, this strategy should be treated as a working document and should be subject to regular review, to ensure it remains fit for purpose.
- 1.2 The strategy considers both short-term and long-term development of the service. In the shorter term, assessment must be made of the likely changes in burial law and any impact such changes may have on the service. It also considers the existing organisation and financial controls employed by the Council, prescribing new operating models that will benefit the Council and stakeholders and ensure high standards of service delivery are provided. In the longer term the strategy takes account of the increasing need of the community for burial facilities and extended choice for the bereaved and their relatives.
- 1.3 The strategy is divided into three sections
 - General background, giving some historical and legislative context to the strategy
 - Current position with the service in relation to standards of provision
 - Future development of sites, management and administration for burial and related provision whilst considering the views of the stakeholders, likely future legislative changes, extending choice and information and guidance provision.
- 1.4 The subject matter considered by the Strategy was identified as a result of an extensive consultation and review process undertaken by the Institute of Cemetery and Crematoria Management (ICCM). This subject matter has been further explored by a number of focus groups representing cross departmental interests and audited by a Steering Group with Elected Member representation.

BACKGROUND

2.0 Legislation

- 2.1 The legislative position with regard to management of burial grounds has changed very little in Scotland over the years. The last substantive piece of legislation relating specifically to the management of cemeteries was the Burial Grounds (Scotland) Act 1855. Transfer of the burial grounds has been dealt through the Church of Scotland (Property & Endowments) Act 1925 and the Local Government etc (Scotland) Act 1994.
- 2.2 In response to the lack of statutory burial ground guidance and as burial law is once again being considered in England and Wales, the Scottish Parliament has carried out detailed consultation and has issued a set of recommendations to be considered for future burial law. It should be noted that no timetable has yet been published for legislative change in Scotland however the recommendations indicate a commonality with other UK burial legislation.
- 2.3 The procedures and regulations established as part of the development of this strategy have taken account of the set of recommendations to be considered for future burial law, published by the Scottish Government. However, the procedures and regulations will require further review following any legislative change and to take account of suggested best practice.

3.0 Administration

- 3.1 The administration of burials has traditionally been undertaken in East Lothian by Cluster based Registrars and assistants, operating in and covering the 6 geographic sub-districts of the county. However recent adjustments designed to provide efficiencies in front of house servicing have seen the administration move centrally to Haddington.

4.0 Statistics

- 4.1 The following chart shows the population, registered deaths and numbers of burials between 2004 and 2013:

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Averages
Population	92170	92730	93850	94440	97470	98340	99140	99920	100850	101360	97139
Deaths	996	1013	1017	1028	1070	1081	1076	1047	947	930	1020
Burials ¹	422	426	400	425	446	393	373	390	375	357	401
% Burial	42.37	42.05	39.33	41.34	41.68	36.35	34.66	37.24	39.59	38.38	39.31

- 4.2 The following chart shows the number of burials and new lair sales from 2004 to 2013

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Deaths	996	1013	1017	1028	1070	1081	1076	1047	947	930
Burials ¹	422	426	400	425	446	393	373	390	375	357
New Lair Sales	282	277	301	243	282	244	202	157	170	195
% New Lairs Versus Burials	67	65	75	57	63	62	54	40	45	54

1- Excludes Interment of Ashes at average of 90 per year

During 2009 a gradual implementation of the policy of not selling lairs in advance of immediate need was introduced across most of the main town cemeteries, this only having been in place in a few specific sites previously. While this resulted in an initial reduction in new lairs sales, the 2013 figure seems to suggest that the sale of lairs for immediate need is starting to climb again and will revert to an average of 270 new lair sales per year based on the current population. This gives a 50 year need for new lair space of 13,500.

- 4.2 The Council in its last Local Development Plan was required to find development sites for 10,000 house units in East Lothian which, with current trends towards burial, could produce a demand for burial space in the region of 5000 lairs in addition to the 13,500 needs of the current population. The Council is currently undertaking consultation on its Main Issues Report which will inform the significant growth required within the county. All of this adds to the increase need of burial provision.
- 4.3 Based on the 2011 Census, 98% of the population described themselves as either of no religion, Church of Scotland, Roman Catholic, Other Christian or gave no response. Of the remaining 2%, the largest non-Christian group is Muslim followed by Buddhist, Hindu, Jewish and then Sikh and 1% described as Other Religion. However, depending on the design brief for any large-scale new housing development, inclusion of new-build places of worship may have a positive impact on the religious diversity of the area and this will require to be monitored to ensure that burial provision keeps pace with population trends and diversity.

STRATEGY DEVELOPMENT AND POLICY PRESCRIPTIONS

5.0 New Burial Space Provision

- 5.1 Consultation by the ICCM with community representatives drew the following conclusions with regard to locality of cemetery provision;

Central provision – the provision of one main burial ground designed to provide for all deaths for at least a 50 year period, accounting for the gradual closure of more local facilities. This type of provision would allow resources to be most effectively utilised and could provide a wide range of facilities for the bereaved, however, initial consultation shows a strong preference for local facilities to be maintained where possible.

Local provision – the continuance of the provision of local burial grounds is deemed to best meet the expectations of East Lothian residents, based on a consultation exercise already completed. Such a policy would also go some way towards meeting environmental targets to reduce the amount of vehicular travel in the County as the bereaved travel to visit the burial grounds on a regular basis. However, there are difficulties in continuing to add to existing burial grounds, particularly when considering the requirements of Groundwater Regulations 1998 as enforced by SEPA. This will require groundwater risk assessments to be carried out prior to the approval of any new burial grounds or extensions to old burial grounds. There are also geographic and geological restrictions in some cases that make extension of existing sites impossible and historic, archaeological and planning issues that may determine some sites as unsuitable for extension

Combined approach – this approach is the more favourable as it balances the wishes of the community against the restrictions listed above and capabilities of the Council to secure additional ground. Accordingly, it is proposed that the Council will make future provision by combining local and cluster based provision, according to the discrete options and restrictions that apply to each area.

- 5.2 In developing the combined approach, a balance has to be sought between the community favouring local provision and the physical, legislative and historic restrictions, the level of investment required to facilitate expansion and the likely operating life of the expanded facility. The approach therefore needs to be developed, based on a sound business case and a smart plan.

The following model will therefore be adopted by the Council in determining priorities for developing sites

- a) A proposed cemetery location must be free from restriction to develop as a result of SEPA, Historic Scotland or Local Plan determination or the costs associated with complying with such restrictions must fall within the financial model described in b) No dispensations are available from Planning or SEPA with regard to development and provision of burial grounds so, all proposed sites must comply with the associated regulations and guidelines operated by those authorities.
- b) The overall cost of a proposed facility, inclusive of any archaeological investigation, ground survey, acquisition, construction, servicing and fees must equate to no more than

£630 per created lair as at 2014. This figure is based on the average sale of a Right of Burial according the Council Charges Book at 2014 with the long-term maintenance site covered as part of the interment fee and headstone management fee

- c) A site will only be considered suitable for development if it is capable of serving either the immediate geographic community, ward or cluster for a minimum of 50 years
- d) To be considered for development, new sites must pass the criteria contained within the Land Acquisition Check List: Appendix 1
- e) New build housing developments will be required to demonstrate how burial provision needs can be met within their respective master plans for the defined 50 year period. In all cases the required provision will allow for 38% of the additional households at a rate of 4.5 burial spaces per household.
- f) Each discrete housing development will be considered in relation to availability of land already secured by the Council and if such facility exists or can be provided, developers will require to contribute a capital sum equal to the investment required to provide serviced lair space on an existing site to the volume required to meet the projected burial space needs of that development. In cases where no opportunity exists to extend an existing facility or, the scale of the extension would have an adverse effect on the identity of the facility, the developer will be required to allocate land and set aside funding to develop this land within the housing development footprint.
- g) The Council will also explore opportunities to develop, either directly or with partnership arrangements, green burial options that can contribute to the aims of protecting and enhancing the natural environment and allow for appropriate recreational use of such land

5.3 Based on current trends towards burial and taking account of existing and estimated population growth, in order to meet a minimum 50 year demand, on cluster provision, the Council would require new lair space at estimated cost as follows;

Cluster	No. of New Lairs	Hecterage	Purchase Cost	Development Cost
Dunbar	2500	1.50	£20,000	£852,000
North Berwick	1600	1.00	£13,000	£552,000
Haddington	1300	0.90	£20,000	£538,000
Tranent	2650	1.60	£24,000	£1,054,000
Prestonpans	3100	1.90	£24,000	£1,054,000
Musselburgh	2300	1.40	£18,000	£782,000
New Housing Demand ⁽¹⁾	5000	3.00	(£39,000)	(£1,704,000)
East Lothian	18450	8.30	£124,000	£4,938,000

(1) Dispersed according to the outcome of the MIR and development of the new LDP and costs excluded from total as developer contributions will require to be negotiated according to each discrete location and circumstance

(2) Figures quoted refer to estimated total development costs within each cluster but development will be phased in line with uptake of space and income from lair sales

5.4 Taking account of community aspirations where possible, considering these against land that may be available to purchase and develop, the following table represents the Council's

proposed intent and required delivery date, with regard to the current active burial sites, to provide the lair space needed for the next 50 years and, in some cases, beyond. This takes account of recently completed or proposed, new build housing

5.5

Site	Land Available Locally	Comments	Solution	Due Date	Total Cost
Dunbar, Deerpark	Yes	New provision locally according to most suitable design solution	Confirm the extension to existing facility is no longer a cost effective solution and explore acquisition of land on opposite side of main road	Immediate	£690k
Prestonkirk	Yes	Site of significant Archaeological Interest, cost likely to be excessive	Investigate feasibility cost of full archaeological site examination or cover by Dunbar if local solution is cost prohibitive	2019	£110k +
Thurston			No action required		
Oldhamstocks			41 Years new ground left		
Spott Church	Yes	Agricultural land	Create extension to existing facility	2042	£36k
Stenton Church	Yes	Agricultural land	Create extension to existing facility	2040	£36k
Athelstaneford Cemetery		Monitor Drainage	No action required on lair space.		
East Saltoun	Yes	Agricultural land. Local car parking issues	Create extension to serve Humbie, Saltoun and Bolton	Immediate	£46k
Gifford Kirk	No	No suitable adjacent land available and significant ground water issues suggesting SEPA approval unlikely	Cover by Haddington Cluster	2018	£41k
Humbie Kirk	No	No suitable ground available for extension	Cover by East Saltoun	Immediate	£41k
Morham Church			No action required		
Haddington St Martin's	No	Available land too close to river making SEPA approval unlikely	New, out of town site to serve Cluster	2041	£430
Musselburgh, Inveresk	No	No adjacent ground available	New out of town site to serve Cluster	2021	£800k
Dirleton Cemetery	Yes	Agricultural land	41 Years new ground left but safety concerns for car parking determine land acquisition and car park should be brought forward		
Aberlady Kirk	Yes	Site of significant Archaeological Interest, cost likely to be excessive	Complete desktop archaeological review of area to establish if local provision is possible, if not cover elsewhere in cluster	2018	£174k
North Berwick	Yes	Would require relocation of depot or extend to the east	Consult locally on options and identify suitable site for purchase	2031	£348k
Whitekirk	Yes	Agricultural land with very shallow bed rock	Cover by North Berwick unless Church gift Glebe Field	2014	£30k
Gladsmuir Kirk	Yes	Agricultural land which seems suitable for extension	Create extension to west of access road to serve established catchment and include off road car park	2015	£105k
Pencaitland	No	Would require new site across road	Investigate suitability of agricultural field across road or cover by Tranent or West Byres	2020	£87k
Tranent	Yes	Greenfield Site to Church Street side of cemetery	Create extension to serve cluster	2015	£844k
West Byres	Yes	Urgent need for car park	Acquire section of field to north of cemetery	Immediate	£41k
Prestonpans	No	Cemetery Park needs to be retained for recreation and would only provide 10 year use because of underground services. Agricultural land to south and east of town covered by Scheduled	New out of town site to west of town serve cluster	2015	£1,078k

		Ancient Monument.			
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Estimated land purchase costs of £124k, based on agricultural values are not included in above table

Consolidated Investment Requirements

Period	Immediate	2014 - 2019	2020 - 2029	2030 - 2039	2040 - 2049
Combined Cost	£818,000	£2,469,000	£800,000	£348,000	£502,000

The stated development costs are based on 2013 estimates and the final cost for each period would to be indexed to the prevailing rates at the time.

