

# Cemetery Sector Governance Support Program newsletter

Edition 2, 2020

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## Contact us

Telephone: 1800 034 280 (freecall)

Fax: (03) 9096 9186

[Email the Cemetery Sector Governance Support Program](mailto:cemeteries@dhhs.vic.gov.au) <cemeteries@dhhs.vic.gov.au>

[Visit the Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria)

<<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria>>

### Postal address

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## Welcome

Welcome to the Cemetery Sector Governance Support Program's (the program) newsletter.

## Important information

### Overview

As you are aware, a State of Emergency and a State of Disaster has been declared in Victoria to combat COVID-19. This provides the Chief Health Officer and the Minister for Police with additional powers to do whatever is necessary to contain the spread of COVID-19 and to reduce its risk to the health of Victorians.

### Online resources about the impacts of COVID-19 and current restrictions

Up-to-date information about Victoria's COVID-19 restriction levels and how to stay safe is available on the department's [Coronavirus website](https://www.dhhs.vic.gov.au/coronavirus) <<https://www.dhhs.vic.gov.au/coronavirus>>.

Information specific to the cemetery sector is also available in the frequently asked questions on the impacts of COVID-19 on cemetery trusts and funerals on the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/about/publications/factsheets/FAQs-Impacts-of-coronavirus-on-cemetery-trusts-and-funerals) <<https://www2.health.vic.gov.au/about/publications/factsheets/FAQs-Impacts-of-coronavirus-on-cemetery-trusts-and-funerals>>. Please note that when this document is being updated it will be temporarily unavailable.

This is a rapidly changing environment and we recommend that trusts regularly check these online resources to stay up-to-date.

## Program telephone number

We advise that the program has recommenced taking calls on our 1800 034 280 freecall number.

However, before making a call, we encourage you to:

- Visit the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria>> where, more often than not, you will find the answer to your enquiry.
- If a visit to the website does not answer your enquiry, please [email the program](mailto:cemeteries@dhhs.vic.gov.au) <[cemeteries@dhhs.vic.gov.au](mailto:cemeteries@dhhs.vic.gov.au)>.
- If the website does not answer your enquiry and you do not have access to email, please call the program on 1800 034 280 and follow the prompts.

## Program website

The Cemeteries and Crematoria website is a comprehensive resource containing information about the Victorian cemeteries and crematoria sector. The website includes detailed guidance materials and templates to help cemetery trusts meet their governance responsibilities.

To access the website's homepage, you can type the address 'health.vic.gov.au/cemeteries-and-crematoria' into your web browser or search 'cemeteries health vic' in Google and click on the top search result.

The main menu on the homepage contains square tiles covering 12 key topics that will lead you to different sections of the website with more detailed information. For example, to access the Abstract of accounts page, click on 'Governance and finance', then 'Finance' and then 'Abstract of accounts'.

You can also click on hyperlinks that appear in dark red text to download documents and access additional information and other useful websites.

## Program work arrangements

As previously advised, due to the impact of COVID-19, program staff are currently working from home for an unspecified period.

Although the program's telephone number is now operational, we prefer to receive and respond to enquiries via email, where possible.

Please [email full details of your enquiry](mailto:cemeteries@dhhs.vic.gov.au) <[cemeteries@dhhs.vic.gov.au](mailto:cemeteries@dhhs.vic.gov.au)>. All program staff have

access to the email inbox, and emails will be responded to as soon as possible.

**Note:** Please check your 'junk' email folder regularly to ensure that emails sent from the department have not gone to this folder. Information on how to stop this occurring can be found in the attached fact sheet: *Creating an email account*.

## Updated contact details forms

We have received a good response from the sector to our request for members and primary contacts to update their contact details.

If you have not yet returned your completed form (preferably via [email](mailto:cemeteries@dhhs.vic.gov.au) <[cemeteries@dhhs.vic.gov.au](mailto:cemeteries@dhhs.vic.gov.au)>), please do so at your earliest convenience, or send the required details in an email.

