

# **BEECHWORTH CEMETERY TRUST**

## **Policy: Investigation and Complaints Management.**

### **Introduction:**

The Beechworth Cemetery Trust is responsible for the management and operations of The Beechworth Cemetery. It is the right of all users of the Cemetery to comment on, complain about, or appeal against any action or decision that has an adverse impact on the service provided. The Trust has a responsibility to investigate every complaint received. Therefore, the Trust encourages anyone who may have an issue or concern to raise these officially with the Trust.

### **Legislative requirements:**

The Cemeteries and Crematoria Act 2003, Part 7 Division 2, establishes the power for a Cemetery Trust to approve and manage the establishment and alteration of monuments within the cemetery. In particular clause 99(1)(c) enables a Cemetery Trust to refuse an application for any other reason that the Cemetery Trust thinks fit. The Department of Health and Human Services - Victoria - (DHHS) have advised that where a Trust develops a policy to manage operating procedures of the cemetery which does not alter or conflict with the Model Rules for the Cemetery the Trust does not need to have the Policy approved by the Governor in Council. The Trust has reviewed this Policy and has not sought approval from the Governor in General as the Policy does not conflict or alter the Model Rules for the Trust

### **Background**

The Beechworth Public Cemetery was formed in early 1856 to provide a interment service and associated burial facility for the Beechworth Community and surrounding district. The Cemetery is managed by a volunteer Trust whose members are drawn from, and represent the local community. There is scope to have eleven (11) Trust members all are appointed by the Victorian Governor-in-Council. The Beechworth Public Cemetery is an incorporated business entity that comes under the umbrella of the Cemeteries and Crematoria Regulations Unit of the Department of Health and Human Services - Victoria. The Beechworth Public Cemetery has involvement on a daily basis with the following complexities:

1. The sensitive realms of dying, deaths, burials, mourning, grief, bereavement, personal loss and remembrance, and,
2. Interacting with a wide range of groups, businesses, funeral directors, gravediggers, individuals, contractors, funeral attendees, mourners, visitors, tourists, researchers, school-groups, etc.

With this diverse collection of Cemetery attendees and associated sensitive issues, there is potential, from time to time, for a complaint to arise. The non-existence of and also sparse early burial records also creates management issues. This can impede the ability of the Trust to accurately locate historical burial plots which can lead to mistakes and subsequent complaints.

### **Procedure:**

The Trust recognises a complaint as a verbal or written expression of dissatisfaction from a consumer representative, community member, customer or Trust member. A complaint may be made in relation to an event, a process or system occurring within the operations or

management of the Cemetery. All Trust Members have a responsibility, if approached, to provide users of the Cemetery with advice and/or information on how to make a complaint. A complaint can be presented either verbally or in writing (i.e. letter or email) and can be raised with any member of the Trust. In order to properly address any concerns raised, the following process is recommended:

- (i) That the complaint be made in writing as this provides documented evidence and clarity of the claim or complaint and assists with the investigative process and also in providing a suitable response.
- (ii) That the complaint be directed, in the first instance, to,

The Chairperson  
Beechworth Cemetery Trust  
P.O. Box 248  
Beechworth, Vic. 3747.

or

Email address: [info@beechworthcemetery.com.au](mailto:info@beechworthcemetery.com.au)

## *A. External Complaints*

Once a written complaint has been received from the local community or others concerning the management or operations of the Beechworth Public Cemetery, the following process will be followed by The Beechworth Cemetery Trust:

- (i) All complaints are to be raised directly with the Trust Chairperson along with copies of all relevant complaint documentation.
- (ii) The Trust Chairperson will formally communicate to the person who has raised the concern, either by letter or email, acknowledging that the complaint has been received and a formal response will be forthcoming. This will be undertaken within five (5) working days of receiving the complaint. Also, that all further communication and documentation concerning the complaint raised must be directed to the Chairperson only?
- (iii) The complaint will be brought to the Trust's attention for consideration and response. This can be undertaken via email communication to each Trust Member to avoid calling an extra-ordinary Trust Meeting.
- (iv) Once the complaint has been fully investigated, the Trust Chairperson will ensure that a response to the written complaint will be in writing, detailing the Trust's consideration of the complaint and the Trust's response. The Trust's response will clearly set out the Trust's decision in relation to the complainant's concerns. If no action is to be taken, the Trust will identify the reasons why. The response from the Trust will be undertaken within twenty-one (21) working days of receiving the complaint.
- (v) If required, the Trust may seek legal and insurance advice and also advice from the Department of Health & Community Services or the Cemeteries & Crematoria Association – Victoria (CCAV) as part of the investigation and response process.
- (vi) All complaints and response outcomes will be reported at the next bi-monthly Cemetery Trust Meeting under item **Complaints received.**