With the current pressure on public sector finances and the likelihood that this austerity will continue for a number of years to come, the required capital investment must be recognised as being in excess of the finance available to the Council at present. Accordingly, there exists a need to programme the development of facilities within acquired land packages, in close alignment with short-term needs, phasing each stage with more accurately assessed needs based on emerging burial trends. This approach will still deliver the 50 to 75 year aims of the strategy but will do so in a way that;

- Acquires the long-term land needs in the immediate future, securing and protecting that land for later development.
- Provides land in Council ownership that can generate income from uses such as agricultural tenancy until lair space development becomes essential.
- Gives the Council and the community, security in the knowledge that they can plan future provision and use respectively.
- Allows development of lair space provision to be undertaken in line with income from burial services and land ownership, in accordance with developing trends and needs.
- Facilitates the advance sale of renewable rights of burial with the knowledge that acquired land can be readily developed in alignment with generated income.

Proposals for each discrete site / cluster will be brought forward for approval by the Council with a separately costed proposal in line with the current approved Capital Plan and anticipated income from lair sales and burials.

6.0 Lair Sales

- 6.1 The community as a whole are concerned about the long-term shortage of lair space and recognise that some hard choices have to be made. However, there also remains a need among service users to have the knowledge and peace of mind that their wishes in death are taken care of. Families traditionally have, on the loss of a relative, bought additional lair space to meet their extended family needs.
- 6.2 Under Section 18 of The Burial Grounds (Scotland) Act 1855, the Council has the power to sell rights of burial in perpetuity or for a limited period, under such restrictions as they think proper.

- 6.3 Traditional arrangements within the Council have meant that, when Right of Burial in a Lair is granted to someone, this right has been in perpetuity. Recent studies have shown that as many as 4% of lairs sold in advance of need are unused and are likely to remain this way. The accumulated total of this, over the operational life of a cemetery, can equate to the new ground sales of that cemetery for a year, and could contribute significantly to increasing the operational life of a cemetery that is currently short of space.
- 6.4 Where appropriate, in circumstances dictated by extreme shortage of space, the Council may consider applying a ‘generational’ categorisation of 75 years to all such pre-sold lairs and take appropriate steps to try to recover the unused ground where it can be released for immediate use.
- In implementing this policy the Council will need to apply the following steps;
- Prioritising of sites according to greatest need
 - Detailed survey of Lair Books and subsequent on-site assessment
 - Positioning of any headstone and associated costs of relocation of same from centre of double / adjacent plots
 - Accessibility of the lair with regard to trees, adjacent headstones, etc
 - Accurate checking of the status by test digging to ensure no previous, inaccurately recorded interments
 - Address the legal requirements to demonstrate that reasonable steps have been taken to trace lair holders, including advertising the intention
- 6.5 The Council will continue to buy back the right of burial from any lair holder who wishes to relinquish their right, in accordance with the regulations published at the time of the buy back.
- 6.6 With regard to future arrangements, while recognising that the community wish to have the opportunity to advance purchase ground, this arrangement cannot be sustained where multiple lair purchases in perpetuity are made. Such practice is a particular problem in sites that are becoming short of space and the community, being aware of this have demonstrated a tendency towards buying lairs well in advance of need, greatly reducing availability of lair space for those with immediate need. It is also recognised that the recent policy of selling one lair for immediate use and one more for future use isn’t an appropriate solution as this discriminated against larger families. Accordingly, the following model for Lair Sales will be adopted;
- In burial grounds where the availability of new ground equates to more than 5 years of average sales, and an active proposal exists to extend required provision beyond that 5 year period, the Council will advance sell Right of Burial up to a maximum of 3 Lairs regardless if those lairs can accommodate 2 or 3 coffin interments
 - Applicants with a direct spousal connection will be limited to one purchase application but offspring over 16 years of age, siblings and other direct relatives can make separate applications
 - In burial grounds where the availability of new ground equates to less than 5 years of average sales, the Council will reserve the right to sell ground for immediate use only

- In cases where new ground availability equates to less than 5 years, the Council will only sell Right of Burial for cremated remains in full sized lairs on completion of the actual interment of the cremated remains
- In all cases, those with Right of Burial in a lair will only be granted permission to erect a memorial marker on the lair following interment of coffin or cremated remains

The current arrangements for pre-selling of lairs are detailed in Appendix 2

Operating this approach will best meet community expectation through affording reassurance that their needs are catered for, ensuring those who don't wish to advance purchase, have the surety that their needs will be catered for at the time.

- 6.7 An increasing trend is also emerging whereby lair space is requested for the interment of cremated remains. In recognising this trend, the Council will, in developing any new burial spaces, design in discrete space for this purpose and the charging structure will reflect the more efficient use of space. However, in order to maintain an element of choice, the council will continue to sell full sized lair space in cemeteries where Ashes Only lairs are not available. In such cases the perpetuity rights for future interment will be limited to 25 years unless the lair is subsequently used for interment of coffin remains by the Lair Holder.
- 6.8 In certain circumstances, an individual may only require room for one interment in a lair, resulting in less efficient use of the available ground. In some circumstances, such as in Social Work managed interments, the lair could be identified as being available for future one person interments or, an individual could express a wish to share with others in similar circumstances. This option could afford a reduced purchase price and should be publicised in literature to make customers aware of the option and encourage take up.

7.0 Procedures, Regulations & Choice

- 7.1 The Council undertook a review of its Burial Ground Regulations and Burial Procedures in 2011, this exercise having been previously undertaken in 2000. The Council is also aware of the current Scottish Government review of Death Certification, Burial and Cremation legislation and, in developing revised and updated procedures, has taken account of the national consultation process completed in October 2010 as part of the governmental review.
- 7.2 Revised regulations and procedures are attached to this strategy as Appendices 3 & 4 and, while subject to further review on adoption of any legislation arising from the governmental review, will be considered as having been adopted by the Council as part of this strategy.
- 7.3 In setting these revised regulations and procedures, the Council has considered the needs and wishes of the majority, looked at examples of best practice within other local authorities, taken account of issues that have emerged since the 2000 review, brought standardization to procedures throughout the county, all towards the aim of ensuring that the service can be provided in a sustainable manner and reducing medium to long-term risk to the Council, staff and general public.

- 7.4 These regulations will be fully enforced across all sites and lair holders, where in breach of any rules, may be subject to retrospective enforcement action, particularly in matters relating to fencing and kerbing and related embellishment around lairs where this has a direct detrimental effect on neighbouring lair holders
- 7.5 The Council wants to ensure that the burial services offered reflect the various religions, beliefs and secular lifestyles within the population of East Lothian and to ensure that all groups and individuals are able to receive appropriate services at relevant times where reasonably practical.
- 7.6 The Council also recognizes the need to accommodate some freedom of choice within its procedures. However, this has to be balanced with long-term sustainability with particular reference to maintenance, safety, avoiding detriment to others and general risk to the Council. Accordingly the Council has considered examples of best practice and adopted these principles within the revised procedures and regulations.
- 7.7 With regard to extending the choice of facilities available for interment, the Council recognises the increasing popularity and environmental benefits of green burials. The principals associated with such practices are covered in Section 14 of the Strategy.
- 7.8 In order to reflect the specific needs of those who are unfortunate enough to require to bury an infant or person below 5 years of age, where possible, the Council will set aside specific space for such interments, that is designed in such a way as to allow additional decoration and commemoration suited to the circumstances
- 7.9 East Lothian currently has one privately managed woodland burial area and has worked in partnership with the owners to develop this site. However, woodland, meadow and other less formal places of burial can be further extended, both to increase choice for customers and provide a more sustainable method of service delivery. Accordingly, the Council, in considering new sites for burial, commenting on design briefs for new housing developments and accepting invitations for partnership working, will promote this approach towards burial, whenever opportunity exists.

8.0 **Crematoria and Related Provision**

- 8.1 In 2000, the Council undertook a detailed feasibility study into the possible provision of a crematorium for the county. At that time, it was reported that with neighbouring crematoria in Edinburgh having surplus capacity of some 40% and the ratio of burial to cremation in East Lothian being higher than the national average, the business case for a crematorium would neither withstand scrutiny nor have a positive impact on the burial space required for the future.
- 8.2 Further scrutiny in 2011, of the work undertaken in 2000, suggests that the status quo remains and that the Council could not justify the capital expenditure, nor guarantee the

income required to recover that expenditure and repay the initial investment. Indeed, the provision of a crematorium within Scottish Borders Council area is likely to have further weakened the case.

- 8.3 However, in the interests of providing enhanced facilities for the local community and perhaps contributing to a further reduction in burial numbers, the Council is committed to working with any partners who may wish to develop a local facility as a commercial venture and is particularly interested in exploring other options for disposal of the dead and development of greater choice such as Promession or Resomation facilities.

9.0 **Management of Sites**

- 9.1 The Council currently manages 34 individual churchyards and burial grounds, 11 of which are considered closed for new ground but still have lairs that can be reopened for coffin or ashes interment.
- 9.2 Under Section 17 of The Burial Grounds (Scotland) Act 1855, the Council has power of general management, regulation and control of burial grounds and under health and safety legislation. The Council also has a duty of care to ensure that the environment of a burial ground presents no danger to operatives, visitors or other professional staff engaged to deliver services within a burial ground.
- 9.3 Common to the older established sites are problems relating to headstone safety, access, car parking, security and maintenance / repair of walls, gates and paths. Where reasonably practicable, the Council has an obligation to ensure access to sites complies with the Disability Discrimination Act and a moral obligation to cater for the mainly older people that wish to visit the sites.
- 9.4 The Council has reviewed the Regulations for the Management of Burial Grounds (Appendix 3) and has determined that these regulations will be upheld and, where appropriate enforced, particularly with regard to the management of headstones and related graveside embellishments
- 9.5 The Council also has a duty of care with regard to headstone and memorial safety and a visual inspection of the sites has identified that there are many memorials that pose a potential danger to the public and staff. The safety of headstones and the need to implement a system of inspection and maintenance is included in the Council's Risk Register. The detailed procedures to be applied to addressing this issue are contained in Appendix 5
- 9.6 With regard to installation of new memorials, applicants will be required to comply with the East Lothian Council Burial Ground Regulations with regard to overall dimensions of the memorial. The Council will also undertake installation of foundations for new memorials and require Monumental Sculptors to comply with appropriate, current codes of practice for erection of memorials.
- 9.7 Where appropriate to the site, the Council will install pre-formed strip foundations for erection of memorials in all newly developed burial grounds. A charge for erection of a headstone will be applied in all cases, to reflect the cost of the foundation.