## Statutory documents – update

### Exhumation process

The department continues to receive and process applications for exhumation licences. The applicant, or funeral director acting for the applicant, should ensure that the cemetery trust responsible for the particular cemetery is allowing exhumations (and re-interments) to occur given the current environment. The cemetery trust is also able to stipulate that specific policies and procedures relating to the conduct of an exhumation must be followed.

Applicants should read the guidelines entitled *Making an application for an exhumation licence*, which are available on the program's website, to understand the mandatory documentation that must accompany the application itself.

Under s.156 of the *Cemeteries and Crematoria Act 2003* (the Act) an application for an exhumation licence must be made on the prescribed form (Form 5, r. 22 of the *Cemeteries and Crematoria Regulations 2015*), which is also able to be downloaded from the website.

The fee for an application for exhumation licence for 2020–21 is \$177.70, and cheques are to be made payable to 'Department of Health and Human Services'.

### Private interments

An *Application for an interment approval other than in a public cemetery* (a proposed burial in an established

burial ground on private land) must be completed in accordance with s.121 of the Act. The application and required documents must be sent to the program via [email](mailto:cemeteries@dhhs.vic.gov.au) <cemeteries@dhhs.vic.gov.au> (not posted).

We will acknowledge receipt within 24 hours of the email's arrival in our inbox. If the application is fully completed and meets supporting requirements (written consent of land owner, Medical Certificate Cause of Death or Coroner's Release under s.121 (3) and proposed date of interment), we aim to provide approval within 48 hours of receipt).

Information and a copy of the application to be downloaded is available on the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/interments-and-memorials/private-burials) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/interments-and-memorials/private-burials>>.

## Class B appointment process

In July, 144 appointments were made to 79 Class B cemetery trusts. We processed these appointments using entirely digital methods, including scanned application forms and emailed acknowledgements and notifications. You can now access current information relating to new appointments, reappointments and the current composition of your trust by viewing the [List of current members appointed to Victorian cemetery trusts](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/appointments) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/appointments>>. The department thanks trusts for their continued cooperation and understanding during this transition to digitally based processes.

Please be advised that if your term of office is due to expire and you wish to seek reappointment, it is important that you return your completed application to the department as soon as possible ahead of your appointment expiry date. The appointment process can take between three and five months to complete, so please factor this timeframe in when completing your form.

## Advertising process

The department will shortly notify those trust members who have a term of appointment as a Class B cemetery trust member due to expire on 28 February 2021. We will also notify the primary contact at each of those trusts. Because our staff are currently working remotely, notification will be sent by email whenever possible.

To promote community involvement and to maintain a transparent application and appointment process, the department will place advertisements for expressions of interest in joining a Class B cemetery trust in local and regional newspapers.

Advertising is not intended to discourage any current members whose term is due to expire from seeking a further term. Rather it is designed to promote the trust in the local community and assist in the trust's succession planning. It also provides the public with opportunities to apply for a government board.

Trusts have previously advised the department of their preferred publication and this information is available on the Cemeteries and Crematoria website titled '[Publications for print advertising for Class B cemetery trust member positions](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/appointments)' <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/appointments>>

However, because certain publications have moved to online editions only, the trust advertisement will, by necessity, appear only in that format.

If your preferred publication is no longer available in print or online, please contact the department by email with the name of a suitable alternative publication.

## Abstracts of accounts

Section 52 of the Act requires that all Class B cemetery trusts submit an *Abstract of accounts* to the department for each financial year. A blank abstract for the 2019–20 financial year has been emailed to all primary contacts. If your trust has not received a blank abstract, copies are available for download from the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/governance-and-finance/finance/abstract-of-accounts) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/governance-and-finance/finance/abstract-of-accounts>>.

Completed abstracts and accompanying documents must be forwarded by email or post to the department by 1 September 2020. Thank you to the trusts that have submitted their 2019–20 abstract.

Due to the public health restrictions in place in Victoria, statutory declarations can now be made remotely using an audio-visual link. The [Justice and Community Safety website](https://www.justice.vic.gov.au/statdecs) <<https://www.justice.vic.gov.au/statdecs>> describes how to complete a statutory declaration remotely. Please contact the department if your trust does not have the equipment to remotely complete the statutory declaration section of the abstract.

