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| Your introduction to being a Victorian cemetery trust member  |
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# Welcome

This cemetery trust induction booklet has been developed to provide information relating to your role as a member of a Victorian cemetery trust.

# Overview of the cemeteries sector in Victoria

In Victoria, all public cemeteries and crematoria are situated on Crown land and managed by public cemetery trusts.

Cemetery trusts are established and trust members are appointed under the *Cemeteries and Crematoria Act 2003* by the Governor-in-Council.

There are approximately 3,200 cemetery trust members appointed to 487 public cemetery trusts in Victoria, of which:

* five are classified as Class A cemetery trusts
* the remainder are classified as Class B cemetery trusts.

The Victorian cemeteries sector relies heavily on the large volunteer base drawn from local communities.

# Cemeteries and Crematoria Act 2003

The primary legislation on which cemetery trusts are governed under is the Cemeteries and Crematoria Act.

The objectives of the Cemeteries and Crematoria Act are to ensure that:

* human remains are treated with dignity and respect
* all Victorians have access to cemetery and crematoria services
* cemetery trusts operate effectively and efficiently in accordance with the Cemeteries and Crematoria Act.

Accompanying the Cemeteries and Crematoria Act is the Cemeteries and Crematoria Regulations 2015, which set out model cemetery trust rules, as well as other more prescriptive information such as depths of burials and interment and the format of cremation authorisation forms.

Please note: Depending on the size and scope of a cemetery trust’s operations and resources, other pieces of legislation are also relevant and applicable. For example, laws relating to native vegetation, occupational health and safety, and employment.

# The role of a cemetery trust

Cemetery trusts are an integral part of our society and serve the community by providing cemetery services and maintaining public cemeteries.

Ultimately, cemetery trusts are accountable to the Minister for Health and are responsible for the conduct and performance of the cemetery trust entity.

At a general level cemetery trusts have:

* a **strategic role** in setting the overall operational direction of the cemetery trust
* a **stewardship role** in ensuring that the cemetery trust’s activities reflect public sector values and employment principles, and that the cemetery trust has arrangements in place to meet its statutory obligations and safeguard assets it has under its management
* a **governance role** in making sure the functions of the trust and roles and responsibilities of all trust members are carried out in an equitable manner.

Trust members collectively share the ultimate responsibility for the trust’s success. Individually, trust members have a responsibility to ensure the trust is undertaking its responsibilities and are aware of the current regulatory requirements and the evolution of contemporary practises in which the trust operates.

Governance encompasses the **processes** by which trusts are directed, controlled and held to account. It includes the authority, accountability, leadership, direction and control exercised in a trust.

These processes can be summarised under three key elements:

* **structural elements** covering a commitment to governance, policy, understanding and continuous improvement
* **operational elements** covering identification of governance issues, procedures, dealing with breaches and complaints, record keeping and internal reporting
* **maintenance elements** covering training, communication of principles and a culture of good governance, monitoring, review and liaison with stakeholders.

The essential reasons why trusts should adopt good governance processes and practices are:

* to preserve and strengthen stakeholder confidence
* to provide the foundation for a high-performing trust
* to ensure the trust is well placed to respond to a changing external environment.

# Functions of Class B cemetery trusts

A Class B cemetery trust consists of between three and eleven trust members who are appointed for a term of office not exceeding five years and are eligible for reappointment. Note: Trust members appointed prior to 1 January 1996 are lifetime members and remain in office until they resign, pass away or are removed from office by the Governor in Council.

Members of cemetery trusts are referred to as ‘**trust members**’, to avoid confusion with those appointed as trustees under the *Trustee Act 1958*.

The functions of a Class B cemetery trust are broadly outlined under s. 12 of the Cemeteries and Crematoria Act and require Class B trusts to:

* properly and efficiently manage and maintain the cemetery
* carry out any other function that may be required by legislation.

In exercising its functions, a trust will recognise:

* its obligations in relation to **funding of the perpetual maintenance** of the public cemetery
* the **cultural and religious values** of the community
* the **heritage values** (if any) of the public cemetery.