- 9.8 In all cases, a management fee will be charged for each headstone, to reflect the long-term maintenance burden the Council will carry with regard to stability, inspection and general safety obligations. The council will not accept responsibility for cosmetic or inscription repairs and reserve the sole right to determine if a particular headstone is beyond economic repair, is incapable of being stabilised and requires to be completely removed from site, without providing a replacement.
- 9.9 In the case of historic memorials, the Council has no legal obligation to undertake renovation or consolidation work to such stones, only a duty of care to ensure no danger is presented to staff or public as a result of dilapidation of the memorial. However, the Council will support and assist the efforts of any community group, body or individual seeking to undertake a programme of restoration or consolidation in accordance with current guidance from Historic Scotland. Where required, the Council will undertake works to memorial stones to remove any danger to the public or its employees generally by taking down and digging in stones to a third of their depth. Generally the Council will only undertake full repair of a memorial stone by way of a replacement foundation and pinning of the stone in cases where the full cost of such works can be recovered from the lair holder or their successor.
- 9.10 Parking and vehicle management are governed by existing site conditions for established sites and there exists, little or no opportunity to improve such facilities. However, where such opportunity presents itself, or in the case of new sites, the Council will take the opportunity to build in appropriate facilities to cope with need, adequate safeguards to protect sites from damage by vehicle access and disturbance to visitors yet provide adequate access for the elderly and infirm.
- 9.11 With regard to security of burial grounds, it is deemed impractical to restrict public access by time to existing burial grounds because of the often remote location and limited boundary security. Likewise, in order to maintain free access for legitimate purposes, it isn't deemed appropriate to build such security into new developments and this would be detrimental to the visual amenity and general ambience of burial sites. Incidences of anti-social behaviour within cemeteries, while recognised as being particularly distressful to those affected by acts of vandalism, are at a low level and the impact of such acts is best minimised through careful maintenance regimes and targeting of community policing initiatives.
- 9.12 The Council recognises the right to freedom of expression with regard to the way relatives of the deceased mark the lairs of their respective loved ones. However, cemeteries are both a working environment and a place of diverse view and opinion on the way they should be managed. Experience has shown that manageability and sustainability are often in conflict with individual expressions of grieving. Equally though, many members of the community object to the levels of decoration applied to their respective neighbouring plots and are left feeling frustrated and annoyed at being upstaged and overshadowed by certain expressions of commemoration. Accordingly, the Council is obliged to manage such matters in accordance with standards of common decency and giving priority to long-term safety and sustainable maintenance. The Regulations for the Management of Burials Grounds, which have been revised in 2011 and are attached as Appendix 3 take account of the foregoing.

- 9.13 Community Service for Offenders Orders and Community Payback Orders are now considered a valuable means of enhancing the levels of maintenance given to cemeteries and burial grounds, while ensuring those responsible for acts of criminal and antisocial behaviour gain a greater appreciation of the feelings of vulnerable sections of the community. Community Payback Orders, served within a burial ground environment, also demonstrate the benefits and outcomes of such a system in a high profile, face to face environment. The Council is committed to developing this system by investing in the specialist training and equipment required to facilitate a programme of headstone consolidation and stability work to the benefit of absent relatives, preservation of the heritage and history associated with burial grounds and the enhanced safety and security of the wider community.
- 9.14 Increasingly, the wider community wish to take a hands-on role in maintaining and preserving cemeteries. Accordingly, the Council will work to develop Friend's Groups, possibly with charitable status, who will, among other matters, contribute towards;
- Conserving the heritage of burial grounds
 - Managing and developing the ecology and biodiversity of burial grounds
 - Restoring historic memorials and attracting external funding for such projects
 - Recording and mapping memorials and inscriptions
 - Assisting with security
 - Developing and publishing guidebooks and on-site interpretation

10.0 Administration and Burial Management

- 10.1 Consultation with stakeholders identified that procedures, timings and general approach towards burial administration varied from cluster to cluster and that such, albeit minor, variations led to confusion and difficulty in managing their respective areas of service delivery. Communication across the 6 operational districts often leads to delays in agreeing funeral times and co-ordinate between families, clergy and caterers. Accordingly, the management and administration of burials needs to be delivered in such a way as to ensure consistency across the county.
- 10.2 Absolute accuracy and consistent standards of professionalism are required in the management and administration of burials. In order to ensure these demands are met, the Council has established a centrally based administration operation. This unit deals with record keeping, administration and booking of burials and headstone management. Also in conjunction with the business unit responsible for front line service delivery, rules and regulation reviews, production of customer information leaflets, development of a digitized record system, stakeholder consultation forums and annual reporting vehicles are all undertaken or will be delivered in due course.
- 10.3 The range of records maintained by the Council has been reviewed and is considered as being generally fit for purpose. However, taking account of the fact that burial rights are often held by persons who subsequently decease, the Register of Lairs will be expanded to contain information on a proposed intended successor to the right of burial and also a list of names of those intended to be buried in the lair.

- 10.4 Burial records will also be amended to include information that allows the recording of the religious or ethnic group to which the deceased belonged. This will assist the Council in determining the demand for burial services from different religious groups and will inform any future provision of burial sites across the county.
- 10.5 The service currently relies on paper based records. Many of the Lair Registers and Registers of Interment date back to the 1800's and have significant historical value. While most have undergone a recent restoration and consolidation programme, it is recognised that these records now require to be treated with conservation in mind.
- 10.6 It will therefore be an aim of the Council to have all such records digitized and to use the digital version as the future management tool, however, paper based records will also be maintained as back up. Over a period of time, the older records will be placed in suitable storage that will allow access by appointment for appropriate research purposes.
- 10.7 Digital records will be considered for public viewing on line, with appropriate limits to allow for Data Protection and access by way of a scale of charges to cover the cost of developing and maintaining the digital archive.

11.0 Increased Use of Existing Burial Space

- 11.1 Many burial authorities are considering sympathetic and practical ways of reusing old lair space for new burials. There are obviously a number of practical and legal hurdles that need to be overcome to deliver such practices but the Council is committed to exploring such options.
- 11.2 Burial authorities, under Section 17 of the 1855 Act have the power to manage, regulate and control burial grounds and can, under that act, propose justifiable means to meet their obligation to provide lair space for burial
- 11.3 The Dig & Deepen approach, whereby existing skeletal remains are exposed and reburied at a depth in excess of 2.3m has, during the course of community consultation, met with reserved support. A restricted application of the method, whereby people with a direct family/blood connection to the interred person, met with wider support. Accordingly the Council will consider application of this approach to increasing the burial space, on a lair by lair basis, within its existing burial grounds where;
- Only skeletal remains exist and there are no solid coffin remains
 - The required legal documentation and processes can be put in place that would facilitate such action and establish the blood line right of the applicant to be interred in a particular lair
 - The bloodline claim to reuse a lair can be established beyond reasonable doubt and not be subject to competing claims of right from other relatives
 - A satisfactory Risk Assessment can be provided on each occasion

- An agreeable trigger point can be established based on a generational category from the date of last interment
- A fee that reflects the outputs from the Council can be recovered from the client

12.0 Financial Management

- 12.1 In reviewing the administration arrangements for burial ground management, the decision to centralise this activity affords the opportunity to consolidate budgets for cemetery maintenance and management. At present, budgets are spread between the Registration, Property Maintenance and Amenity Services business units. In order to manage the overall service, ensure development costs are at least kept in line with income and to accurately demonstrate cost of service, the Council will consider drawing all burial grounds related costs into one budget heading.
- 12.2 At time of publication, an accurate assessment of the revenue cost of addressing headstone stability is not available. However, a detailed survey of the implications of addressing headstone stability is being undertaken and will be available in the near future. It is though known that, of the 34 burial grounds managed by the Council, all have a percentage of headstones that require some remedial work to stabilise the structures and some of those require urgent attention.
- 12.3 A recent exercise to establish the costs of restoring the stability of headstone in St Andrews Churchyard, Gullane a site of fairly sparse headstone population and generally small sized stones, 54 stones (42%) from 127, required stabilisation works at a cost of £9,000 This does though reflect the age of that particular cemetery and other active sites could be reasonably expected to have closer to a 30% stabilisation requirement
- 12.4 As stated elsewhere in the strategy, it is the intention of the council to minimise these costs through development of fund raising friends groups and use of Community Payback Orders.
- 12.5 The detailed cost analysis, when completed, will be attached to this strategy within Appendix 5 but initial assessments put the cost of the work in the region of £1.3m to completely restore and consolidate unstable memorial stones and this is clearly beyond the ability of the Council in the current financial climate so the emphasis will be placed on digging in memorial stones to remove the risk to the public and avoid further damage and loss of historic information
- 12.6 The costs to develop an IT based management system are estimated to be £20k, including the initial digitisation of existing records and purchase of appropriate software. A separate business model to deliver this will be developed and digitisation only introduced if the financial model can be shown to be self funding in terms of administration costs and reduction of risk to the Council

13.0 Community / Stakeholder Liaison

- 13.1 The Council recognises that relatives of the deceased, the wider community, Funeral Directors and Monumental Sculptors will all have an interest in and valuable contribution to make towards the development and management of burial grounds. The general public are increasingly aware of the environmental issues arising from burial provision and the costs associated with providing such services. Likewise, funeral and commemoration service providers are developing increasingly higher levels of professionalism, building and adopting best practice and offering wider choice.
- 13.2 East Lothian is also building an increasing diversity of culture and religion and the Council must, while adopting the ‘live together, die together’ culture, strive to accommodate the needs of the whole community wherever practically possible.
- 13.3 Accordingly, the Council will establish and facilitate a stakeholder forum whereby all parties with an interest in the development and management of burial services can contribute to that development and ensure that the services provided, best meet the needs of the community within the resources available.
- 13.4 The Council, through consultation with those stakeholders, will also develop Service Level Agreements that will clearly define the inputs and outputs required by all parties involved in the provision of burial services

14.0 **Environmental Management**

- 14.1 Many processes and practices utilised in burial of the dead have a detrimental impact on the environment. Materials used in coffin construction and embalment will leach out into the soil, visitors will make often daily car trips to visits lairs of the deceased relatives, maintenance regimes are, by tradition, intensive involving fuel, chemicals and green waste generation, floral tributes generate a high carbon footprint in production and are often housed on non-degradable materials.
- 14.2 In designing cemetery provision for the future, the Council is committed to reducing the impact of its operations on the environment and enhancing the biodiversity of the county within a regime of meeting the needs of the community, providing extended choice for burial and working within the available land resource.
- 14.3 Where possible, future cemetery provision will;
- Be located in such a way as to minimise the need for private car transport and encourage pedestrian and public transport travel
 - Incorporate space for woodland and meadowland burial where nature takes precedence over high amenity maintenance
 - Comply with or exceed the stipulations of all relevant legislation regarding the Groundwater Protection Policy for Scotland
 - Incorporate enhanced waste reduction as a principal of the design
 - Provide and encourage the take up of cremated remains plots
 - Maintain on-site turf farms to replace turf lost during warm weather.
 - Incorporate recycling facilities for floral tributes and related waste

- 14.4 The Council is also keen to explore alternative means of disposal to cremation and burial and will work with any interested partners to develop means of disposal using alternative technologies such as Promession or Resomation
- 14.5 The Council will also encourage and promote the use of burial materials from sustainable sources, using materials that compost naturally in the soil such as untreated timber from sustainable sources and present no long-term threat to the environment. While some materials may be seen as inappropriate for staff to handle, such as basic shrouds, the Council will work towards developing systems that allow families wishing to use such materials to do so on a self-help basis.

15.0 Fees and Charges

- 15.1 Traditionally, the Council has heavily subsidised the cost of burial within East Lothian, to the extent that right of burial costs and interment charges have been significantly lower than the national average. In 2010 those charges were increased to more closely reflect the cost of burial and long-term maintenance but still fall below the national average. Charges applied as at 2014 more accurately reflect the cost of service and also recover an annual sum to offset some of the development costs of new provision. Taking account of the significant capital investment and subsequent revenue implications, the Council must recover these costs from service users.
- 15.2 Charges are compared on an annual basis between all Scottish local authorities and show East Lothian to be recovering less by way of fees than that of neighbouring authorities, even allowing for surcharges already in place. This creates a potential increasing pressure on burial space in East Lothian through clients from neighbouring areas opting for burial in East Lothian.
- 15.3 Customers have an increasing element of choice, both through the private sector and emerging alternative means of cremation and green burial and this choice will be further extended as the aims of this strategy are delivered. Accordingly, because of this greater element of choice, it is appropriate for the Council to reduce or remove adult subsidies for residents, continue to implement outwith area surcharges for non-residents and secure sufficient income to manage the long-term burden of grounds and memorial maintenance.
- 15.4 Bereaved families can often gain financial support through one-off benefit grant claims and such benefits significantly reduce any financial hardship that families may experience while arranging a funeral.
- 15.5 Accordingly, the Council will adopt a policy full recovery of cost of service and will reflect this in the range of charges levied and the level at which those charges are set following annual review.
The list of fees to be applied in 2015/16 will be finalised following the Council budget settlement and reviewed on an annual basis.

