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| Cemetery Sector Governance Support Unit newsletter |
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# Contact us

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| Phone (freecall) 1800 034 280Fax (03) 9096 9186Email the Cemetery Sector Governance Support Unit <cemeteries@health.vic.gov.au>[Visit the Cemeteries and Crematoria webpage](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria) <https://www.health.vic.gov.au/public-health/cemeteries-and-crematoria>**Postal address**Cemetery Sector Governance Support UnitDepartment of Health PO Box 4057Melbourne VIC 3001 |

# Welcome

**Welcome to the Cemetery Sector Governance Support Unit’s (the unit) newsletter.**

# OVIC 2022 reporting obligations

The Office of the Victorian Information Commissioner recently distributed correspondence to cemetery trusts across Victoria highlighting the upcoming 2022 information security reporting obligations due to OVIC by 31 August 2022.

Please note: These information security reporting obligations are in addition to the existing Privacy and Freedom of Information obligations of cemetery trusts.

## Class A cemetery trusts

Class A cemetery trusts report by completing the 2022 PDSP form for Single-Organisation Reporting available on the [OVIC website](https://ovic.vic.gov.au/wp-content/uploads/2022/02/2022-Single-Organisation-Protective-Data-Security-Plan-PDSP-form-V3.1.pdf) <https://ovic.vic.gov.au/wp-content/uploads/2022/02/2022-Single-Organisation-Protective-Data-Security-Plan-PDSP-form-V3.1.pdf>.

A how-to guide to assist with completing the form is available on the [OVIC website](https://ovic.vic.gov.au/wp-content/uploads/2022/01/How-to-A-guide-to-completing-the-2022-Protective-Data-Security-Plan-PDSP-form-V1.0.pdf) <https://ovic.vic.gov.au/wp-content/uploads/2022/01/How-to-A-guide-to-completing-the-2022-Protective-Data-Security-Plan-PDSP-form-V1.0.pdf>.

## Class B cemetery trusts

Class B cemetery trusts report by completing the 2022 PDSP form for Class B cemetery trusts.

An information package on the 2022 reporting obligations will be sent out to cemetery trusts (both via post and email) including a hard copy of the 2022 PDSP form for Class B cemetery trusts to complete and send back to OVIC, and a copy of a new how-to guide to step trusts through the form.

OVIC has also developed a Class B cemetery trust webpage that features a video from the Commissioner highlighting the importance of cemetery trust information on the [OVIC website](https://ovic.vic.gov.au/agency-reporting-obligations-hub/class-b-cemetery-trust-stakeholders/) <https://ovic.vic.gov.au/agency-reporting-obligations-hub/class-b-cemetery-trust-stakeholders/>.

If you have any questions relating to any material you receive from OVIC please phone 1300 006 842 or 8684 1616 and ask to speak to the Information Security Unit or email <security@ovic.vic.gov>.

Postal address: OVIC Information Security Unit
PO Box 24274
MELBOURNE VIC 3001

## Commencement of minor and technical amendments to the Cemeteries and Crematoria Act

In March 2021 the Victorian Parliament passed the *Cemeteries and Crematoria Amendment Act* (the Amendment Act)to amend the *Cemeteries and Crematoria Act 2003* (the Cemeteries Act).

The Amendment Act makes several minor amendments to the Cemeteries Act to clarify ambiguity and address inconsistencies in the Act. These amendments have effect from **1 March 2022**.

All cemetery trusts have been provided the fact sheet *Minor andh technical amendments to the Cemeteries and Crematoria Act 2003* explaining the detail of these amendments and any necessary action required of trusts. A copy of this fact sheet is available on the health.vic website.

For more information about the amendments to the Cemeteries Act please email the unit <cemeteries@health.vic.gov.au> or telephone freecall 1800 034 280.

# Leases and licences – cemetery land

Under s. 37(1) of the Cemeteries Act, a cemetery trust may grant a lease of any land in a public cemetery for which it is responsible. The Minister for Health must approve the purpose of the lease and its terms and conditions.

Under s. 36(1) of the Cemeteries Act a cemetery trust may grant a licence to enter and use any part of the land and buildings in a public cemetery for which it is responsible. This must also have the minister’s approval.

The minister must approve the purpose of a lease or licence to ensure cemetery land is not used in a way that may be detrimental to the purposes for which the land is reserved (cemetery purposes).

The Cemeteries Act specifies that a licence must be granted for a period not exceeding three years, and a lease must be for a specified term not exceeding 21 years.