The Beechworth Cemetery Trust does not deal with complaints relating to funeral directors and users of the Cemetery as this is a private contractual agreement between both parties. Any such complaints should be directed to Consumer Affairs Victoria by contacting: <http://www.consumer.vic.gov.au/contractus>

## ***B. Internal Trust Member Conflict/Complaints***

Although conflict between Trust Members is unlikely, there is, however, potential for this given the dynamics of general Trust compositions. If Trust Member conflict does occur, then the following procedure will take place:

- (i) Ensure that the Trust Chairperson is formally advised of the complaint(s) as he/she will be responsible for overseeing the process,
- (ii) This may or may not involve notifying the other Trust Members and will be dependent upon the nature of the complaint/conflict. It may be prudent to advise Trust Members after a resolution has been found and the matter settled. Again, this may be dependent upon the nature of the complaint.
- (iii) Seek any complaint(s) from an aggrieved Trust Member in writing as this provides documented evidence of the claim or complaint and also provides clarity in regards to reaching a suitable resolution to the matter.
- (iv) Interview all parties concerned individually to ascertain both sides of the conflict whilst respecting all parties' points of view.
- (v) Once all relevant information in regards to the complaint(s) and responses have been gathered, bring the Trust Members involved in the dispute together in a formal forum with a view of mediating and resolving the issue(s).
- (vi) The Trust Chairperson shall "Chair" the mediation meeting.
- (vii) All parties concerned with the mediation process must conduct themselves in a fair and professional manner.
- (viii) If necessary, the two Trust Members involved in the complaint/conflict can choose a "support person" who can either be from within the Trust or from outside the Trust. Support persons are there for support only and do not engage in the mediation or debate as they are there to support, observe and to be a witness to the proceedings only.
- (ix) If the matter cannot be resolved internally, an external mediator may be utilised to resolve the dispute.
- (x) There is an expectation that all parties to the mediation process treat each other with courtesy and respect once a final decision has been reached.

If, for whatever reason, Trust Members have concerns in regards to the function of the Trust, they should meet with the Chairperson and discuss their concerns. These concerns should be clearly documented and, where possible, should be supported by evidence.

Alternatively, the Trust Member may raise his or her concerns with the Trust in general. To do this, the Trust Member must request that their concerns be included on the next meeting agenda for discussion. If, however, the matter is urgent, two Trust Members may ask the Chairperson to convene an urgent meeting to discuss the issue.

**Note:** The Beechworth Cemetery Trust does not have the power to remove a member of the Trust.

### *C. Cemetery access restrictions:*

On occasions when an issue cannot be resolved, a legal dispute may arise between a person using the Cemetery, such as a member of the public, monumental mason or funeral director and the Cemetery Trust. If this situation does occur, the Trust cannot simply ban the person involved in the dispute from the Cemetery. If the Trust believes that sufficient grounds exist to ban a person from the Cemetery, independent legal advice will be sought prior to any action being taken. Any restriction of a person(s) access to the Cemetery will be provided in writing and will cite the following ban conditions:

- (i) The reason for the ban.
- (ii) The duration of the ban.
- (iii) The Trust's legal power behind the application of the ban.

The Beechworth Cemetery Trust will advise the Cemeteries and Crematoria Regulation Unit of the Victorian Department of Health & Human Services prior to introducing any ban.

### *D. Complaint decision recourse.*

Any concerns with the final complaint decision of the Trust should be discussed initially between the complainant and the Trust Chairperson and an attempt should be made to resolve the matter. Regardless of the outcome of these discussions, the Trust will provide the complainant with a written response to their concerns. The Victorian Department of Health & Human Services may request that the Trust reconsider a decision if:

- (i) A complainant considers that the decision is not consistent with the Trust's powers under *the Cemeteries and Crematoria Act 2003*.
- (ii) The Victorian Department of Health & Human Services agrees with the complainant's view.

