

Citizen Participation and Public Petitions Committee

2nd Meeting, 2023 (Session 6), Wednesday 8
February 2023

PE1941: Stop the destruction of headstones within community cemeteries

Petitioner	Cllr Andrew Stuart Wood
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions taken by Local Authorities when undertaking their statutory duty of ensuring Health & Safety within our cemeteries.
Webpage	https://petitions.parliament.scot/petitions/PE1941

Introduction

1. The Committee last considered this petition at its meeting on 28 September 2022. At that meeting, the Committee agreed to write to COSLA and to the Chair of the Burial Regulations Working Group. The Committee also agreed to invite the petitioner and relevant stakeholders to provide evidence at a future meeting.
2. The petition summary can be found at **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a response from the Scottish Government which is included at **Annexe C**.
4. The Committee has also received a written submission from Friends of Hawkhead Cemetery which is included at **Annexe D**.
5. COSLA advised that individual local authorities hold the information requested by the Committee. 20 of 32 local authorities have provided written submissions which can be found on the [petition's webpage](#).

6. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
7. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
8. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

Action

The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE1941: Stop the destruction of headstones within community cemeteries

Petitioner

Cllr Andrew Stuart Wood

Date lodged

30 May 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions taken by Local Authorities when undertaking their statutory duty of ensuring Health & Safety within our cemeteries.

Previous action

Oliver Mundell MSP has been contacted. We have also highlighted the overzealous actions taken by sub contractors acting on behalf of our Local Authority. We have brought this destruction to the attention of the Ombudsman and lodged small claims seeking the cost of repair and reinstatement of damaged headstones.

Background information

As an elected member to the local authority, I have been approached by many family members regarding headstones that have now been dismantled and either left lying on the ground or dug into the lair, leaving many names unreadable and exposed to erosion from the grounds' moisture. I have challenged the council officers, who claim that this is Scottish Government policy that they are carrying out. I am now told the council intends to continue with the unlawful destruction of headstones within a B-listed cemetery without planning consent, community consent, and family members' consent, all of which is emotionally distressing for the 14 families affected.

The Scottish Government should ensure a properly funded maintenance and repair policy is in place and is carried out instead of the present destruction of headstones left lying on the ground or dug into the lair.

Annexe B

Extract from the Official Report of last consideration of PE1896 on 28th September 2022

The Convener: PE1941, which has been lodged by Councillor Andrew Stuart Wood, calls on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions taken by local authorities when undertaking their statutory duty of ensuring health and safety within our cemeteries.

The SPICe briefing on the petition explains that local authorities have general duties to address hazards in burial grounds but that the maintenance of headstones and other memorials is the responsibility of the owners of the burial grounds.

The Scottish Government indicates that it is unable to intervene in operational matters affecting burial grounds because that is the responsibility of the relevant burial authority. The response highlights the work of the burial regulations working group and the plans to prepare a statutory code of practice and associated guidance for burial authorities.

I have heard expressions of interest and concern in relation to the petition. Do members have any views?

Alexander Stewart: There is no question that the issue has been raised by a number of individuals and that such destruction now seems to be practice in some local authority areas. I appreciate that individuals might no longer be able to maintain, or be part of the process of looking after, a headstone because their family is no longer there or those individuals are deceased. However, we need to seek clarity on the issue.

COSLA is one of the first places that we should go to ask whether local authorities routinely liaise with lair owners on maintenance and how they do so, because it is important to find that out. I appreciate that councils are concerned with health and safety, but it can have a massive impact on a family if they turn up to see a headstone and find that it has been destroyed. People have written to me on that topic and I have then liaised with the local council.

There is also an opportunity for us to write to the Scottish Government's burial regulations working group, which has a role to play. We should ask what consideration it will give to the need for and value of a national approach to the monitoring and regulation of local authority actions. Will it also consider having a funded maintenance and repair policy, with a timescale, and how that timescale would be planned for? Those are the recommendations that I suggest.

The Convener: Do members have any other thoughts?

David Torrance: I agree totally with my colleague Alexander Stewart, but could the committee also write to the chair of the burial regulations working group to request that it engage with the petitioner?

The Convener: Indeed. I would quite like to hear from the petitioner, too. I would like to adopt those suggested actions but also have a discussion with the petitioner when we have received those responses. He is an elected councillor, so it would be quite interesting to hear his view. I invite the clerk to consider whether it might be useful for us to speak to anyone else in the light of the responses that we receive.

I have had representations—I do not know whether they are hearsay, which is why I think that they are worth exploring—that, in some cases, a general decision has been taken just to go in and flatten a lot of headstones, whether they are at risk or not, as a pre-emptive measure and without reference. A lot of relatives have become quite distressed to find that such action has been taken. It seems to me that, in the drafting of guidelines, there is currently something of an open environment whereby there is an opportunity to discuss the issues raised in the petition, to which we might make a useful contribution. I would be grateful if we could do that.

Are members content that we do so?

Members *indicated agreement.*

Annexe C

Scottish Government submission of 19 October 2022

PE1941/B: Stop the destruction of headstones within community cemeteries.