## Fees

The department wrote to all trusts in February 2020 advising of the two per cent CPI adjustment to their fees, effective from 1 July 2020 (except where trusts advised the department that they did not want to receive the increase). Updated fees have been published on the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria>>.

Cemetery trusts should regularly review their fees and check that the fees charged by the trust match what is listed on the department's website as approved and gazetted fees. Cemetery trusts are required to make a formal application (including an explanatory letter and completed fee model) to adjust their fees. The guidelines and **fee justification model** are available on the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/governance-and-finance/finance/class-b-cemetery-trusts-finance) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/governance-and-finance/finance/class-b-cemetery-trusts-finance>>.

## Grants program

The second round of the 2019–20 program closed on 31 March 2020, with 53 trusts submitting 67 grant applications. The first round of the 2020–21 program closes on 30 November 2020. Trusts that apply for a grant will be notified of the outcome in January 2021.

To apply for a grant, a cemetery trust must submit the application form before work begins. Applications should include two quotes for the proposed expenditure and photos of the relevant area (if appropriate). If a trust is unable to obtain two quotes, a written explanation about why this is not possible must be submitted.

Please note that there are limited funds available for grants and priority will be given to applications for funds that address occupational health and safety issues and, as the department is becoming fully digital, those trusts that need IT equipment. The department will fund up to \$4,000 to assist trusts to purchase IT equipment for trust use to cover the purchase of a desktop or laptop computer, an all-in-one printer-fax-scanner and the relevant software. Grant requests for ongoing software licensing or subscription fees, as well as grant requests for the installation and ongoing costs of internet connection and usage, will not be considered.

In addition to these priorities, partial grants will also be considered for those trusts that can contribute to the proposed project from their own funds.

Previous grants must be acquitted for the grant application to be considered, and a current ABN is also required for the grant funds to be transferred.

Trusts must [email their applications to the department](mailto:cemeteries@dhhs.vic.gov.au) <[cemeteries@dhhs.vic.gov.au](mailto:cemeteries@dhhs.vic.gov.au)>.

Visit the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/grants) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/grants>> to download the application form and for more information.

## Immunity from personal liability

All trust members are provided with personal liability protection in accordance with s. 16 of the Act. This section of the Act provides that a member of a cemetery trust is not personally liable for an act or omission done in good faith while the trust member is, or reasonably believes they are, exercising a power or function under the Act or the Cemetery and Crematoria Regulations. Liability for such acts or omissions rests with the cemetery trust.

For example, a trust member would most likely be found to be acting in good faith if they made reasonable efforts to inform themselves of the legal requirements that apply to a trust and to themselves as trust members and complied with those requirements.

Additionally, the *Occupational Health and Safety Act 2004* (OHS Act) places obligations on a trust in its capacity as an employer. For instance, a trust is obliged to provide and maintain a safe working environment for employees. It must also take reasonable steps to ensure people (other than employees) who are visiting or working in the cemetery are not exposed to health and safety risks, and it must notify the Victorian WorkCover Authority about any incidents. A trust may be liable for a criminal offence under the OHS Act if it fails to carry out these obligations. A trust member may also be liable if the failure of the trust is attributable to the failure of the trust member to take reasonable care.

Similarly, under the *Workplace Injury Rehabilitation and Compensation Act 2013* (WIRC Act) a trust may be criminally liable for failures in respect of an employee's return to work, hindering or obstructing an inspector and knowingly making a false or misleading statement

in connection with a dispute referred for conciliation. A trust member may also be liable if they failed to exercise due diligence to prevent the commission of the offence by the trust.

For a trust member to be protected to the maximum extent possible when carrying out their functions and exercising their powers they should always act in **good faith**, exercise **reasonable care** in carrying out obligations under the OHS Act and act with **due diligence** in carrying out obligations under the WIRC Act.

## Policy templates

We are currently developing policy templates on a range of topics to assist Class B cemetery trusts. The templates will be published on the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria>> under the 'Governance and finance' menu tile in coming months and will be added to as new templates are developed. Class B cemetery trusts should check the website regularly to review the resources available.