16.0 Staff / Stakeholder Development and Training

16.1 In order to ensure the efficient and effective delivery of burial services, the Council recognises the need to develop and train, management and front-line staff in all aspects of service delivery. Where appropriate, such training will be extended to stakeholders to ensure a consistency of approach and mutual understanding of the respective parties' role in delivering an effective and respected service. Such training will include, but not be limited to;

- Religious and ethnic diversity awareness
- Customer care
- Health and Safety as related to burial services
- Memorial and Headstone maintenance
- Compliance with procedures and practices

17.0 Policy Summary

The following represents a summary of the key strategic policies and prescriptions;

Section	Summary
5.2	The Council will develop new burial ground provision on a combined cluster and individual community basis, according to the discrete restrictions and opportunities presented in each area
5.2 e	The Council will seek land or financial contributions from housing developers to reflect the additional burial space requirements that such developments will generate
5.4	The Council will commence a programme of capital investment aimed at providing additional burial space that reflects the needs of the area for the next 50 – 75 years
6.6	The Council will allow advance selling of lair space subject to their being sufficient capacity in each discrete community to meet immediate need for a minimum of five years of operation
7.4	The Council has reviewed the Regulations for the Management of Burial Grounds and will enforce those regulations, applying retrospective corrective actions where appropriate
7.5	The Council will endeavour to reflect the diversity of religion, belief and secular lifestyles that exist within the population with regard to provision of its burial services
7.8	Where possible, the Council will design in, specific areas for the exclusive burial of infants and young children that will allow for greater choice in terms of decoration and commemoration
7.9	The Council will develop and facilitate development of alternatives to traditional burial such as woodland or meadowland burial sites
8.0	The Council cannot present a solid business case to justify the capital expenditure required to provide a dedicated Crematorium for East Lothian. However, the Council will work with potential partners who may wish to provide a privately funded facility to the benefit of added choice for the community
9.5	The council will commence a programme of assessments and related stabilisation works for headstones
9.6	The Council will install individual or strip foundations as appropriate for all new memorials
9.8	The Council will introduce a management fee for erection of headstones which will offset the long-term maintenance obligations the Council will have to bear
9.10	Vehicle access to cemeteries will continue to be permitted for elderly or infirm visitors
9.11	Burial grounds will not be the subject of restricted access times
9.13	Community Service Orders and Community Payback Orders will be utilised to enhance levels of cemetery maintenance and repair unstable memorials
9.14	The Council will seek to establish Stakeholder and Friends groups to assist in developing burial provision in the future and in preserving the existing facilities
10.6	The Council will digitise all existing burial related records
10.7	Appropriate levels of public access will be allowed to burial records for the purposes of research, charged at appropriate levels to maintain the costs of providing that service
11.3	The Council will adopt the Dig and Deepen method of increasing burial space for re-use of lairs where a direct family link can be established
13.3	The Council will establish and maintain a stakeholder forum to allow greater community and partner involvement in the regulation, running and development of burial services
14.0	The Council will develop and promote a more sustainable and environmentally friendly approach towards burial services
15.3	The Council will remove any subsidisation given for adult burial and aim to recover the full cost of service from customers electing to be buried within East Lothian including continuing to apply surcharges to residents from

	outwith East Lothian.
16.1	The Council will implement a range of stakeholder training to ensure consistent and accurate delivery of services.

STRATEGY REVIEW AND PERFORMANCE MONITORING

The Council will undertake a minimum 3 year cycle of review of this strategy with particular regard to changes in population numbers, burial culture and practices and legislative change and national best practice. Such reviews will be undertaken in conjunction with stakeholders, will consider performance of the service against agreed standards and report to the Council on all such matters.

ACTION PLAN

A timed and costed action plan will be developed that will set out agreed actions to be taken to deliver the Burial Ground Strategy, who will be responsible for the various actions and when those actions are to be delivered based around the key priorities of the strategy and discrete cluster needs.

FORM: ELC/BD/01 EAST LoTHIAN COUNCIL

BURIAL GROUND- LAND ACQUISITION CHECKLIST

When determining the suitability of land for development into burial space, the following points should be applied as order of determination. At each stage a brief SWOT Analysis should be undertaken and the result given a rating score of 1 – 10. The cumulative rating will then determine the suitability of a site and govern the priority it should be given in terms of acquisition and development.

Name of Site:

Assessment Completed By..... **Date**.....

Local Provision / Cluster Provision / Multi Cluster Provision

Description of intended catchment area:

SUITABILITY CRITERIA CONSIDERATIONS

Pass / Fail or Score 1-10 as appropriate 1 = Low suitability, 10 = Good suitability

	CRITERIA	COMMENTS	SCORE
1	Suitable topography		
2	Environmental Assessment	Complete detailed sheet before progressing to Point 3	Pass / Fail
3	National Archaeological / Conservation Designation		
4	Local Archaeological Designation		
5	Existing Ownership		
6	CPO Required		
7	Local Plan Status		
8	Development Planning Opinion		
9	Neighbouring Activities		
10	Neighbourhood Impact		
11	Title Deed Restrictions		
12	Estimated Operating Life		
13	Public Access		
14	Mains Services		
15	Security		
16	Estimated Purchase Cost		
17	Estimated Development Cost		
18	Urgency of need for this ward and availability of other options		

Overall Outcome of Assessment

<p>Average of Scores =</p> <p>Average of Passes to Fails =</p>
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Assessment undertaken by:.....**Signed**.....**Date**.....

Environmental Assessment

Stage 1 GIS Assessment		
Distance from water courses, boreholes and field drains	Does site comply with SEPA Guidelines	PASS / FAIL
Bedrock & superficial geology (including permeability – groundwater & soil depth)		PASS / FAIL
Contaminated land template – nature of historical use of site.		PASS / FAIL
Ground conditions – areas of shallow mine workings (also has significance on high water table).		PASS / FAIL
	Does site progress to Stage 2	YES / NO
Stage 2 Limited Field Investigation		
Auguring to determine soil type & depth of water table and depth of bedrock / soil type for suitability for lair excavation		PASS / FAIL
Limited sampling (if potential brown-field impact).		PASS / FAIL
	Does site warrant further investigation	PASS / FAIL

East Lothian Council						
Burial Grounds - Advance Sale of Lairs						
Status as at January 2015						
Site	Operating Life for New Ground	Estimated Remaining Lairs	Average Sales per year.	Advance Sale Status	Remaining life based on 2011 Sales	Comments
Deer Park, Dunbar	Less than 1 year	0	30	No Advance Sales	0	Additional lair space being created as temporary measure
Dunbar Old Kirk	Closed for new ground	0	0	Closed	Closed	
Innerwick Church	Closed for new ground	0	0	Closed	Closed	
Thurston Cemetery	100 + Years	170	1	Advance Sales Allowed	85	
Oldhamstocks	43 Years	85	2	Advance Sales Allowed	85	
Prestonkirk, East Linton	10 Years	70	7	No Advance Sales	10	
Spott Church	37 Years	94	3	Advance Sales Allowed	31	
Stenton Church	26 Years	89	3	Advance Sales Allowed	44	
Whittinghame Church	Closed for new ground	0	0	Closed	Closed	
Athelstaneford Church	Closed for new ground	0	0	Closed	Closed	
Athelstaneford Cemetery	100 + Years	328	1	Advance Sales Allowed	164	
Bolton Church	22 Lairs left	22	0	No Advance Sales	22	
East Saltoun Church	1 Year	1	1	No Advance Sales	1	Some possible additional lairs being examined just now
Garvaid Church	Closed for new ground	0	0	Closed	Closed	
Gifford Church	7 Years	19	3	No Advance Sales	3	Allow 1 + 1 if pushed.
Humbie Church	Closed for new ground	0	0	Closed	Closed	
Morham Church	100 + Years	224	1	Advance Sales Allowed	112	
St Martins Cemetery, Haddington	47 years	888	20	Advance Sales Allowed	55	
St Mary's Church	Closed for new ground	0	0	Closed	Closed	
Inveresk Church, Musselburgh	10 Years	469	45	No Advance Sales	14	Restrict to one for immediate plus 1 or 2 for future use pending outcome of strategy
Aberlady Church	8 Years	80	10	No Advance Sales	8	
Dirleton Church	Closed for new ground	0	0	Closed	Closed	
Dirleton Cemetery	41 Years	410	10	Advance Sales Allowed	58	
St Andrews, North berwick	Closed for new ground	0	0	Closed	Closed	
North Berwick Cemetery	Closed for new ground	0	0	Closed	31	
North Berwick New Extension	50 Years	580	10	Advance Sales Allowed		
Whitekirk	10 years	13	1	No Advance Sales		1 For immediate Use Only
Elphinstone Cemetery	Closed for new ground	0	0	Closed	Closed	
Gladsmuir Church	3 Years	22	3	No Advance Sales	7	
Pencattland Church	Closed for new ground	0	0	Closed	Closed	
Pencattland Cemetery	6 years	50	7	No Advance Sales		Restrict to one for immediate plus 1 or 2 for future use pending outcome of strategy
Tranent Church	Closed for new ground	0	0	Closed	Closed	
Tranent Cemetery	5 years	188	35	No Advance Sales	5	Restrict to one for immediate plus 1 or 2 for future use pending outcome of strategy
West Byres Cemetery, Ormiston	39 Years	247	6	Advance Sales Allowed		
Prestonpans Cemetery	4 Years	203	57	No Advance Sales	6	Restrict to one for immediate plus 1 or 2 for future use pending outcome of strategy

**REGULATIONS
FOR THE
MANAGEMENT OF
BURIAL GROUNDS IN
EAST LoTHIAN**



East Lothian
Council

April 2012

EAST LoTHIAN COUNCIL

REGULATIONS FOR THE MANAGEMENT OF BURIAL GROUNDS IN EAST LoTHIAN

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INTRODUCTION

These regulations have been produced following an extensive review of and consultation on burial services and the subsequent production of a Strategy for the Provision and Management of Burial Grounds in East Lothian.

These regulations and procedures were adopted by the Council in February 2015.

A copy of these Regulations, as approved by the Council, shall be sufficient evidence of their force and validity and copies shall at all times be open for inspection in the offices of the Council and a copy thereof shall be delivered to every purchaser of a lair, along with the Lair Certificate of Ownership and by acceptance thereof, such purchaser shall be held to acknowledge full knowledge of and acquiescence with all the obligations laid upon purchaser of lairs or otherwise.

The specific attention of Lair Holders is drawn to Clause 9 **Floral Tributes** and Clause 10 **Monuments**

1. **GENERAL CONDITIONS**

These regulations apply to the general management, regulation and control of all burial grounds managed by East Lothian Council in terms of the Burial Grounds (Scotland) Act 1855 and the Local Government (Scotland) Act 1973 (which Council and any Committee appointed therefrom for the purpose and their successors whomsoever, are hereinafter referred to as the 'Council'), subject to the provisions of the said Acts and these Regulations made thereunder. All as amended by the Local Government Etc (Scotland) Act 1994.

