

# Scottish Government submission of 27 March 2024

## PE2087/A: Pass a law making exercising a dog in a cemetery an offence

Thank you for your email of 28 February 2024 seeking the Scottish Government's views on the action called for in petition PE2087.

Cemeteries should be places where relatives and friends are able to remember their loved ones in peace. The importance of commemorating those we have cared about should not be underestimated. The Scottish Government fully recognises the distress caused by irresponsible dog owners who allow their dogs to foul on, or otherwise cause damage to, headstones, flowers and commemorative mementos left at gravesides. All those visiting cemeteries, for whatever reason, should behave respectfully.

Responsibility for the management, security, and upkeep of local authority burial grounds lies with the local authority in which the cemetery is located. Existing legislation already ensures that local authorities have the powers to put appropriate measures in place to tackle unacceptable behaviour in cemeteries. The Scottish Government believes that local authorities are ideally placed to make cemetery management rules that best suit their local circumstances and communities, including whether dogs should be prohibited or the conditions which should apply to dogs allowed to enter the cemetery.

The Civic Government (Scotland) Act 1982 gives local authorities the power to make, consult on, publish, and display management rules that regulate the use and conduct of members of the public while on or in any land or premises owned, occupied, or managed by the local authority or otherwise under their control. This includes local authority managed cemeteries. The local authority also has the power to expel a person from a cemetery if they have broken, or are about to break, a management rule. Furthermore, a local authority may decide that a person who has persistently contravened or attempted to contravene management rules and is, in their opinion, likely to contravene them again, shall be made subject to an exclusion order for that land for up to one year.

Anyone subject to the above action who does not follow the local authority order – i.e. refuses to leave the land or premises when asked to do so, enters or re-enters the land or premises they have been expelled from, or breaks an exclusion order – shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale (currently £200).

The Dog Fouling (Scotland) Act 2003 makes provision for the offence of dog fouling in Scotland. The law covers all public open spaces and anyone who does not immediately clean up fouling by a dog is committing an offence under the Act. Police officers and authorised local authority officers can issue fixed penalty notices of £80 rising to £100 to any person they believe has committed an offence under the Act.

There are no immediate plans to bring in further measures on this particular issue. However, the Committee may be interested to know that the Scottish Government is currently in the process of implementing the Burial and Cremation (Scotland) Act 2016. This Act updates legislation for all burial grounds and burial authorities across Scotland. We understand how important burial grounds are to people and that is why part of the work we are taking forward is regulations for the management of burial grounds. A public consultation on burial regulations ran from the 25 August to the 17 November 2023 and we are currently analysing the results to help us inform next steps. The analysis report will be published on the Scottish Government website as soon as it is ready.

**Community Safety Unit**