

**South Ayrshire Council**

**Report by Assistant Director – Place  
to Cabinet  
of 14 June 2022**

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**Subject: Ayr and Troon Cemetery Burial Chambers**

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**1. Purpose**

- 1.1 The purpose of this briefing is to update Cabinet on the investigation into water ingress to the burial chambers at Ayr cemetery.

**2. Recommendation**

**2.1 It is recommended that the Cabinet:**

**2.1.1 notes the outcome of the investigation of water ingress within Ayr cemetery burial chambers; and**

**2.1.2 approves the proposals outlined in section 4 and the cost and funding source of £1.500m set out in section 6.1.**

**3. Background**

- 3.1 An investigation relating to water ingress within the burial chambers at Ayr cemetery extension was undertaken by an exhumation specialist consultant between 10th and 29th January 2022. The investigation was also supported by a Civil Engineering consultant to provide technical advice and materials testing.

- 3.2 It is evident from the initial findings that water was found in all chambers investigated, the likelihood is this will be the case for all occupied burial chambers. The investigation has identified that the water present in the chambers is likely to be surface and rainwater entering through the slats of the lower and upper chambers. We believe this will also be the case in Troon cemetery.

- 3.3 During April and May, tests were undertaken to ascertain the most appropriate method to prevent water ingress in future. These have now concluded with a bespoke, manufactured metal rain cover proving effective in preventing water entering the chambers tested. The test process is now progressing through technical sign off. Now that tests have been concluded the reports from the investigation will be finalised and signed off by all parties.

- 3.4 We appreciate this has been an extremely unsettling and distressing time for families and lair holders and hope to now be in a position to implement a solution that will go some way to providing reassurance around the way forward.

## **4. Proposals**

- 4.1 Works to rectify the current situation will commence on 13 June 2022 with the first two weeks including time for families to discuss the process with the contractor if they have requested to do so. A full programme is currently being finalised, including an indicative timescale and completion date. Work at Troon cemetery will follow following completion at Ayr.
- 4.2 Officers have met with families during May to discuss the proposed process and give the opportunity for feedback, raise concerns as well as share personal requests and wishes. It is clear from these discussions that a number of families wish to hold a short ceremony as the deceased is re-interred within the burial chamber overseen by a local Funeral Director. We have asked the specialist contractor how we may be able to accommodate these wishes and we are currently finalising discussions with Funeral Directors. This will prove challenging and complex as given the nature of the work planned the cemetery extension will be classed as a construction site at this time and Construction, Design and Management (CDM) Health and Safety Regulations will apply. It is likely that this will also increase the period of time required to complete the full programme of work.
- 4.3 It is anticipated the contractor will work 6 days per week, and we would plan to open the cemetery extension again on the Sunday each week for visiting. We have had a number of requests from families who wish their loved one to be re-coffined in a coffin of their choice and this will also be included as part of the rectification process. The programme of work will require the Council to obtain the authority of the Sheriff Court, and further detail regarding this process is provided in the Legal Implications section below.
- 4.4 We have been able to reclaim an area within the old Ayr Cemetery that has allowed us to continue burials for the newly deceased in Ayr during this time. We have received some requests for loved ones to be placed in an earthen burial, however given the capacity constraints within the reclaimed area we would propose to accommodate this wish within Maybole, Monkton & Prestwick or Annbank cemeteries. However, if the number of requests for this are low, we may be able to accommodate within Ayr cemetery.
- 4.5 The last 6 months has required significant staff resource and it is anticipated dedicated resource will be required over the next 6 months to manage the programme effectively and provide the appropriate level of engagement with families and lair holders. Therefore, it is proposed to align the Coordinator (Grounds Maintenance and Bereavement) specifically to this work and backfill her post from the current team at a cost of around £30,000.
- 4.6 The Council has also engaged with Cruse Scotland, a specialist bereavement support organisation who have agreed to support families and lair holders as we work through the process of resolving the issue with the burial chambers. We understand that this has been an extremely unsettling and distressing time for families, and we hope this approach will provide additional independent support during this time. The form of support will be the choice of families themselves, with one-to-one support or potentially the formation of a support group.

## **5. Legal and Procurement Implications**

- 5.1 In order to carry out the required exhumations, a legal process will be necessary to seek the authority of the Sheriff Court. This involves the lodging of a petition with

the Sheriff Court, which explains the circumstances and the need for the exhumations and is accompanied by a Feasibility Certificate signed by the Service Lead, Neighbourhood Services, and Forms of Consent signed by the relevant lair holders.

- 5.2 Previous experience of the Petition required in relation to Tarbolton cemetery indicates that the Sheriff Court were willing to deal with the matter in one Petition covering all the relevant lairs. It is hoped that this would be the case for the current matter in Ayr, and another for Troon in due course. Individual requests can also be made as required.
- 5.3 Legal advice is currently being considered to establish whether there are grounds for the Council to undertake legal action against the contractor(s) to recover all or any costs incurred by the Council.
- 5.4 In terms of appointing a supplier to carry out this work there are no procurement frameworks available that cover this specialist requirement. Another option to appoint a supplier for this value of contract would be to run an open tender exercise which would take approximately 3/4 months to complete. However, this timescale would have a detrimental effect on the condition of the site(s) and work is required to start sooner (June 2022).
- 5.5 Given the nature and urgency of the requirement an appointment will be made under emergency conditions referencing clause 4.2.1 of the Councils standing orders relating to contracts.