# Functions of Class A cemetery trusts

A Class A cemetery trust consists of between six and nine trust members who are appointed for up to three years and are eligible for reappointment.

Section 12A of the Cemeteries and Crematoria Act sets out the functions of a Class A cemetery trust.

Class A trusts are required to:

* properly and efficiently **manage and maintain** each public cemetery for which it is responsible
* develop **annual plans and strategic plans** for the operation of the trust and to monitor compliance with those plans
* develop annual **business plans, strategies and budgets** to ensure the efficient and accountable provision of services under the Cemeteries and Crematoria Act and the long-term viability of the trust
* establish and maintain effective systems to ensure the **services provided by the cemetery trust meet the needs of the communities** it serves, and that the views of those communities are taken into account
* oversee the **organisational structure** of the trust
* **employ a CEO** for the effective operation and management of the trust and each public cemetery for which it is responsible
* **monitor the performance** of the CEO
* ensure there are systems in place to enable effective and accountable **risk management, financial management and records management** of the trust
* provide **leadership assistance and advice** as requested to the listed Class B cemetery trusts
* establish **committees** in accordance with the Cemeteries and Crematoria Act and ensure those committees operate effectively
* ensure the Secretary of the department is informed, as soon as practicable, of any significant issues of **public concern** provided by the cemetery for which that trust is responsible or any **significant risks** that affect or may affect the trust or services provided by the cemetery for which that trust is responsible
* develop a **code of conduct** for members of the cemetery trust and for staff
* ensure members of the cemetery trust receive adequate **training** to enable them to meet their obligations as members of the cemetery trust
* carry out any other function that may be required by legislation.

In exercising its functions, a Class A trust will recognise:

* its obligations in relation to funding of the perpetual maintenance of the public cemetery for which it is responsible
* the cultural and religious values of the community it serves
* the heritage values (if any) of the public cemetery for which it is responsible
* the need to ensure it uses its resources in an effective and efficient manner
* the need to ensure public resources across the cemeteries and crematoria sector are used effectively and efficiently.

# Role and responsibilities of a trust member

All trust members have legal obligations and duties under:

* the Cemeteries and Crematoria Act
* the Cemeteries and Crematoria Regulations
* the *Public Administration Act 2004*, and all other relevant legislation
* common law
* the administrative law principles of natural justice and procedural fairness
* the organisation’s codes of conduct and/or model rules
* guidelines issued or endorsed by the department.

In addition, every trust member has a governance role, which generally includes:

* attending and participating in trust meetings
* assisting in developing policies and procedures for the organisation including (but not limited to) complaints handling, record keeping, financial integrity, occupational health and safety, and purchasing
* liaison with community and government stakeholders
* involvement in identifying and managing risk
* assisting in strategic planning
* involvement in ongoing trust performance review and development of continuous improvement strategies.

**Class A and the larger Class B** cemetery trusts employ staff to undertake day-to-day operational activities (processing documentation in relation to issuing rights of interment, gardening, maintenance, marketing, supervising interments and exhumations, record keeping and monitoring and reporting on the financial position and performance of the trust).

However, most of Victoria’s **Class B** cemetery trusts do not employ staff. In many instances, Class B trust members also undertake operational functions in addition to their trust governance roles. Operational roles performed by a Class B cemetery trust member can include:

* customer services (dealing with members of the public in relation to interments or complaints handling)
* operations (the digging of the grave, attendance at burial services to ensure public safety, record keeping and reporting to the department)
* maintenance of the grounds
* finances (invoicing, banking, bookkeeping)
* managing external stakeholders (such as funeral directors, monumental masons and the local community).

## Conflicts of interest

Conflicts of interest must be declared prior to appointment to a cemetery trust **or** at any time during the trust member’s term. If a trust member has a conflict of interest or perceived conflict of interest, they are then required to disclose any interest that could conflict with the proper performance of their duties. A conflict of interest management plan should be agreed to in writing by the member and trust and submitted to the department.