2. **MANAGEMENT ARRANGEMENTS**

The Council shall appoint the appropriate Executive Director or Head of Service to manage all burial grounds and (together with any employee acting on their instructions and their behalf) to be responsible for carrying out such orders and instructions and keep such books and records as may from time to time be required by the Council.

3. **SIZE OF LAIR**

The quantity of ground to constitute a Lair in all new burial grounds or extensions thereof will be 2700mm long (9 Feet) by 1200mm wide (4 Feet), which shall include the ground required for a headstone. In existing burial grounds where the lair pattern is already established, the lairs shall be 2700mm by 900mm (3 Feet), or 2700mm long by 1200mm wide, in accordance with the local practice as at the date of these Regulations.

The available depth in any lair is not warranted or guaranteed in any way by the Council.

4. **PLANS & REGISTER**

For the purpose of distinguishing the lairs and facilitating sales to intending purchasers, a plan of every burial ground showing each lair separately numbered and the named right of interment thereof, will be prepared and retained by the Council, together with a Register in which details of all issue of rights shall be entered.

The Council reserves the right to terminate the advance sale of lairs in any or all burial grounds where the available remaining ground is unlikely to sustain the needs of the community for the foreseeable future.

5. **LAIR SALES & CERTIFICATES**

Sales of Right of Burial for coffin or cremated remains will only be sold in advance of immediate need on sites where there is adequate supply of new ground to sustain the likely needs for a minimum of 10 years and where a plan is in place to provide extension beyond that date. The conditions relating to advance sale of ground will be as published at the time by the Council. In cases where ground is sold for immediate need only this will again, be according to the conditions applying at the time. The purchasers of right of burial shall be furnished with a numbered certificate clearly describing their burial place and showing the number of the lair which has been allocated and such certificate shall be held to entitle the purchaser and the successors to the perpetual right of burial in the ground described with the right of erecting a

monument, grave-stone, tablet or monumental inscription therein subject to these Regulations and to such other conditions as may be fixed from time to time by the Council.

Any person, on purchasing a Right of Burial will be required, at the time of purchase, to indicate the intended number of coffin interments to take place in the lair and also to provide a) the name of an intended successor should the purchaser decease and b) a list of names of those intended to be interred in the Lair.

The proprietor of an unused lair, sold prior to 2011, upon deciding they do not wish to exercise their right of burial shall only be permitted to transfer the rights back to the Council. The Proprietor will not be entitled to bury any person in the lair for pecuniary consideration.

6. **RIGHT TO LAIR/INTERMENT**

Right of Interment will be sold, either to persons with an immediate need or in advance of such need, according to the conditions applied by the Council at that time. Such right will extend to the purchase of lair space for the interment of 1, 2 or 3 coffin remains and/or up to 6 cremated remains caskets.

The proprietor of a lair shall not be entitled to assign or convey the same in such a way that two or more persons shall be joint holder of such a right, but the proprietor of two or more lairs shall be entitled to assign each of them separately to members of his own family.

Subject always to the approval of the proprietor of the lair, a member of the family of the proprietor of the lair or his next of kin or other person on the approval or nomination of the proprietor of the lair may be interred in the lair, provided there is space in the lair in terms of these Regulations. On the decease of an intestate person holding a right to a lair, the same right shall devolve upon their successors.

A person with a valid claim to either a lair or a right of interment, whether by succession or by transfer, shall be entitled to such lair or right of interment on production to the Council of the Certificate granted to the original proprietor. Notwithstanding the foregoing, however, in the event that the claimant is able to provide other evidence sufficient in the opinion of the Council to substantiate his/her claim and after such enquiry as the Council may deem necessary, the Council may allow such a claim.

The Council shall be entitled to require any person claiming a lair or right of interment to indemnify the Council against any liability, loss or expense which may arise, either directly or indirectly, as a result of the person's claim. In all cases, the person requesting a burial take place shall be required to complete a Form of Indemnity (ELC/BA/04).

Mere interment in the burial ground without a written grant of property therein from the Council shall give no right of any kind in the burial ground to the relatives of the person so interred.

7. **BUYING BACK LAIRS**

Where a proprietor of a lair decides they no longer wish to use the right of burial and where the lair has not been used for a previous coffin or cremated remains interment and where no headstone or permanent marker is placed on the lair, the Council may consider buying back the lair from the proprietor.

If the lair is deemed as suitable for future use in so much as it is within a cemetery where there exists a demand for burial space and where the location and condition of the ground would facilitate a coffin interment, the Council will pay the current published Interment Lair charge less a 10% administration fee.

If the lair is deemed only suitable for interment of cremated remains then the buyback price will be the current published rate for a Cremated Remains Lair less a 10% administration fee.

The Council is not, under any circumstances, obliged to buy back any lair.

8. **DEPTH OF BURIAL**

Under no circumstances will a burial be permitted which will result in a coffin lid being less than 900mm below the ground. The standard lair will be dug to accommodate 2 interments with the first interment at 1800mm depth. Where there is to be a single interment in the lair, that interment will be at 1350mm depth.

Where ground conditions allow and where particularly requested at the time of the first interment, 3 interments will be permitted. In this case the first interment will be at 2250mm depth. All the foregoing is based on a standard coffin size of 450mm in depth. Where known in advance that the first coffin to be interred in a lair is outwith standard size, the depth of excavation will be increased to allow the desired number of interments. However, where a subsequent interment involves the use of a coffin greater than the standard depth, no guarantee can be given, or liability accepted by the Council, that the interment can be accommodated in the lair.

No coffin or remains shall be permitted to be removed from any grave with a view to making room for a subsequent interment.

The burial of urns or caskets of ashes shall be permitted at 900mm depth without prejudice to further interment in the lair. The scattering of ashes on the surface of a lair shall not be permitted but arrangements may be made for the lifting and re-laying of the turf on a lair to allow the scattering of ashes under the turf. As provided in Regulation 3 above, the available depth in any lair is not warranted or guaranteed in any way by the Council.

9. **FLORAL TRIBUTES & DECORATION**

All floral tributes, wreaths or other temporary tributes placed on a lair following an interment shall be disposed of by cemetery staff after a period of 14 days from interment. Any subsequent tributes placed on a lair (e.g. Christmas wreaths) will also be removed after a period deemed appropriate by the cemetery staff, taking

into account the condition of the tribute, the condition of the grass on the lair or prevailing weather conditions.

Should the family wish to retain any such tributes it shall be incumbent on them to contact the cemetery staff directly to arrange collection.

Visitors wishing to dispose of spent plant material and related packaging are required to make use of any on-site recycling facility and ensure waste is separated accordingly

10. **PLANTING, HEADSTONES, MONUMENTS AND INSCRIPTIONS**

No headstone, monument, inscription or marker of any kind shall be erected on a lair unless approved by the Council, to whom a written application on Form ELC/BA/06, along with the appropriate fee, shall be submitted. Any person wishing to erect a new headstone or replace an existing monument, will be required to produce a Lair Certificate or testament of valid claim as successor to the title and complete a Form of Indemnity (ELC/BA/07) relieving the Council of all liability for wrongful erection of a memorial.

No monument erected on a single grave shall exceed 825mm in width, 1200mm in height, 500mm in depth and allow a minimum of 100mm of clear space between the front edge of the monument and the grass edge, ensuring that the existing straight grass edge line is maintained.

Headstones erected to cover adjacent lairs may be centred between the two lairs and be of a maximum width of 1650mm

Any headstone erected on an Ashes Only Lair shall be subject to maximum sizes appropriate to the actual dimensions of that lair, maintaining the 100mm of clear space from the grass edge and adjacent lairs.

Secondary monuments, flower vases and other markers will only be permitted if they can be contained within the 600mm area at the head of the lair and retain a 100mm clear space from the grass edge and adjacent lairs. Secondary monuments will also be subject to written application and payment of the appropriate fee.

Headstones, monuments, etc. must be constructed and erected to a standard as currently adopted by the Council that ensures their stability in perpetuity.

The Council aims to develop separate areas within burial grounds for the sole purpose of interring still born babies or infants. Separate regulations governing the use of such areas will be published according to each location and proprietors of such lairs will be required to adhere to those regulations.

Generally, proprietors of a lair need not wait for any specified period after an interment in order to erect a monument. However, permission to erect a monument will not be granted on any unused lair and local conditions may require the Council to determine a settlement period after an interment, prior to granting permission to erect a monument.

All planting shall be limited to the area within two feet (600mm) of the head of the lair, including the space taken up by any monument and be of appropriate size and species for the location.

In order to facilitate the safe completion of an interment, the Council may remove, without advance notice to the proprietor, plant material from the lair to be used for the interment or any adjacent lair. On completion of the interment, the Council will take all reasonable care to reinstate the removed plant material but will not be held liable for replacing such plants that die as a result of requiring removal.

No kerbstones, edging, fencing or similar arrangements to define the lair or any part of the lair shall be permitted. Any such features that are found to exist may be liable for removal without notice, to facilitate the safe completion of an interment in either the lair on which they feature or an adjacent lair. Materials removed under such circumstances will not be reinstated by the Council.

The Council will not be held liable for damage of such materials regardless of how that damage occurred.

Cornerstones to demark the boundaries of a lair will no longer be permitted and any established cornerstones must be kept below the level of the turf.

11. MAINTENANCE OF MONUMENTS AND PLANTS

Proprietors of lairs and their successors shall require to keep the headstones and monuments in good order and repair and should they fail to do so, the Council may either have the repair done or cause the headstone or other monument to be removed.

For headstones erected prior to 2015 the Council will recover the cost of doing so from the proprietors or their successors. For headstones erected from April 2015 and where a perpetuity maintenance fee has been paid, the Council, at its sole discretion, may stabilise and repair a headstone if economically viable to do so. If deemed uneconomic to repair, or the component parts of the monument are deemed unsound, the headstone may be removed completely and the lair holder contacted at their last known address and advised of this action. Any headstone or other monument so removed by the Council may be disposed of by the Council as they see fit if not claimed within one year.

All plants must be kept carefully pruned to ensure they do not encroach onto neighbouring lairs, monuments and adjacent grass areas.

The Council reserves the right to request removal of any plant material that is deemed to be encroaching or otherwise causing detriment to an adjacent lair. In cases where a lair holder fails to comply with any request to remove plant material or, where the lair holder cannot be contacted at their last given address, the Council will remove such plants as deemed appropriate.

Proprietors of lairs or their successors are prohibited from pruning or removing plants from neighbouring lairs.

Lair holders are forbidden from placing any item on a lair that could be deemed racist, sectarian or likely to incite such a response. Any such items will be removed immediately by the Council. Lair holders are also forbidden from placing any alcoholic beverages, battery or solar powered items that generate music or noise of any sort and are requested to, in the best interests of neighbouring lair holders, not to place any light emitting item on lairs. Also, in the interests of maintaining a quiet environment, lair holders are requested not to place items such as wind chimes on their lairs.

12. **HEWING OR DRESSING OF STONES**

No hewing or dressing of stones or operations of any other description (except subsequent additional inscriptions), shall be permitted within any burial ground or in the approaches thereto unless with the prior consent of the Council. All rubbish or refuse remaining after the erection of monuments or other operations duly sanctioned must be immediately removed at the expense of the proprietor of the lair, or of the person executing the work, to the satisfaction of the Council.

13. **HOURS OF OPENING**

Any burial ground shall be open to the public daily during such hours as the Council may fix from time to time and the Council shall be entitled to remove any

person or persons therein and may prevent persons entering at prohibited times.

14. **VISITORS**

Visitors to any burial ground shall on no account pull flowers or in any way damage flowers, shrubs, trees, headstones, monuments or any other part of the burial ground and no person shall enter or depart from any burial ground by any other way than by the entrance gate or gates.

At all times visitors to burial grounds will avoid undue noise or disturbance to other visitors and mourners.