The department has developed [precedent lease and precedent licence documents](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/land-and-development/leasing-and-licencing-cemetery-land) < https://www.health.vic.gov.au/cemeteries-and-crematoria/leasing-and-licencing-cemetery-land>, available on the health.vic website, to assist trusts with leasing or licensing arrangements.

It is recommended trusts seek independent legal advice when considering whether to enter into a lease or licence and to check with its local council if a planning permit is required.

A lease is appropriate when the tenant requires exclusive use of land and/or premises for the permitted use.

Under a licence, the licensee does not have the right to exclusive use of land and/or premises and may have to share occupation with the licensor and third parties or may only be able to use the licensed area at certain times.

Victorian Government policy requires that a grant of a lease must be at the current market value assessed by the Valuer-General Victoria.

In exceptional circumstances, the minister may approve a rental rate below market value (a non-commercial lease). When considering whether to approve a non-commercial lease, the minister will consider the estimated loss of revenue and the public or community benefits arising from the lease.

Requests for ministerial approval should be submitted directly to the unit for processing. When submitting a request, please provide:

* a copy of the draft precedent lease or licence agreed between the parties (before sign-off/entering into an agreement)
* a valid valuation from the Valuer-General Victoria (please email the unit to arrange a valuation; this cost is normally borne by the trust and valuations are normally valid for three months)
* a summary of the transaction, including rental rate, term and any special conditions.

# Class B cemetery trusts

## New application form and revised guidelines

At the beginning of 2021 the program introduced a new Application for appointment to a Class B cemetery trust (the application form) and Application guidelines for appointment to a Class B cemetery trust (the guidelines). Both documents are available on [the unit’s website](https://www.health.vic.gov.au/cemeteries-and-crematoria/class-b-cemetery-trust-appointments) <https://www.health.vic.gov.au/cemeteries-and-crematoria/class-b-cemetery-trust-appointments>.

All applicants seeking appointment to a Class B cemetery trust are required to read the guidelines and complete Parts A to E of the application form. The guidelines contain important information about the department’s use of personal information, probity checks and conflicts of interest.

Note: Applicants are required to declare on the application form that they have read the guidelines and agree to the application terms contained therein.

If the trust endorses the application, the trust chairperson or authorised person is required to complete Part F (if applicable) and Part G of the application form.

## Members terms of appointment due to expire in 2022

The unit will advise trusts and members via email five to six months before the expiry date of members’ terms of appointments. Trust members and trust primary contacts who have not provided an email address will receive this information via the postal service. Please note the unit’s preferred method of contact is via email.

The department will undertake two more appointment rounds in 2022 for those members whose terms of appointment are due to expire on **31 July** or **31 October 2022**.

The table over the page sets out the key dates for trust members seeking reappointment for the next two appointment rounds.

Trust chairpersons/secretaries will need to provide a correctly completed application for those members seeking reappointment. The department must receive these applications by the dates in red text in the table. If the department does not receive correctly completed applications by the dates indicated, the trust member’s tenure will expire and their application will be processed in the next appointment round.

Generally, the trust member application process involves the following steps:

* **Department** emails expiring trust members and primary contacts to alert them about the expiration of current trust member tenure.
* **Department** places an advertisement in the trust’s preferred newspaper.
* **Applicants** submit their application to the trust for consideration.
* **Trusts** select candidates for interview, undertake interview(s), select applicant(s) for appointment, ensure applications have been completed correctly, conduct referee checks (where necessary), sign and date the application(s) and submit them to the department.
* **The department** processes the applications.

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| Member’s expiry date: | Member to provide application to the trust by: | Trust to submit application(s) to the department before: |
| 31 July 2022 | Mid-Apr 2022 | 13 May 2022 |
| 31 Oct 2022 | Mid-Jun 2022 | 15 Jul 2022 |

Trusts can view current members’ appointment dates on the list of *Current members appointed to a Victorian cemetery trust* <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-trust-member-appointments> located on the health.vic website.

## Updating trust member details

When a member, chairperson or primary contact resigns from the trust or passes away, the trust should inform the unit as soon as possible so departmental records can be updated. A [*Letter of resignation template*](https://www.health.vic.gov.au/cemeteries-and-crematoria/class-b-cemetery-trust-appointments) <https://www.health.vic.gov.au/cemeteries-and-crematoria/class-b-cemetery-trust-appointments> is available on the health.vic website.