If the Trust is not prepared to change its original decision after a request to do so has been forthcoming from the Department, and the complainant is still dissatisfied, then the following courses of action are available:

#### *(i) Dispute Settlement*

If the issue cannot be resolved directly between the Trust and the complainant, then the Trust can seek a resolution through mediation or another form of conflict resolution. The Dispute Settlement Centre of Victoria <http://justice.vic.gov.au/disputees> provides an impartial and fair approach to dispute settlement and, in some instance, mediation meetings can be held in rural areas.

#### *(ii) Formal appeals procedures*

The current avenues of formal appeals against decisions made by a Cemetery Trust are through a review of the decision by the Ombudsman for Administrative Review or by an appeal to the Supreme Court for judicial review.

*(iii) Victorian Civil and Administrative Tribunal - (VCAT)*

In addition, under Section 179 of the Act, there is a specific appeals process for a holder of a “right of interment” to appeal to the Victorian Civil and Administrative Tribunal for review of a decision of a Cemetery Trust to:

- Refuse to grant an approval to establish a memorial or a place of interment in the Cemetery”

**or**

- Grant an approval to establish or alter a memorial or a place of interment in the Cemetery subject to general terms and conditions.

### *E. Complaints outcomes*

With all complaints received, the Beechworth Cemetery Trust will endeavour to undertake the following as part of the complaints and resolution process:

- (i) Every individual can expect his or her issue to be treated seriously and dealt with in a thorough and professional manner.
- (ii) Complaints will be resolved to the greatest possible degree of satisfaction of all parties in an effective and timely manner.
- (iii) The complaint, and all personal and identifiable information concerning the complaint(s) will be managed confidentially and in accordance with privacy legislation requirements.
- (iv) Complaints are made to the Trust without fear of reprisal or victimisation.
- (v) The Trust will undertake a review of all policies, processes and decisions which relate to the complaint once the matter has been resolved.

### **Escalating complaints to the Department:**

If a complainant lodges a complaint directly to the Department of Health and Human Services (the department), generally the department will not get involved and will encourage the Trust and complainant to resolve the matter.

If a complainant writes to the Minister for Health and the department is required to prepare a response, the department will seek information from the Trust. The Trust will provide all relevant information including the Trust’s perspective on the situation.

### **External complaints agencies:**

#### **Victorian Ombudsman:**

Where a complaint is unresolved it may be referred to the Victorian Ombudsman. The Victorian Ombudsman may look into the complaint or refer the matter to another dispute resolution body.

#### **Independent Broad-based Anti-corruption Commission:**

A person may make a report about suspected improper conduct including fraud or corruption concerning the Trust to the Independent Broad-based Anti-corruption Commission (IBAC). Guidelines for handling public interest disclosures are available on the IBAC website <<https://www.ibac.vic.gov.au/publications-and-resources/article/guidelines-for-making-and-handling-protected-disclosures>>.

### **Privacy:**

Information about the complaint and the complainant will only be used to deal with the complaint. It will only be shared with relevant people on a need-to-know basis.

### **Consultation:**

During the development and review of this Policy the Trust consulted with the Department of Health and Human Services - Victoria (DHHS) and the Cemeteries and Crematorium Association of Victoria (CCAV) as well as a desktop scan of other Cemetery Trust websites.

### **Policy clarification and concerns:**

If the contents of this policy create any issues or concerns that may require further clarification or additional information by Cemetery users, then these should be directed to [“The Cemetery Trust”](#).

### **Policy Publicity:**

This policy will be available on the Beechworth Public Cemetery website and also made available on request by contacting the Trust.

### **Implementation of Policy:**

The Trust authorises the Chairperson to implement this policy and where applicable, consistent with any strategic documents or plans for the Beechworth Cemetery Trust

### **References:**

- The Australian Standard on Good Governance Principles.
- Cemeteries & Crematoria Act – 2003
- Cemeteries & Crematoria Regulations - 2015
- Complaints Handling Standard (AS4269)
- Information Privacy Act - 2000
- Manual for Victorian Class B Cemetery Trusts
- Department of Health & Human Services - Managing Complaints: A guide for Cemetery Trusts.
- Victorian Ombudsman - Complaints” Good practice guide for public sector agencies.

**Adopted:** Cemetery Trust Meeting 16<sup>th</sup> January 2023

**Review:** Cemetery Trust Meeting 20<sup>th</sup> March 2023  
To be reviewed 2025