## Website accessibility

Accessibility aims to remove barriers that stop people with disabilities from accessing information and using services. Accessibility ensures a positive user experience for all people, including those with permanent or temporary disabilities.

A range of legislation and standards relate to accessibility and equal access – for example, disability discrimination legislation and the Victorian *Charter of Human Rights and Responsibilities Act 2006*. Access to information and communications technologies is also recognised as a basic human right under the United Nations *Convention on the Rights of Persons with Disabilities*.

The Cemeteries and Crematoria website is updated regularly to improve the accessibility of our online content. However, there are some documents that do not meet accessibility requirements but will remain on the program's website – for example, mandatory forms prescribed under the Cemeteries and Crematoria Regulations and other forms we have developed to assist cemetery trusts. These forms are interactive Microsoft Word documents that can be completed

online; however, the interactive features do not meet accessibility requirements.

To ensure we meet whole-of-Victorian-Government digital standards, accessible versions of these forms are being developed and will be published on our website with 'accessible format' at the end of the file name. The standard interactive forms will have 'interactive' at the end of the file name. Both versions of a form will be presented in slightly different formats but capture the same information.

## Long-term financial strategy

Cemetery trusts need to consider the long-term operations of any cemetery under its management to ensure it has sufficient financial reserves to meet ongoing operating costs (such as maintenance).

Trusts should review their fees regularly to ensure a direct relationship exists between the fees charged for cemetery services and the cost of providing these services.

Please consider using a 'cost plus' model for fees. This involves making the trust's fee the contractor or supplier's charge (such as for interment and memorialisation services) plus a set percentage – this protects the trust from shortfalls if contractors or suppliers suddenly increase their fees. In certain circumstances a fixed fee may be more practical, such as for interment of cremated remains where the gravedigger's fee is low and the percentage retained by the trust would not cover the trust's expenses.

Alongside revenue from cemetery services, trusts should consider revenue from grants and investments. Trusts may be able to source grants from the department's grant program, other state grants (for example, from Heritage Victoria) or community sources (possibly local government). Investment income should also be reviewed regularly to ensure the product being utilised is providing a good market return.

The other matter to consider is trust expenditure. The trust should assess if it is receiving best value for money on any contracts it has in place or intends to enter into.

The trust should consider the effect of any expenditure on the balance of trust investments. The trust should aim to build the investment balance to support long-term cemetery operating costs.

For significant expenditure on development please ensure the trust will receive a return for this expenditure

(for example, recouping the cost of developing a new area through cemetery fees for that new area).

More information about procurement can be found on the [Cemeteries and Crematoria website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/governance-and-finance/governance/class-b-public-construction-procurement) <<https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/governance-and-finance/governance/class-b-public-construction-procurement>>.

## Fire season 2020–21

Cemetery trusts are reminded that Victoria's fire season will begin soon. Trusts should consider starting work such as removing long dry grass in preparation.

Additionally, some cemeteries have sections where it is a mourner's cultural practice to light a candle, lamp, incense or any other similar items while they attend the cemetery. Trusts should ensure the community and visitors to the cemetery are informed in advance, in a non-legalistic way, that 'no item can remain alight in a cemetery while unattended' and that on total fire ban days no item can be lit at all.

Trusts should notify any neighbours of proposed fire burns. If there is an objection, please take the time to discuss possible options such as small burns in sequence rather than one larger burn.

Please discuss any burn with your local CFA and council so that they can advise on any requirements.

More information about the [fire season warnings and restrictions](https://www.cfa.vic.gov.au/warnings-restrictions) <<https://www.cfa.vic.gov.au/warnings-restrictions>> can be found on the CFA website.

## Governance and operational training

Due to the impact of COVID-19, training workshops continue to be suspended until further notice. Trusts will be advised when these workshops resume.

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To receive this publication in an accessible format phone 1800 034 280, using the National Relay Service 13 36 77 if required, or [email the Cemetery Sector Governance Support Program](mailto:cemeteries@dhhs.vic.gov.au) <[cemeteries@dhhs.vic.gov.au](mailto:cemeteries@dhhs.vic.gov.au)>.

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