Thank you for your correspondence of 30 September 2022 to the Chair of the Burial Regulations Working Group, seeking views on Petition PE1941. I am responding as Deputy Director for the Health Protection Division, with responsibility for the legislation and overarching policy governing the Burial and Cremation (Scotland) Act 2016 ('the 2016 Act').

I am sorry that the upkeep of the cemetery did not meet the expectations of the families who contacted Councillor Wood and that this has been distressing for them.

I understand that the Citizen Participation and Public Petitions Committee has asked the Burial Regulations Working Group to consider the Petition PE1941. The Working Group meetings have concluded and the minutes of meetings are [published](#) on the Scottish Government website. The Group [discussed](#) the maintenance and management of burial grounds as part of the wider considerations in developing regulations for burial. The work by officials in the Burial and Cremation Team to develop the content of the regulations is ongoing.

In my [letter](#) of July 2022, I addressed the responsibilities of burial authorities for maintenance, safety and management; the statutory duty of burial authorities, as employers for the health, safety and welfare of staff and visitors to burial grounds; the guidance produced in 2019 on burial ground memorial safety; codes of practice and guidance; and the set-up of the funeral industry inspectorate.

As you are aware the cost of maintaining and repairing headstones is the responsibility of the headstone owner. Funding from the Scottish Government for maintenance and repair of headstones is not being considered.

The legislation, guidance and code of practice will set out standards for all burial authorities on Scotland, ensuring consistent, national minimum standards. There will be a public consultation on the draft regulations, which will include sections on maintenance and management of burial grounds. We would encourage the Petitioner and affected families to respond to the consultation when it is published.

Officials in the Burial and Cremation Team welcome views from all interested parties on the development of regulations and the implementation of the 2016 Act. The team can be contacted at BurialandCremation@gov.scot.

Annexe D

Friends of Hawkhead Cemetery submission of 18 November 2022

PE1941/C: Stop the destruction of headstones within community cemeteries

I write on behalf of Friends of Hawkhead Cemetery (FOHC). Friends of Hawkhead Cemetery was formed earlier this year with the aim of connecting people who are interested in improving the cemetery and engaging in productive discussion about what issues should be addressed.

We launched a public consultation survey, the results of which can be shared with the Committee upon request. . More than 500 people participated and 90% of respondents wanted Renfrewshire Council to reinstate the headstones within the cemetery, thus preserving respect for the dead, retaining culture and historical aspects and also the character of Hawkhead Cemetery.

We recognise that the council's primary responsibility is to ensure the health and safety of cemetery users, general public, staff and contractors. We also recognise that the council have no responsibility for the upkeep/repair/reinstatement of the headstones.

However, while welcoming a pro-active approach to memorial safety FOHC are alarmed at the methodology adopted by the council and question whether it is commensurate with the aims of either the Scottish Government or the council. FOHC acknowledge that it is an extremely sensitive situation ensuring the safety of the living whilst respecting those buried within the cemetery.

In the opening paragraphs of the council's own policy on memorial safety, which followed the guidance issued by the Scottish Government on this subject, the council references the tragic death of a child caused by a falling monument, the Ross memorial, in a Scottish cemetery and the subsequent Fatal Accident Inquiry.

FOHC would contend that Renfrewshire Council and many other Scottish local authorities require to urgently review their approach to memorial safety. Larger memorials, the Ross memorial was just under

7ft in height and weighed approximately 2.4 tons, cannot be dealt with in the same way as smaller memorials. Within the determination issued by Sherriff Linda Ruxton, who led the FAI, particular emphasis is put on the need to differentiate between the size, safety, stability and construction of memorials.

Throughout October more than 100 headstones have been laid flat by employees of Renfrewshire Council within Hawkhead Cemetery. Hundreds of headstones throughout Renfrewshire's cemeteries have met a similar fate. This prompted FOHC to write to the council, the Provost, councillors and all the community councils within Renfrewshire Council asking them to reflect on the damage being done to the cemetery and whether we could ensure health and safety by introducing a different approach.

We believe that writing to lair holders in advance of the council's inspection of headstones would help remove a lot of the distress and anguish caused to relatives. Recent press articles from throughout Scotland strongly condemn the overzealous actions of laying flat, when in fact making safe on a temporary basis and agreement on repairs would result in a quicker, more cost effective solution. In effect a one-stop shop would reduce upset to relatives, whilst increasing safety for cemetery users, council employees and the other benefits previously mentioned.

Fixed price examinations of headstones could be agreed by the council with memorial masons. Families would be expected to fund the initial examination and any resultant repair costs.

FOHC would urge the Scottish Government to make available specified funds for selected programmes of renovation of unsafe memorials and to recognise the strength of the case for such funding. It needs to believe that further consideration should be given to the extent of the problem, the size of the commitment, and to exploring mechanisms which may provide an alternative to public funding by the use of lottery money, donations and crowdfunding. Access to funds should be conditional on the development of detailed management plans for the burial ground including future proofing and a prevention strategy.

In conclusion, this petition has raised important issues regarding the values which society attaches to cemeteries, both as worthy last resting places for the deceased, and as environmental, historical and cultural amenities for the local community. There are inevitably tensions

between the two requirements, health and safety against respect for the deceased. These tensions need to be managed and resolved.

May I wish you well in your consideration of a very sensitive subject.