**Example:** If a member of the trust obtained information about an upcoming government tender, it would be an improper use of their position and information gained in the position to then use that information to help with a tender application on behalf of, for example, another not-for-profit organisation or a business owned by a family member.

## Trust member protection and insurance

In carrying out a function or power under the Cemeteries and Crematoria Act, a member of a cemetery trust is not personally liable for anything they do or omit to do in good faith. In such instances, liabilities that would result from the actions of individual trust members attach instead to the cemetery trust.

As the insurer for the State of Victoria, the Victorian Managed Insurance Authority provides insurance services to cemetery trusts and cemetery trust members. This insurance provides cover for trust members and/or officers of the trust against third-party claims for wrongful acts.

# Appointment of trust members

All cemetery trust members (Class A and Class B) are appointed by the Governor in Council under the Cemeteries and Crematoria Act.

## Class A cemetery trusts

The appointment process for Class A cemetery trusts is primarily conducted and managed by the department in conjunction with the relevant trust.

All positions are advertised and candidates are assessed according to a skills-based matrix to ensure the trust collectively has a broad set of skills to assist in performing its functions.

## Class B cemetery trusts

The appointment process for Class B trust members is primarily conducted by the trust itself.

When seeking potential nominees for Class B trust membership, the requirements of the position and the selection criteria should be clearly communicated to suitable candidates.

All appointments to Class B cemetery trusts are advertised in local newspapers, nominees interviewed by the trust and consensus from the majority of trust members to nominate a particular person(s) for appointment.

Application forms for appointment to a Class B cemetery trust must be endorsed by the chairperson of the trust and then submitted to the department for processing.

Please note: All costs associated with advertising for trust members in local newspapers are covered by the department.

# Qualities and skills of trust members

Each cemetery trust can determine the right skill set for its own particular organisation based on the size and scope of its operations.

Ideally, a cemetery trust will include members who all together have a combination of the appropriate and relevant skills and experience. For example:

* strategic thinking
* leadership
* risk management
* reading and understanding financial statements
* legal skills
* marketing and communication
* stakeholder management
* working on a board, in management or in business
* community awareness and involvement.

Other qualities of trust members include:

* integrity and standing in the community
* demonstrated honesty
* tolerance of different views
* a record of acting in good faith and in the best interests of an organisation
* ability to listen, analyse think clearly and work well with others
* willingness to attend meetings, ask questions and take responsibility
* ability to be a team player
* good business judgement.

# What to ask for from your trust chairperson or secretary

All trust members should be taken on a tour of the cemetery and have access to the information listed below. Note: The full checklist is only applicable to larger trusts.

* A list of all trust members and senior staff, including all contact information.
* An annual agenda and a schedule of meetings for the next 12 months (where appropriate).
* Details of the subcommittees and the role they play (including copies of the committee charters).
* The minutes of previous recent trust meetings.
* The trust’s charter.
* All relevant documents that provide a new member with an overview of the organisation such as history, long-term plans and policies, number of interments per year.
* A chart of the organisation’s structure.
* The Cemeteries and Crematoria Act.
* Reports detailing the organisation’s financial situation such as annual financial statements for the past three years.
* Procedures for signing off the abstract of accounts.
* Copies of internal audit reports (if any).
* The strategic plan or current year business plan including the budget.
* The CEO or manager’s job description (where they are in place).
* A copy of the directors’ and officers’ liability insurance policy.
* Information about the trust’s record-keeping and complaints-handling processes.

# Fees and allowances

**Class A** trust members provide their services on a paid basis. Under the Cemeteries and Crematoria Act, Class A cemetery trust members are also entitled to receive reimbursement of reasonable expenses incurred in carrying out the duties of their office.

**Class B** trust members provide their services on an unpaid, voluntary basis. For cemetery trusts with adequate revenue, the position of a non-member trust secretary may receive payment.

A member of a Class B cemetery trust is entitled to receive travelling and other allowances. Such allowances are to be paid from the funds of that trust.

