

The Legislative Framework

1 Do you agree that existing legislation relating to burial and cremation should be repealed and replaced by a new legislative framework?

Yes

Please enter any additional comments here:

It is fragmented at present due to the current separate legislation and it would be logical to take the opportunity by undertaking a full review to make the law fit for purpose.

2 Are there any particular powers that are required by Burial Authorities or Cremation Authorities that are not provided for by current legislation?

Are there any particular powers that are required by Burial Authorities or Cremation Authorities that are not provided for by current legislation?:

To that should be added Public health authorities ie Councils when dealing with destitute funerals ie consideration be given to developing a memorandum of understanding between Police Scotland and CoSLA in regard to formalising current as-hoc arrangements, which do work but seems to vary between regional area

3 Do you agree that the proposed Burial and Cremation (Scotland) Bill should apply to all cemeteries and crematoria in Scotland, regardless of whether they are publically or privately operated? If not, please set out reasons why not.

Yes

If not, please set out reasons why not.:

4 Do you agree that the Bill should contain provisions which apply to all facilities where any new method of disposal which might be introduced in Scotland are carried out?

Yes

Please enter any additional comments here.:

5 Do you agree that the Bill should contain provisions to regulate environmentally friendly methods of disposal that are already available in Scotland?

Yes

Please enter any additional comments here.:

This is necessary to protect adjoining property occupiers: unsavouriness, odours, smoke emissions, rodent activity if its a burial, (mis) use of public land

6 Should the Burial and Cremation (Scotland) Bill contain provisions pertaining to home burial?

Yes

Please enter additional comments here:

giving this method its proper due, but within a legal framework and so giving sanction to current "best practice".

7 In making legal provision for home burial, what factors should be considered?

In making legal provision for home burial, what factors should be considered?:

should require a form of official approval, eg from a local authority backed up with a registration process to General Register of Sasines so that especially for a burial this becomes known when property conveyancing processes are underway

8 Are there any reasons why private cremation should not remain illegal?

Yes

Please enter additional comments here:

See 5 above

9a Do you agree that alternative methods of disposing of the dead should be regulated for in this way?

Yes

9b Are there any particular alternative methods that should be considered?

Are there any particular alternative methods that should be considered?:

I agree with the proposed approach by SG, considering the investment required these options are likely to be protracted in reaching the technical conclusion. When proven then introducing these options by regulation is a relatively quick and cost effective procedure.

9c Are there any particular methods which should be prevented from being used in Scotland?

Are there any particular methods which should be prevented from being used in Scotland?:

Dont know.

10 Do you agree with this definition of ashes? If not, how should ashes be defined?

Yes

If not, how should ashes be defined?:

11 Do you agree that a minimum distance of 200 yards (182.9 metres) should be required between crematoria and housing? If not, please explain why not.

No

If not, please explain why not.:

In view of mitigation that can be applied by way of the planning process it seems outdated in having a specified distance. Granted there may be concerns some residents will have in just being able to see a crematoria but that can be resolved by landscaping, screening, orientation etc but chimney heights are possibly the most visual aspect that could be of concern but again solutions exist in environmental and planning law to deal with that.

12 What are your views on the use of enforcement powers or penalty powers in response to such a minimum distance being breached?

Please enter your comments here.:

See 11 above

The Right to Instruct the Disposal of Human Remains

13 Do you agree that the right to instruct the disposal of a body on death in the case of an adult should be vested in the nearest relative using the definition at Section 50 of the Human Tissue (Scotland) Act 2006? If not, why not?

Yes

If not, why not?:

In whom should this power be vested instead?:

14 In the case of the death of a person under the age of 16 years , do you agree that the right to instruct the disposal of the body should follow the proposal at paragraph 43? If not, why not? In whom should this power be vested instead? How should this be defined in legislation?

Yes

In whom should this power be vested instead?:

what if the parents are seperated (legaly or otherwise) or where one has deserted!

How should this be defined in legislation?:

take into account similar to S50(3) of the Human Tissue (S) Act 2006

15 Do you agree with the proposal for who should have the right to instruct the disposal of the body in the event of a stillbirth?