15. **VEHICLE ACCESS**

Access to burial grounds by private vehicles is limited to those who are attending a funeral. However, people who as a result of age or infirmity experience difficulty in walking may have limited vehicle access. At all times access by vehicles will be limited to designated roads. Driving or parking on any area of grass areas is strictly forbidden.

16. **DOGS**

Dogs, except those specifically designated as Assistance Dogs, should not be taken into any burial ground.

17. **DISPUTES**

In the event of any disputes or differences arising between parties, such disputes or differences shall be submitted in writing to the Council, who may, if they so resolve, hear the parties or take evidence and the decision of the Council shall be final and binding.

18. **FEES & CHARGES**

The Council shall have power to sell Rights of Burial and charge fees for interments, monument erection and other matters. The fees to be charged shall be as approved from time to time and separately published. All persons purchasing right of burial, arranging interments or other matters under these Regulations, shall be obliged to pay to the Council the appropriate charges and fees applicable from time to time.

19. **REVISION OF REGULATIONS**

The Council may revise from time to time, alter or dispense with, any or all of these Regulations when they see cause.

20. **REVOCATION**

Any Rules or Regulations pertaining to the management of any burial ground in East Lothian passed or published prior to the date of these Regulations by any authority to whom the Council has now succeeded, are hereby declared to be revoked and shall have no effect.



EAST LOTHIAN COUNCIL

BURIAL ARRANGEMENTS

**Procedures for the Management and Administration of
Burials, Sale of Lairs and Erection of Memorials**

February 2015

EAST LOTHIAN COUNCIL

BURIAL ARRANGEMENTS - REVISION APRIL 2013

These revised procedures replace all current practices for burial arrangements. The revised arrangements are detailed in Section's 1 – 5 and supported by the various documents and forms listed in Appendices 1 - 9

- Section 1 Burial Arrangements - Main Responsibilities
- Section 2 Procedure for Buying a Lair
- Section 3 Procedure for Interments
- Section 4 Procedure for Burial Where Death Occurs on a Weekend or Public Holiday
- Section 5 Procedure for Erection of a Headstone or Memorial
- Section 6 Procedure for Auditing & Monitoring

Appendices Relevant documents

- Appendix 1 Regulations for the Management of Burial Grounds – April 2012
- Appendix 2 Lair Certificate (Title Deed)
- Appendix 3 Lair Purchase Application – ELC/BA/01 & 02
- Appendix 3 Certificate of Registration of Death Form 14 and Form 15
- Appendix 4 Particulars of Burial - ELC/BA/03 (Ashes or Coffin)
- Appendix 5 Form of Indemnity for Interment - ELC/BA/04
- Appendix 6 Form of Indemnity for Carrying of Coffin by Family – ELC/BA/05
- Appendix 7 Application Form to Erect Memorial – ELC/BA/06
- Appendix 8 Form of Indemnity for Erection of Memorials – ELC/BA/07
- Appendix 9 Lair Marking Instruction – ELC/BA/08
- Appendix 10 Foundation Instruction - ELC/BA/09
- Appendix 11 Weekly Record of Transactions - ELC/BA/10
- Appendix 12 Burial Procedures Audit Form – ELC/BA/11
- Appendix 13 Method Statement for Interments
- Appendix 14 Headstone Reinstatement Instruction – ELC/BA/12 & 12A
- Appendix 15 Lair Search Request Form – ELC/BA/13

Angela Leitch
Chief Executive

John Muir House, Haddington

Circulation: All Registration Staff, All LAO's
For Information:

SECTION 1

BURIAL ARRANGEMENTS - MAIN RESPONSIBILITIES

Please note that where the title of Local Amenity Officer or Registrar is used, this will be taken to include all staff acting on his/her behalf.

1. **The responsible Depute Chief Executives & Heads of Service:**

- Jointly responsible for developing, implementing and maintaining appropriate administrative arrangements for burials, carrying out appropriate levels of audits to monitor procedures and ensure appropriate standards, reviewing these arrangements to keep pace with best practice and emerging trends and setting fees.

2. **The Registrars** are responsible to the appropriate Depute Chief Executive or Head of Service for:

- a) Processing lair sales.
- b) Advising Undertakers of all price changes and surcharges.
- c) Administering the erection of memorials.
- d) The maintenance of the main records (Lair Register, Register of Interments, and Plans) including any subsequently developed digital record system. This involves:
 - Weekly checking of the main Records and Plans compared with the Weekly Transaction List.
 - Annual audit of the main Records and Plans compared with the Cemetery Lair Book, where held, and Day Books and Plans kept by the Local Amenity Officers.
 - Completing the Particulars of Burial Form ELC/BA/03 (Ashes or Coffin version according to the circumstances), Part B and issuing to the Local Amenity Officers the second and third copies. Subject to the conditions of Part 3(ix) Registrars should forward all available information relating to the excavation details as soon as this is received. This will allow Local Amenity Officers to identify the appropriate staff and equipment and aid with programming. Registrars should confirm the date and time of a funeral with the Undertaker only after checking with the Local Amenity Officer.
 - Informing the Local Amenity Officers by telephone when the original Particulars of Burials are received from the Undertakers
 - Contacting the Local Amenity Officers daily to confirm that all the paperwork is in order for interments taking place the following day.

- Arranging, through the Undertaker for the required Form of Indemnity for Interment ELC/BA/04 to be completed in all cases, whether or not a Lair Certificate is available.
 - Arranging through the Undertaker if necessary, for Immediate Need Lair Purchase Application Form ELC/BA/01 to be completed by client.
 - Issuing a stock of blank Particulars of Burial and related forms to Undertakers.
 - Undertaking periodic audits of standards using Form ELC/BA/11
3. **Local Amenity Officers** are responsible to the appropriate Director or Head of Service who undertake the following work on behalf of East Lothian Council:
- a) Collecting the second and third copies of the Particulars of Burial Form ELC/BA/03, with Parts A & B completed, from the Registrars.
 - b) Confirming that the details in the Particulars of Burial form Parts A & B are in order. This involves checking the details with the Cemetery Lair Book, where held, and Plan, and carefully probing the lair, where practicable, and completing Part C of the Particulars of Burial form.
 - c) Continuously updating the Cemetery Day Book from the Particulars of Burial forms.
 - d) Digging the grave in the correct lair, and to the required depth and size. (Width and length to be appropriate to the coffin lid sizes in the Particulars of Burial form and allow for all shoring).
 - e) Checking Form 14 or appropriate Coroners Certificate of Certificate of Cremation discreetly at funeral, as described in Section 3.
 - f) Instructing the Undertaker and funeral cortege of the route to be followed within the cemetery.
 - g) Completing the Weekly Record of Transactions, and sending this to the Registrar together with second copy of Particulars of Burial form.
 - h) Assisting the Registrar in the annual audit of Records and Plans.
 - i) Undertaking periodic audits of standards using Form ELC/BA/11
 - j) The Local Amenity Officers **should not** act on instructions direct from Undertakers, and preparations for a burial should not normally start until a Particulars of Burial form is issued to them by the Registrar, and all checks have been completed. Where appropriate, to assist with smooth service delivery, Local Amenity Officers may communicate directly with Undertakers outwith normal office hours in order to provisionally establish available dates and times for impending funerals. In special circumstances such as public

holidays, preparation of the grave can take place following telephone instructions from the Registrar, who will have had sight of a lair certificate, if available and the required completed Form of Indemnity, but interments must not take place without the fully completed Particulars of Burial form.

- k) The Local Amenity Officers and staff should be discreet, courteous and sympathetic to any reasonable request by Undertakers or mourners.
- l) Registrars should confirm the date and time of a funeral with the Undertaker only after checking with the Local Amenity Officer.

SECTION 2

PROCEDURE FOR BUYING A LAIR

1. The client or Undertaker approaches the Registrar about buying a lair. Lairs should preferably be sold only for an impending burial. However, advance sales may be permitted where requested by clients in some East Lothian cemeteries. The Council does though reserve the right to terminate advance lair sales at any time and in any or all burial grounds where the available remaining ground is unlikely to sustain the needs of the community for the foreseeable future. At all times, the Registrar should refer to the current list detailing the advance selling position for each location.
2. The Registrar checks with the client or Undertaker if one, two or three burials will be required in the lair.
3. The Registrar will establish if any surcharges will apply to the client and advise the undertaker accordingly
4. If lair is for immediate use, the Registrar will advise the Undertaker that the client will be required to complete an Immediate Need Lair Purchase Application Form ELC/BA/01
5. If lair is for future use, the Registrar will advise the Undertaker or the client that an Advanced Lair Purchase Application Form ELC/BA/02 will be required to be completed.
6. The Local Amenity Officer, on request from the Registrar, will identify the next available lair.
7. The Client or Undertaker is advised that the Local Amenity Officer or their nominated deputy will point out the allocated lair if required.
8. The Registrar will record the designated lair details on the Plan and Cemetery Lair Book. The Registrar then produces a Lair Certificate (Title Deed) in triplicate, with the top copy sent to the Client; the second copy to the Local Amenity Officer and the third copy retained by the Registrar. The Local Amenity Officer retains his/her copy of the Lair Certificate for at least one year after the annual audit has taken place.

9. The Registrar liaises with the Local Amenity Officer to confirm that the selected lair has not been previously sold and that the lair can accommodate the burial to the depth required.
10. The Local Amenity Officer then updates their Cemetery Day Book, and Plan, where held, and confirms the updating in the Weekly Record of Transactions which is sent, to an agreed timetable, to the Registrar.
11. The Registrar completes and signs an invoice requisition and forwards it to the Finance team to confirm the sale of lair. (Where an interment is being arranged at the same time then the invoice will include both the cost of the interment and the lair.)
12. The Finance team sends the invoice to the client or Undertaker.
13. The client or Undertaker sends payment to the Council.

Alternatively, the client or Undertaker may make a payment direct to the Registrar, who will issue a receipt.

14. Regardless of whether a client has purchased a lair certificate directly or an Undertaker has done so on behalf of a client, the Registrar will issue the Lair Certificate direct to the client.

SECTION 3

PROCEDURE FOR INTERMENT

A. ADMINISTRATION

1. The Registrar is approached by the Undertaker or client, usually by telephone, to arrange a date and time for the funeral.

The Registrar advises the Undertaker or the client if the date and time are likely to be acceptable, **after** checking with the Local Amenity Officer. While every effort will be made to accommodate the wishes of clients and Undertakers, the final decision with regard to timing of a funeral will rest with the Local Amenity Officer having given due regard to other burial commitments and resources available.

The Undertaker or the client is advised by the Registrar that the burial arrangements must be confirmed in writing, by completion of a Particulars of Burial Form ELC/BA/03, which should be received by the Registrar not less than 48 hours prior to the date and time of the interment (excluding weekends and public holiday days). Failure on the part of the Undertaker or client to do so may result in the interment being postponed and additional fees being incurred.

2. The Registrar advises the Undertaker of the full cost of the interment, including any surcharges that will apply

3. In the event of a burial in a pre-bought lair, whether or not the Lair Certificate (Title Deed) is produced by the Undertaker or client, the Registrar should ensure that the claim to the lair is valid by checking the Lair Register of Interments and Plan. If the claim is deemed to be valid then the interment may proceed but only once the client has signed the required Form of Indemnity ELC/BA/04. Where title to a lair is established as being in the ownership of someone other than the person making the arrangements, or the person on whose behalf the Undertaker is acting, the title holder or their immediate next of kin should be asked to sign the Form of Indemnity.

This Form of Indemnity relieves East Lothian Council of responsibility for opening a lair in good faith which is subsequently found to belong to someone else.