Trusts should also advise the unit of changes to contact details, such as telephone numbers, email, and postal addresses. An [Update of contact details](https://www.health.vic.gov.au/publications/cemetery-trust-member-update-contact-details-form) <https://www.health.vic.gov.au/publications/cemetery-trust-member-update-contact-details-form> template form is available on the health.vic website.

Informing the department in a timely manner of changes to personnel or contact details ensures the department can keep trusts and trust members updated on critical events that affect them.

# Insurance for cemetery trust volunteers

All Victorian public cemetery trusts are insured through the Victorian Managed Insurance Authority under the Cemetery Trust Insurance Program, which is funded by the department.

Many cemetery trusts are supported by volunteer community members. Trusts are responsible for the health and safety of workers in the cemetery including staff, contractors and volunteers.

## Group Personal Accident Insurance

The VMIA insurance program for cemetery trusts includes a *Group personal accident insurance policy*.

This policy provides some compensation to volunteers, acting on behalf of a cemetery trust, for permanent or temporary bodily injury as a result of an accident. This cover also includes compensation for accidental loss of life.

VMIA requires cemetery trusts to manage risks associated with volunteers by:

* keeping detailed records of all volunteers assisting the trust
* providing all volunteers with an induction to the cemetery and the work they are expected to undertake
* ensuring volunteers are capable and competent to perform the required tasks
* taking reasonable action to ensure volunteers are protected from harm.

## Making a claim under the accident policy

Cemetery trusts can lodge a claim under their VMIA policy either by:

Accessing the trust’s direct VMIA Self-Service Portal. Please email the Client Advisory Team <contact@vmia.vic.gov.au> if you require access to this portal.

**or**

Downloading a claim form from the [VMIA website](https://www.vmia.vic.gov.au/claim/make-a-claim) <https://www.vmia.vic.gov.au/claim/make-a-claim>. Once the form is completed by both the volunteer and the trust, the trust must email the form <claims@vmia.vic.gov.au> or mail it to the address below. Please note: the claim form must be submitted by the trust.

For further information please contact the VMIA Client Advisory Team:

Email <contact@vmia.vic.gov.au>

Phone: 9270 6900

Postal address: PO Box 18409

Collins Street East

MELBOURNE VIC 8003

## Information to help trusts manage volunteers

The following may assist trusts to manage risks associated with its volunteers:

* Develop a policy that requires all volunteers to be recorded/registered with the trust.
* Ask volunteers to sign in, even for a one-off activity such as a working bee.
* Clearly communicate roles and responsibility to volunteers. This may include written task descriptions or instructions so each volunteer can clearly understand what they can and cannot do.
* Provide training where appropriate, especially relating to the use of machinery, gardening tools and high-risk activities. Ensure a volunteer’s participation in training is clearly documented in the trust’s records.
* Ensure volunteers know what to do in an emergency and how to identify and report hazards.

## Injuries at the cemetery

Occasionally a trust will be alerted to an injury occurring in the cemetery – for example, a visitor slipping on a path. It is important that the trust has procedures in place for handling such incidents.

When a trust (including its members and officers) becomes aware of a potential threat within its cemetery or operations, it is obliged to take prompt action to remove or diminish that threat. For example, if a person has tripped on a hole that developed after a rainy period, the trust could place hazard signs at the cemetery entrance or rope off the dangerous area until it can be fixed.

After becoming aware of an incident, the trust should record the details in an incident log or risk register. New entries should be raised at the next trust meeting and risk mitigation strategies discussed.

Trusts can establish their own risk management policy to identify, assess and mitigate hazards. The VMIA has published [risk management templates and guidance](https://www.vmia.vic.gov.au/tools-and-insights/risk-management-tools) <https://www.vmia.vic.gov.au/tools-and-insights/risk-management-tools> on its website.

Note that in the case of fatalities, serious injuries or certain health and safety incidents, the trust must notify WorkSafe. This includes injuries to non-employees such as visitors to the cemetery. [*Report an incident: criteria for notifiable incidents*](https://www.worksafe.vic.gov.au/report-incident-criteria-notifiable-incidents) <https://www.worksafe.vic.gov.au/report-incident-criteria-notifiable-incidents>, located on WorkSafe Victoria’s website, defines what types of incidents are notifiable.

To report a notifiable incident or check if an incident is notifiable, contact WorkSafe directly on 13 23 60.