## **6. Financial Implications**

- 6.1 At this point the Council will have to absorb all costs all costs of the rectification. There is currently £2,304,044 in the capital budget for cemetery infrastructure which will be utilised to fund the programme of work and associated costs. There is still scope to undertake urgent and structural work within this budget and other planned work will be re-profiled to future years. This may impact on future years and will require review as infrastructure investment is identified.
- 6.2 Initial indications are that the cost of the works required for Ayr Cemetery will be in the region of £1,500,000. Future costs are best estimates at this point in time and it is likely these will change as the programme of work is developed and rolled out. A full programme of works has yet to be established for Troon cemetery.

## **7. Human Resources Implications**

- 7.1 It is proposed to align the Coordinator (Grounds Maintenance and Bereavement) specifically to this work and backfill her post from the current team at a cost of around £30,000.

## **8. Risk**

### **8.1 *Risk Implications of Adopting the Recommendations***

- 8.1.1 The programme of work is still being finalised to accommodate families and lair holders wishes as far as possible. This may mean that the programme will take longer to complete, and the overall costs increase.

## 8.2 **Risk Implications of Rejecting the Recommendations**

8.2.1 If the recommendations are rejected, this is likely to impact on the reputation of the Council and cause additional distress to families and lair holders.

## 9. **Equalities**

9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping Process. There are no significant positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is shown in [Appendix 1](#).

## 10. **Sustainable Development Implications**

10.1 **Considering Strategic Environmental Assessment (SEA)** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy, or strategy.

## 11. **Options Appraisal**

11.1 An options appraisal has not been carried out in relation to this proposal.

## 12. **Link to Council Plan**

12.1 The matters referred to in this report contribute to Commitments 1 and 6 of the Council Plan: Fair and Effective Leadership/ Leadership that Promotes Fairness; and 'A Better Place to Live/ Enhanced environment through social, cultural, and economic activities.

## 13. **Results of Consultation**

13.1 There has been no public consultation on the contents of this report.

13.2 Consultation has taken place with Councillor Martin Kilbride, Portfolio Holder for Buildings, Housing and Environment, and the contents of this report reflect any feedback provided.

## 14. **Next Steps for Decision Tracking Purposes**

14.1 If the recommendations above are approved by Members, the Assistant Director – Place will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the 'Council and Cabinet Decision Log' at each of its meetings until such time as the decision is fully implemented:

<b>Implementation</b>	<b>Due date</b>	<b>Managed by</b>
Further update to Cabinet	August 2022	Service Lead – Neighbourhood Services

**Background Papers**    None

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**Date:**    7 June 2022

## South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: [Equality Impact Assessment including Fairer Scotland Duty](#)

Further guidance is available here: [Assessing impact and the Public Sector Equality Duty: a guide for public authorities \(Scotland\)](#)

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. See information here: [Interim Guidance for Public Bodies](#) in respect of the Duty, was published by the Scottish Government in March 2018.

### 1. Policy details

Policy Title	Ayr and Troon Cemetery Burial Chambers
Lead Officer (Name/Position/Email)	Kenneth Dalrymple, Service Lead – Neighbourhood Services – kenneth.dalrymple@south-ayrshire.gov.uk

**2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts**

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	-	-
Disability	-	-
Gender Reassignment (Trans/Transgender Identity)	-	-
Marriage or Civil Partnership	-	-
Pregnancy and Maternity	-	-
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	-	-
Religion or Belief (including lack of belief)	-	-
Sex – gender identity (issues specific to women & men or girls & boys)	-	-
Sexual Orientation – person's sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	-	-
Thematic Groups: Health, Human Rights & Children's Rights	-	-

**3. What likely impact will this policy have on people experiencing different kinds of social disadvantage? (Fairer Scotland Duty). Consideration must be given particularly to children and families.**

Socio-Economic Disadvantage	Negative Impacts	Positive impacts
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	-	-
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	-	-
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	-	-
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	-	-
Socio-economic Background – social class i.e. parent’s education, employment and income	-	-

**4. Do you have evidence or reason to believe that the policy will support the Council to:**

General Duty and other Equality Themes Consider the ‘Three Key Needs’ of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Eliminate unlawful discrimination, harassment and victimisation	Low
Advance equality of opportunity between people who share a protected characteristic and those who do not	Low
Foster good relations between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low
Increase participation of particular communities or groups in public life	Low
Improve the health and wellbeing of particular communities or groups	Low
Promote the human rights of particular communities or groups	Low
Tackle deprivation faced by particular communities or groups	Low

**5. Summary Assessment**

<p><b>Is a full Equality Impact Assessment required?</b> (A full Equality Impact Assessment must be carried out if impacts identified as <b>Medium and/or High</b>)</p>	<p><del>YES</del></p> <p><b>NO</b></p>
<p><b>Rationale for decision:</b></p> <p><b>It is not anticipated that any structure changes will impact on equalities considerations</b></p>	
<p><b>Signed :</b> Kevin Carr <span style="float: right;"><b>Service Lead</b></span></p> <p><b>Date:</b> 17 May 2022</p>	