In cases where the client proposes to use an old family lair and is unable to provide evidence of a particular Lair Number for the interment, requiring the Council to do a general search of lair records and the usual details of lair number and location are incomplete, the Client / Undertaker will complete Lair Search Request Form ELC/BA/13. In such cases, the Client will be charged an appropriate search fee in half hour units according to the time taken to complete the search and the schedule of fees published at the time. Again, a Form of Indemnity will be completed.

Where the interment of ashes is being sought without the services of an Undertaker, the duty to ensure the required Form of Indemnity is completed by the client falls to the Registrar, whether or not a Lair Certificate can be produced.

4. The Undertaker/client completes Part A of the Particulars of Burial form ELC/BA/03 and delivers this to the Registrar, along with the Lair Certificate and the required Form of Indemnity ELC/BA/04, not less than 48 hours prior to the date and time of the interment, excluding weekends and public holidays. If the aforesaid document is being sent by post, the funeral date should be fixed to allow for possible postal delays.

The Registrar can take details required for Part A of the Particulars of Burial form over the telephone. The Registrar, however, must receive confirmation documents (i.e. Particulars of Burial form, Lair Certificate and required Form of Indemnity) from the Undertaker before excavations commence. If the aforesaid document is being sent by post, the funeral date should be fixed to allow for possible postal delays. The Registrar will not accept forms that have been amended. Any changes required by the Undertaker or Client must be accompanied by a new Particulars of Burial Form which should be clearly marked up a 'Replaces previous form dated xx/xx/xxxx' and must be received by the Registrar 48 hours before the funeral. Any changes to the arrangements received after the Council has commenced excavation of the lair may incur additional charges to the Undertaker or client.

Interim Arrangement from June 2013

Pending development of an electronic burial management system that will be accessible by Undertakers, the Council has adopted interim arrangements that allow a degree of flexibility on the part of undertakers for delivery of paperwork

- *Funeral Directors should deliver the hard copy Particulars of Burial form to the Haddington office as early as possible, meeting the current 48 hour deadline*

- *Where circumstances delay completion of the paperwork, a scanned copy of the Particulars of Burial form should be emailed to burials@eastlothian.gov.uk no later than 48 hours prior to the date and time of the interment (excluding weekends and public holidays).*
- *The hard copy version must be submitted to the Haddington office no later than 24 hours prior to the interment.*

On receipt of the scanned copy, the Council will confirm the funeral arrangements and commence preparation of the lair for interment. On receipt of the hard copy, the Council will compare both versions of the form and, should any changes or anomalies between the two copies be found, that cannot be easily accommodated, such as an increase in coffin size, change of Lair or change of date / time, the funeral will be liable to postponement. Likewise, if the hard copy is not delivered to the Haddington office 24 hours prior to the interment, the funeral will be postponed.

Where the interment of ashes is being sought without the services of an Undertaker then it will be the Registrar's duty to complete Part A of the Particulars of Burial form and ensure that the client completes the required Form of Indemnity whether or not the lair certificate is produced.

Where the style of burial is different from the normal accepted practices (e.g. green burials) it will be incumbent on the client or Undertaker to provide exact details of the requirements for the burial. Detailed discussion will take place between the Undertaker/client and the Registrar/Local Amenity Officer to establish the exact nature and style of the burial. The Registrar/Local Amenity Officer will accommodate any reasonable request subject to consideration of the requirements of Health & Safety and common decency.

5. The Registrar completes Part B of the Particulars of Burial form and retains the top copy. The Registrar then telephones the Local Amenity officer to advise them that the form is completed. The Particulars of Burial Form will then be forwarded to or collected by the Local Amenity Officer, with an advance faxed copy if required, according to the local arrangements in place at the time.
6. The Local Amenity Officer checks the details on the Particulars of Burial form. This involves checking against the Cemetery Day Book and Plan and carefully probing the ground to ensure there is sufficient depth in the lair. (It should be noted that the accuracy of probing the ground cannot be guaranteed).

In the case of a lair not purchased at the time of death, the Local Amenity Officer should also check that the name on the Particulars of Burial form appears on any headstone. (Names may be different due to re-marriage, etc, but this additional check is still considered worthwhile). Where possible the Local Amenity Officer should also check the names on surrounding headstones and lair numbers on Plan as a cross-check. If the Local Amenity Officer is in any doubt, he/she should consult with the Registrar.

7. On receipt of the Particulars of Burials, if any of the details are found to be incorrect or inaccurate, the Local Amenity Officer will contact the Registrar.

8. The Registrar will normally issue to the client, a Certificate of Registration of Death (Form 14) where the death has occurred in Scotland. The client should then pass this to the Undertaker. If the funeral arrangements are for a burial, the Form 14 will be handed over by the Undertaker to the Local Amenity Officer at the cemetery. However, if the death occurs in England or abroad, certification according to the circumstances such as – Certificate of Cremation / Coroner's Acknowledgement / Coroner's Certificate will be made available by the Client / Undertaker. If it is a cremation casket that is being interred the Local Amenity Officer will receive a Cremation Certificate instead of Form 14. In all cases the Registrar will satisfy themselves that the certification offered is appropriate and satisfies the legal obligations of the burial authority, advising the Local Amenity Officer accordingly.
9. Where a cremation casket is being interred without the services of an Undertaker the Cremation Certificate will be handed over to the Local Amenity Officer at the cemetery by the client. If it is given to the Registrar it should be passed to the Local Amenity Officer before the interment.
10. The Registrar sends an invoice requisition to the Finance team. Where a lair is being bought at the same time as the interment then the invoice will include the cost of both lair and interment. Alternatively, the Registrar can accept payment.
11. Where that Particulars of Burial indicate the coffin to be of excessive weight, the Local Amenity Officer will discuss the detailed handling arrangements to be applied with the Undertaker, ensuring completion of a Form of Indemnity for Carrying of Coffin by Family ELC/BA/05 if appropriate to the circumstances.

B. EXCAVATION OF LAIR

1. The grave is excavated with both the length and width being appropriate to the size of the coffin and allowing for the required shoring.
2. The Local Amenity Officer should carefully follow the arrangements for interments set out in the Method Statement No. 24 and the Council's 'Regulations for the Management of Burial Grounds' (particularly Section 8). The Local Amenity Officer should particularly note that:
 - a) The top surface of a coffin shall not in any circumstances be nearer to the surface of the ground than 900mm (3').
 - b) The standard lair shall accommodate two interments, with the first interment at 1800mm (6') depth, depending on the depth of the first coffin to be interred.
 - c) The interment of a coffin intended to be a single interment shall be at 1350mm (4' 6") depth, depending on the depth of the coffin to be interred, to provide a 900mm (3') of soil cover.

- d) If three interments are requested, and it is possible in terms of the soil conditions, the first interment shall be at 2250mm (7' 6") depth, depending on the depth of the first coffin to be interred.
- e) The burial of urns or caskets of ashes shall be permitted at less than 900mm (3') depth without prejudice to later interments in the lair.
- f) **No existing coffin or remains shall be permitted to be removed from any grave with a view to making room for a new interment.**
- g) Regarding interments of children, including stillborn children, all of the above conditions apply. In addition, where a child is the first interment in a lair, the grave shall be excavated to 1800mm (6') or 2250mm (7' 6") as usual (depending on whether two or three interments are anticipated). If the depth of the lair cannot be excavated to 2250mm (7' 6") then two lairs would need to be purchased if 3 interments (including the interment of any child or baby) are required. At the funeral the grave shall be presented in the manner required by the Method Statement No. 24 in order to give the impression of reduced length and depth of grave.
- h) Where the Local Amenity Officer determines that a headstone needs to be taken down on a temporary basis, to facilitate an interment, the Local Amenity Officer will inform the Registrar who, if possible, should advise the affected lair holder.

C. **THE BURIAL**

1. At the time of the funeral the Local Amenity Officer asks the Undertaker or client for the Certificate of Registration of Death (Form 14), Certificate of Cremation, Coroner's Acknowledgement or Coroner's Certificate. (Where the Form 14 is not provided, the Local Amenity Officer must complete a Form 15, inform the Registrar by telephone immediately after the funeral and return it to the Registrar who, in turn will forward the Form 15, within 3 days, to the Registrar where the death occurred, if outwith East Lothian.
2. Preferably out of sight of the mourners, the Local Amenity Officer should check that the details on the Certificate of Registration of Death (Form 14) or Certificate of Cremation match those on the copies of the Particulars of Burial form.
3. The Local Amenity Officer should double-check that the lair number shown on the Particulars of Burial form is the same as that which has been excavated. Before the funeral proceeds, the Local Amenity Officer should discreetly check that the name on the coffin lid matches that on the documents presented by the Undertaker / Client as described in section 1.
4. If there appears to be an error the Local Amenity Officer should immediately contact a senior member of the management team i.e. the Principal Amenity Officer and await instruction.

D. AFTER THE FUNERAL

1. The Local Amenity Officer enters the details on the Weekly Record of Transactions ELC/BA/10 which is sent to the Registrar each Monday and updates the Cemetery Day Book and Plan.
2. The second copy of the Particulars of Burial form and the Certificate of Registration of Death (Form 14) or Cremation Certificate or Form 15, is returned by the Local Amenity Officer to the Registrar within three days of the interment.
3. The Registrar attaches the second copy of the Particulars of Burial form to the top copy and keeps it on file together with Certificate of Registration of Death (Form 14) or Certificate of Cremation or Form 15 and required Form of Indemnity. The Lair Certificate, if any, should be returned to the client, where the Lair Holder is not the deceased. If the Lair Holder is deceased, the Registrar should await instruction from the estate as to any amendment of lair holder details.
4. On returning the Lair Certificate to the Lair Holder or subsequently approved person, the Registrar should confirm the current position with regard to space for further interments in the lair in writing and should also highlight, that, if closed for further coffin interments, the lair can still be used for the interment of cremated remains.

SECTION 4

BURIALS WHERE DEATH OCCURS AT THE WEEKEND OR ON A PUBLIC HOLIDAY

Weekends

East Lothian Registrars' offices are closed during weekends, although some Edinburgh offices are open on Saturdays. They close at 4pm on a Friday, and re-open at 9am on a Monday. Therefore, if a death occurs on Friday evening, Saturday or Sunday, it cannot be registered until the Monday morning in East Lothian. Procedures set out in **Section 3** then apply. Such burials can be timetabled, with the Local Amenity Officer's consent and discretion. By special arrangement, however, at the Council's discretion, lairs may be excavated or funerals allowed on Saturdays or Sundays, but Registrars and Undertakers should indicate clearly to clients that a 50% or 100% surcharge respectively applies for this service for either excavation or interment.

Public Holidays

Local procedures are in place to allow interments to be undertaken during public holidays. Public holidays are taken as only those at Christmas, New Year & Easter, September Weekend or any other national public holiday that is designated at some time in the future. Local Undertakers will be made aware of the procedures for contacting Registrars. By special arrangement, at the Council's discretion, lairs may be excavated or funerals allowed on public holidays, but the Registrars and Undertakers should indicate clearly to clients that a 100% surcharge applies for this service.

SECTION 5

PROCEDURE FOR THE ERECTION OF A HEADSTONE OR MEMORIAL

A memorial can only be erected after the first interment has taken place and once the required application form has been received and approved by the council. According to local ground conditions, the Local Amenity Officer may determine that a period of settlement of up to six months may be required between the date of the first interment and erection of a memorial. The Local Amenity Officer will indicate this when approving an Application to Erect a Memorial Form ELC/BA/06

1. The Client or Monumental Sculptor shall supply the Registrar with a detailed drawing of the proposed memorial showing the overall dimensions of the structure, by completing an Application to Erect a Memorial Form ELC/BA/06 Part 1.
2. If the memorial is deemed to be of an appropriate design, which will be stable, safe and durable and within the maximum dimensions of 1200mm (4') high and 825mm (2'9") wide, or 1650 mm (5'6") if straddling a double lair and of appropriate unobtrusive design, then approval will be granted by the Local Amenity Officer and issued by the Registrar. Further to this, the front to back dimension of a headstone shall be such that it will not protrude beyond the existing established line of stones in

order to maintain the established straight grass edge line. Before issuing approval, the Registrar will consult with the Local Amenity Officer, who, upon inspection will indicate their approval or otherwise to the Registrar within 5 working days. Suitable Foundation sizes will be in accordance with current best practice and national codes. If the proposal is deemed to fall outwith the above guidelines, then the application will be refused by the Local Amenity Officer and a refusal letter issued by the Registrar. The Local Amenity Officer should process the request within 5 working days and should not wait on completion of the foundation until approving the application. Approval for any memorial will be given based on the dimensions, material, shape, safety and respectability of the proposed stone. Approval will not be unreasonably withheld. However, in the case of a dispute, Clause 17 of The Regulations for the Management of Burial Grounds in East Lothian will apply.