Claims for expenses must be reasonable and necessary and incurred in the course of authorised work. Expenses can only be paid upon presentation of receipts and these must be endorsed by the chairperson of the trust. The travelling and other allowances (up to a maximum of $4,000 per annum) can be paid as follows:

* travelling expenses – up to $2,000
* postage and administrative expenses – up to $2,000

The maximum allowances are **subject to** the ability of the trust to fund the expenses.

# Information and resources

## Department of Health

For more information regarding the cemeteries sector and functions and operations of a cemetery trust, please visit the [department’s website](https://www.health.vic.gov.au/public-health/cemeteries-and-crematoria) <https://www.health.vic.gov.au/public-health/cemeteries-and-crematoria>.

The Cemetery Sector Governance Support Unit can be contacted by telephone on freecall 1800 034 280 or by email <cemeteries@health.vic.gov.au>.

## Training

To assist trust members in their roles, the department provides sector-specific training in governance and operations for Victorian cemeteries trusts.

For Class A trust members this is in the form of a free one-day course focused on the legislative framework under which they operate.

For Class B trust members, a free two-day governance training course and an online cemetery essentials training course is provided.

## Other support and assistance

Other organisations that provide valuable resources:

* Cemeteries and Crematoria Association of Victoria
* Victorian Managed Insurance Authority
* Victorian Public Sector Commission

# Questions and answers

## What is the difference between Class A and Class B cemetery trusts?

Class A cemetery trusts have greater legislative financial and reporting responsibilities and functions than Class B cemetery trusts.

Currently, there are five Class A cemetery trusts in Victoria (Ballarat General Cemeteries Trust, Geelong Cemeteries Trust, Greater Metropolitan Cemeteries Trust, Remembrance Parks Central Victoria and Southern Metropolitan Cemeteries Trust).

All other Victorian cemetery trusts are categorised as Class B.

## What time commitment will the role require?

The time commitment for each trust will vary according to the size, scale of the trust’s operations and the complexity of the issues the trust is facing. Time commitment is something best discussed with the trust chairperson and existing trust members. The department recommends that trusts meet at least four times a year.

## What are the trust meeting and committee schedules?

Trust meeting times and schedules vary from trust to trust. It is an important question to ask of your chairperson so that meeting dates can be included in your diary.

## Where can I find the rules for the operation of the cemetery trust?

The primary rules regarding the operations of a cemetery trust can be found in the Cemeteries and Crematoria Act and Cemeteries and Crematoria Regulations. Other legislation may be applicable depending on the size of the cemetery trust.

## What skills or experience will be sought from me?

Cemetery trusts aim to have a balance of skills and experience across the collective group and it would help to articulate the exact skill set you would be seeking to enhance. Knowing the trust’s expectations will help to assess whether you can capably fulfil the role.

## Are trust members covered by professional indemnity or directors’ and officers’ insurance for the decisions they make?

Yes. The Victorian Managed Insurance Authority manages a whole-of-sector policy that covers directors’ and officers’ insurance.

## Is there any training for trust members?

Yes. Our Community provides free industry-specific training for both Class A and Class B cemetery trust members on behalf of the department. Contact Our Community by email at <training@ourcommunity.com.au> or phone (03) 9320 6810. More information is available on the [Our Community website](https://communitydirectors.com.au/training/victorian-cemetery-trusts-governance-and-operational-training) <https://communitydirectors.com.au/training/victorian-cemetery-trusts-governance-and-operational-training>.

## How does the trust evaluate its performance?

A healthy trust continually evaluates its own effectiveness. Cemetery trusts should evaluate their own performance as a matter of good governance. It would be a good idea to have an understanding of how the particular cemetery trust you are interested in joining evaluates their performance, with a view to continuous improvement. The evaluation may be informal via a discussion or a formal survey independently facilitated.

# Contact us

Please do not hesitate to contact the department if you have any queries:

Telephone: 1800 034 280 (freecall)

Email: <cemeteries@health.vic.gov.au>

Post: Cemetery Sector Governance Support Unit
Department of Health
GPO Box 4057
MELBOURNE VIC 3001