In the case of minor injuries, there is no need to notify WorkSafe; however, it is advisable to contact VMIA in case the injured person makes a claim against the trust in the future.

# CPI increase to fees effective 1 July 2022

Under s. 43 of the Cemeteries Act, all cemetery trust fees of $50 or more are to be increased by the consumer price index rate each year. The CPI rate for this year is 2.5 per cent. This adjustment to trusts’ fees will be effective from 1 July 2022.

Notices confirming each trust’s CPI-adjusted fees for the financial year 2022–23 was distributed by mail to each trust’s primary contact in February 2022.

Many trusts use the notice with its list of CPI-adjusted fees as a prompt to review their fee schedule. Conducting regular fee reviews will help trusts ensure there is a direct relationship between the fees charged for cemetery services and the actual cost of providing these services. Revenue raised by cemetery trusts through their fees and charges is expected to:

* encompass current cemetery operational costs (including ongoing maintenance)
* cover repairs or replacement costs associated with cemetery facilities and equipment
* ensure adequate financial reserves for future operations.

To add new fees or increase prices, trusts need to make a formal application for approval to the Secretary of the department. More information about this process is available on the [health.vic website](https://www.health.vic.gov.au/cemeteries-and-crematoria/finance) <https://www.health.vic.gov.au/cemeteries-and-crematoria/finance>.

To request to delete an obsolete fee, decrease prices or make changes to the description of a fee, trusts must put a request in writing to the Cemetery Sector Governance Support Unit.

# Grants program

The first round of the 2021–22 Cemetery Grants Program closed on 30 November 2021, with 71 trusts receiving grants totalling $748,868.62.

The second round for 2021–22 closes on 31 March 2022. Trusts that apply for a grant in this round will be notified of the outcome in May 2022. The following round closes on 30 November 2022.

Please note there are limited funds available for grants and priority will be given to applications for funds that address occupational health and safety issues and those trusts that need IT equipment to improve their service delivery. Partial grants will be considered for those trusts that can contribute to the proposed project from their own funds.

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 cannot get two quotes, a written explanation of why this is not possible must be submitted. Previous grants must be acquitted for the grant application to be considered. An ABN is also required for the grant funds to be transferred.

Trusts are required to email applications to the department <cemeteries@health.vic.gov.au>.

Cemetery grant program guidelines and the Cemetery grants application form are available on the [health.vic website](https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria/grants) <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program>.

# Trust deeds

Cemetery trusts may on occasion be asked for a trust deed (for example, to open a bank account, or for a community grant application).

A cemetery trust is a body corporate with perpetual succession as defined under s. 5(2)(a) of the CemeteriesAct. The Act and Regulations set out the governance framework for cemetery trusts. As each cemetery trust is a body corporate, it is **not necessary to create a trust deed** for these entities.

Cemetery trusts can contact the department for a letter to confirm these details if required by the entity they are engaging with.

# Burial of pets in a public cemetery

The department has recently received a number of enquiries from cemetery trusts regarding the burial of pets within the cemetery. Under the Cemeteries Act, remains are specifically defined as human remains. Therefore, non-human remains (bodily or cremated) are not to be interred in Victorian public cemeteries.

# Financial budget strategy for Class B trusts

As part of the Class B cemetery trust Performance Support Program, performance reviews were undertaken at several Class B cemetery trusts. Each review assessed the trust’s systems, processes and practices, and identified opportunities to strengthen trust governance.

The recent review identified that a number of trusts do not have budgets or financial strategies in place to help manage their operations. To assist trusts the department has developed a Financial budget guidance and Financial budget strategy template, which are attached. These templates will be made available on the [health.vic website](https://www.health.vic.gov.au/cemeteries-and-crematoria/policy-templates) <https://www.health.vic.gov.au/cemeteries-and-crematoria/policy-templates>.

# Governance and operational training

The governance and operational training programs for Class A and Class B cemetery trusts provide trust members with practical and relevant information and materials about their role. All trust members and trust secretaries are eligible to attend these department-funded training programs.

The program is delivered by Our Community, and more information has been attached. To register for a workshop, please visit the [Institute of Community Directors Australia website](https://www.communitydirectors.com.au) <https://www.communitydirectors.com.au>.

For more information, help with registrations or to arrange a governance and operational training workshop by request, please visit the [Our Community website](https://www.communitydirectors.com.au/cemetery-governance) <https://www.communitydirectors.com.au/cemetery-governance>, phone 1300 137 475 or email <learn@ourcommunity.com.au>.

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