3. The Registrar will, in the case of approval to proceed, issue ELC/BA/06 Part 2 and ensure the correct completion of the Form of Indemnity for Erection of Memorials ELC/BA/07 relieving the Council of all responsibility for wrongful erection of a memorial.
4. If the application relates to a replacement headstone, the monumental sculptor / client will indicate in writing if the existing stone is to be disposed of by the Council or set aside for collection at the same time as the new stone is erected. In such cases, the Local Amenity Officer will remove the existing stone upon receipt of form ELC/BA/09 and construct a new foundation according to the dimensions of the new stone. Similarly, if the instruction is for repair or consolidation of an existing headstone, the Local Amenity Officer will set the existing stone aside and construct a new foundation for the Monumental Sculptor to erect the stone on. An application form and Form of Indemnity will not be required in the case of repair or consolidation of an existing headstone.
5. Once approval is received, the monumental sculptor will notify the Registrar of the impending date for erection of the stone, giving at least 15 days notice. The Registrar will complete the Foundation / Lair Marking Instruction ELC/BA/09 and the Local Amenity Officer will then arrange for a headstone foundation to be installed. On completion of the foundation, the Local Amenity Officer will complete Form ELC/BA 09, forward this to the Registrar who will arrange for the appropriate fees plus VAT to be invoiced to the client or monumental sculptor.
6. In the case of a site where pre-formed strip foundations exist, the Registrar will complete form ELC/BA/08 and forward this to the Local Amenity Officer who will mark the lair by spray painting a line each side of the lair and marking the lair number on the concrete. The Local Amenity Officer will then complete Form ELC/BA/08 and return this to the Registrar who will arrange for the appropriate fees plus VAT to be invoiced to the client or monumental sculptor. The monumental sculptor will only proceed with the erection of a memorial/headstone following contact with the Local Amenity Officer, to avoid conflict with other funerals in the Burial Ground.
7. On completion of the erection of the headstone, the Local Amenity Officer will carry out an inspection of the memorial within 2 weeks of it being erected, take a digital photograph of the memorial, clearly showing the inscription and forward this to the Registrar, reporting any irregularities.

PROCEDURE FOR THE REINSTATEMENT OF AN EXISTING HEADSTONE OR MEMORIAL

1. A requirement to reinstate a headstone may come about as a result of a stone having to be removed by cemetery staff from a lair opened for burial or an adjacent lair or as a result of a request from a monumental sculptor or lair holder.
2. Where a stone requires to be removed by cemetery staff, the Local Amenity Officer should complete a form ELC/BA/12A and submit that to the Registrar. The Registrar should then issue a standard Headstone Reinstatement Letter enclosing an Instruction to Reinstate Headstone form ELC/BA/12. If the lair holder accepts the offer contained within the letter, on receipt of the completed ELC/BA/12 instruction, the Registrar will forward this to the Local Amenity Officer for action and completion. On completion of the reinstatement, the Local Amenity Officer will return form ELC/BA/12 to the Registrar who will in turn arrange for the invoice to be raised to the lair holder
3. Where a request to reinstate a headstone originates from the Lair Holder or a Monumental Sculptor, the Registrar will notify the Local Amenity Officer of the lair number and the Local Amenity Officer will then complete form ELC/BA/12A, indicating under Reason for Removal – Lair Holder Request. On receipt of the completed ELC/BA/12A, the Registrar will issue a quotation to the Lair Holder or Monumental Sculptor, enclosing a copy of ELC/BA/12. On receipt of acceptance of the quote, the Registrar will forward ELC/BA/12 to the Local Amenity Officer who will arrange for completion of the works and return to form to the Registrar to issue an invoice to the client.
4. In most cases where the request to reinstate a headstone originates from the Lair Holder or a monumental sculptor, the Council will be responsible for taking down, setting aside and re-erecting the headstone and the scale of charges includes for these actions. If however, the size of the stone is, because of overall size, weight, condition or construction style, beyond the capabilities of the Council to take down and re-erect, the Lair Holder or Monumental Sculptor should be advised of this and specific arrangements agreed and quoted for according to the individual circumstances.

SECTION 6

PROCEDURE FOR MONITORING AND AUDITING

It is extremely important that standards and procedures are monitored for compliance at all stages of the burial process. As well as regular cross checking as part of the designated procedures above, periodic random sampling will be undertaken by the Area Amenity Officer for cemetery records and excavation / backfill, Senior Registrar for paperwork and

appointments and Local Amenity Officer for the actual burial service, at a sufficient frequency to quickly identify any reduction in compliance or weakness in practice.

Such sampling will include;

- auditing timescales between initial requests from Undertakers to confirmation of appointment
- Quality, accuracy and clarity of completed forms and records
- Compliance with the ELC Burial Arrangements
- Compliance with Method Statement 24
- Compliance with Safe Operating Procedure 78
- Adoption and spread of best practice.

Audits should be undertaken in such a way as to ensure each discrete team, including Undertakers and Monumental Sculptors, contributing to either the registration or front-line burial service are sampled at least twice per year.

Over and above this any failures to deliver appropriate standards, recorded as part of the normal following of procedures, will be recorded and discussed with the Principal Amenity Officer.

Audits should be by way of tick sheets Form ELC/BA/11 that cover all areas of the service and the person completing the audit will simply indicate the area and team being audited and file this for future demonstration of compliance with the prescribed procedures.

When an audit is commenced at excavation stage, the Area Amenity Officer should ideally pass the form to the Local Amenity Officer for the burial service stage and finally to the Senior Registrar for the paperwork stage so at least some burials are audited from start to finish.

The Council may also undertake service user surveys to determine the level of satisfaction with service delivery.

Registrars will also maintain rolling records and report as required on the following areas of service;

- Interment numbers and new lair sales per site and cluster
- Ethnic origin and religious background of clients
- Population, deaths and burial numbers
- Outwith area client numbers
- Elapsed time between confirmation of requirements by Undertaker / Client and Interment dates
- Approved and refused memorial application numbers

As an integral part of the monitoring and auditing procedures, these Burial Arrangements will be reviewed periodically to take account of issues that arise as a result of audits, changes to best practice and governance and any outcomes from local stakeholder or national benchmarking groups.

EAST LoTHIAN COUNCIL MANAGEMENT OF HEADSTONES IN BURIAL GROUNDS

Under Section 17 of The Burial Grounds (Scotland) Act 1855, the Council has power of general management, regulation and control of burial grounds and under health and safety legislation, has a duty of care to ensure that the environment of a burial ground presents no danger to operatives, visitors or other professional staff engaged to deliver services within a burial ground.

Upon adoption of the Burial Ground Strategy, the Council has formally accepted responsibility for the maintenance of headstones and related embellishments and is now required to manage such items to avoid as far as reasonably practical, any risk.

Headstones will be considered in three categories

Historic Memorials

Such stones will generally feature in scheduled or listed burial grounds and any safety related, stabilisation or consolidation works will normally require approval from Historic Scotland. The status will require examination of the local schedule of ancient monuments to establish the current position.

Any such works will be limited to maintaining site safety and will involve ideally, stabilisation of the structure or, in worst cases scenarios, isolation of risk through fencing off the monument.

Where appropriate permissions can be obtained, the Council will work with any community or friends group to support an initiative to consolidate or restore historic stones, subject to external funding being available

Post 1900 Memorials

Stones erected after 1900 require no advance approval for stabilisation works and the Council can assess each on its merits as to the appropriate course of action.

Once assessed as requiring action, the Council will initially try to contact the lair holder and seek action from them to address any stability problem. However, in cases of need for immediate action the Council may elect to lay the stone flat in accordance with good practice, ensuring the stone is protected as fully as possible from further damage either through vertical pressure or subsequent grounds maintenance activities.

If the owner can't be traced or is unwilling to undertake any work to restore the stone, the Council may elect to restore the stone to a vertical position either by partial burying in a hole or re-erection on a new foundation

Post April 2015 Memorials

Stones erected after this date will have had an appropriate management fee paid in advance of erection and the Council will be immediately liable for any action required to stabilise the stone in an upright position. Such stones will also have been erected in accordance with current codes of practice and, in recent cemetery extensions may also benefit from being erected on pre-formed strip foundations. Accordingly, it is anticipated that the Council liability will be significantly reduced in the future

Stones will be inspected on a regular basis, in accordance with current best practice and action taken as and when required to maintain their safety and stability

At no time will the Council accept liability for cosmetic finishes or repairs to lettering or inscriptions.

Individual Site Work Assessments

On completion of the current round of headstone examination and testing a spreadsheet showing the estimated volume of work in each site will be produced. This will be broken down into large stones that would require specialist contractors and smaller stones that can probably be repaired using in-house resource and Community Payback Orders. This site by site work assessment will be of particular value to local interest groups and Area Partnerships who may wish to consider in more detail, the local importance of this project.

Detailed Examination and Recording Processes

In order for the Council to demonstrate a reasonable duty of care, a full assessment and recording of all headstone condition will require to be undertaken. This exercise will have to then be repeated on a rolling programme, taking account of where remedial works have been completed and prioritising sites of remaining greatest risk

A Risk Assessment will also have to be completed for each discrete site and this will have to be reviewed on an annual basis, taking account of the progress of the headstone stabilisation programme and further dilapidation through weathering.

Management and resourcing

Discussions to date with colleagues in the Criminal Justice Team have confirmed that Community Payback Orders are an appropriate means of undertaking a percentage of the stabilisation programme but it is estimated that this will only deliver approximately 10% of the annual programme based on completion of the exercise in 5 years. In order to facilitate their input, a number of their team leaders along with Amenity Services staff have had appropriate training in assessment, taking down, founding and reconstruction of headstones. Following on from that, an equipment and materials schedule has been produced and procured by the Council.

Based on 32,800 used lairs with 80% headstone occupancy and 30% requiring repairs to make them safe the projected work inputs are as follows;

- 8,000 headstones requiring consolidation work at an average of £170 per unit = £1.3m
- Of that 8,000, 10% would be larger stones requiring additional works to the value of £350k
- 1,600 stones would require to be completed a year to deliver the programme in an acceptable timescale of 5 years
- It is estimated that Community Payback Orders could complete a maximum of 500 small stones per year at 10 per week taking 16 years to complete the required consolidation and safety works
- Subject to adequate Amenity Services staffing levels, a safety programme of taking down and partially digging in 1000 standard pattern, small to medium stones per year over the winter months would be possible and this approach would reduce if not completely remove the risk of injury to public / staff and damage to the stones as well as facilitate standard in-season grounds maintenance operations

- A decision and appropriate means would then require to be determined regarding whether any stones partially dug in would be considered for full reinstatement.
- Remaining small stones, completed by ELC staff or contractor, at full cost = £375k
- Large stones, completed by specialist contractor, requiring an estimated £335k to complete

The final arrangements for delivering the safety and consolidation programme will be determined upon completion of the current budget process and the resultant staffing and resources available to the Council in which to deliver this programme.