

REPORT TO: Cabinet

MEETING DATE: 10 March 2015

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Burial Ground Strategy

1 PURPOSE

- 1.1 To seek Cabinet approval for the adoption of the East Lothian Council Burial Ground Strategy - which will allow the Council to move forward with development of new burial ground provision, allow officers to take an agreed strategic approach to determining the long-term inputs required to meet the needs of the growing population and formally adopt the revised regulatory and administrative controls required to deliver the burial service.
- 1.2 To seek Cabinet approval to introduce a Management Fee of £100 in respect of applications to erect a memorial stone to contribute towards the long-term responsibility the Council will carry in respect of safety and structural upkeep and for this fee to be reviewed annually in line with the established burial ground charges.
- 1.3 A copy of the Strategy and related papers has been lodged in the Members Library (Ref: 27/15, March 15 bulletin).

2 RECOMMENDATIONS

- 2.1 Members are asked to approve the adoption of the Burial Ground Strategy.
- 2.2 Members are asked to approve the introduction of a Management Fee for erection of memorial headstones.

3 BACKGROUND

- 3.1 The Council has a statutory responsibility to provide a means of burial and with a growing and ageing population and a reducing land resource, the Council requires to set out how it will meet this statutory responsibility for the long-term.

- 3.2 The Council consulted widely with the local community in 2010 and has used the information gathered during this consultation to complete a detailed review of the way it delivers and manages its burial ground services.
- 3.3 A draft of the Strategy was presented to Cabinet in June 2013 and general support was given to the recommendations contained within the Strategy at that time. However, Cabinet did highlight some concerns with regard to shared use of burial ground sites with other amenities and also some proposals to provide burial sites that were shared between clusters.
- 3.4 Taking into account the concerns raised previously, sections of the Strategy have been amended. The amendments now focus on an approach towards providing individual burial facilities for each discrete community where possible or on a cluster basis where individual provision is not possible. The Strategy recommends that the needs of each community will be considered separately and proposals for new burial space will be brought forward on a site by site basis for consideration by the Council.
- 3.5 In terms of the management of the burial service, the Strategy identifies the need for a number of changes to the Rules and Regulations for the Management of Burial Grounds and adjustments to the administration procedures to be applied. In all cases these changes have been consulted on with stakeholders, reflect best practice and are generally in operation at present.
- 3.6 At Cabinet in June 2013, officers were given approval to acquire land for new facilities at Tranent and Dunbar and negotiations are ongoing with land owners in this regard. Options for future provision in the Musselburgh and Preston, Seton & Gosford clusters are currently being explored by officers along with what should be straightforward to deliver in respect of on-site extensions to West Byres, East Saltoun, Pencaitland, Gladsmuir, Dirleton and Whitekirk which will also address traffic safety issues for visitors in those locations. Sites such as Aberlady and East Linton require detailed archaeological investigation, the outcome of which may pose difficult questions in the future.
- 3.7 A summary of the strategic policies and prescriptions contained within the Strategy is provided in Section 17 of the Strategy.
- 3.8 As detailed within the Burial Ground Strategy, the Council as owners of the land are legally responsible for ensuring the health and safety of visitors and employees within the burial grounds. A significant risk to safety exists from the current condition of approximately 8000 memorial headstones, the owners of which are generally deceased or absent.

- 3.9 The Council recently adopted an approach of installing all memorial headstone foundations and requires that monumental sculptors erect stones to the current industry code of practice. Therefore the likelihood of these stones presenting significant risk in future is greatly reduced.
- 3.10 However, there remains a requirement to inspect headstones on a minimum three yearly cycle and expedite repairs to any stone found to present a danger of collapse. In order to minimise this long term financial burden to the Council, it is proposed to introduce a Management Fee payable on approval of application to erect of £100 over and above the current Foundation Fee of £133. On a rolling financial year basis income from these fees will assist with the cost of stabilising the existing stock of memorial headstones and cover the cost of inspecting, recording and undertaking preventative repairs to the whole stock.
- 3.11 Introduction of the combined Foundation and Management Fee would generate income of £233 per application which sits within a range of £61 - £339 and an average of £168 from the 16 local authorities who provided benchmark figures although the local authorities at the lower end of the fee scale also charge for permits for additional inscriptions, cleaning, secondary vases and plaques at an average of £42.

4 POLICY IMPLICATIONS

- 4.1 This report supports the Council in delivering its statutory responsibility to provide burial provision.
- 4.2 The Strategy makes recommendations to secure housing developer contribution that will address the additional burial space required that will arise as a direct result of the related population increase that such housing development will generate.
- 4.3 Introduction of the Headstone Management Fee is in line with the Council Charging Policy 2015 in so much as it lessens the need for Council Tax payers to subsidise the cost of headstone maintenance.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – Provision of the additional facilities and administration improvements will be delivered in line with the current and future approved Capital Plan, revenue budget and income stream generated by the service

- 6.2 Personnel - There are no personnel implications directly resulting from the Burial Ground Strategy.
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 East Lothian Council Burial Ground Strategy 2015 and related appendices have been lodged in the Members Library (Ref: 27/15, March 15 bulletin).

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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.