Yes

If not, why not?:

Who should have the right to instruct the disposal of the body in the event that the mother or father are unable to do so?:

How should this right be defined in legislation? :

16 Do you agree with the proposal of allowing someone not listed to instruct the disposal of human remains in the case of a stillborn baby, pregnancy loss and the death of a child only on cause shown?

Yes

Yes

Please enter any additional comments here.:

The Management of Cemeteries

17 Do you agree that Scottish Ministers should have the power to make regulations pertaining to the general management of cemeteries, including giving Burial Authorities the right to take action to address unsafe, damaged and abandoned lairs and memorials?

Yes

Please enter any additional comments here.:

If a cemetery or part of it requires such memorial etc then that should be allowable by staute after advertising a public notice for relatives of unknown lairs to come forward. After A) view what is proposed and B) being informed of a formal appeal process they sign form stating they will be liable for share of Council costs.

18 Alternatively, would the introduction of non-statutory guidance provide a useful option between the current situation where no guidance exists and the introduction of regulations?

No

Please enter additional comments here.:

Has not worked, but yes have guidance to assist with informing in a different language what is happening.

19 Are there any reasons why a minimum burial depth of 3 feet from the surface to the top of the coffin should not be implemented?

No

Should there be any exemptions?:

Please enter any additional comments here.:

Burial and Cremation Records

20 Do you agree that records and forms relating to burial and cremation in Scotland should be stored and transferred electronically wherever possible?

Yes

Should any exclusions apply?:

Should this be applied to all forms of disposing of human remains in Scotland?:

21 Should records and forms relating to burial and cremation be kept for 50 years or is it better that they are kept indefinitely?

Indefinitely

If you specified 'other', please enter your comments below.:

if held electronically then the bereavement authority can upload them to GRS to be held for all time

Exhumation

45 Do you agree with the proposals to streamline the process for authorising exhumations, including an additionally streamlined process for particular categories of exhumation?

Yes

Please enter additional comments here.:

46 Do you agree with the proposal to provide an alternative process where the purpose of the exhumation is to allow the reuse of a full lair, including that the Burial Authority need not seek specific authorisation once it has carried out specified notifications that it intends to reuse the grave?

Yes

Please enter additional comments here:

47 Do you agree that authorisation for exhumations should be carried out by the inspector, rather than the Scottish Government?

Yes

Please enter additional comments here:

48 Do you agree with the proposed approach for the exhumation of cremated remains?

Yes

Please enter additional comments here.:

Pandemics and Mass-Fatality Events

49a Do you agree that the Bill should set out the process for applying for and authorising an exhumation for archaeological purposes?

Yes

49b Should any particular issues be taken into account or conditions applied?

Should any particular issues be taken into account or conditions applied? :

what other bodies are in the lair (if known), opinion by competent persons on level of infectious disease risk, really just incorporating the best practice standards as agreed by relevant professional bodies (medical and archeological)

50 Do you agree that the same power to suspend regulations relating to cremation in response to pandemics or other similar incidents should be extended to any relevant burial regulations?

Don't Know

Please enter any additional comments:

Cremation forms and procedures

51 Do you agree with the principle that a single form should be prescribed for applying for cremations or is it preferable that separate forms should be provided for applying for different categories of cremation?

Yes

Please set out your reasons for your view. :

Same form will capture common details, tick boxes can then identify the category

52 Do you agree that each of these categories should be provided for in cremation application forms?

Yes

Please enter additional comments here.:

53 Do you agree that Form A should contain these options for any ashes which are recovered?

Yes

Please enter additional comments here:

54a Do you agree that no cremation which is applied for using Form A should be able to proceed unless the applicant has specified what should happen to the ashes?

Yes

Please enter additional comments here.:

54b Do the categories above cover all relevant options or should other options be offered?

Yes

Please enter additional comments here:

55 Do you agree that Form A should state that it may not be possible to recover ashes after the cremation of a very young child?

Yes

Please enter additional comments here.:

supported by an explanation in a leaflet or guidance as to why this might be the case

56a Is the process for enabling a person other than the applicant to collect any ashes recovered appropriate?

Yes

Please enter additional comments here.:

56b Are the timings proposed suitable?

No

Please enter additional comments here:

for (c), (d) or (e) reduce the period to a max 4 weeks, as storage space is expensive.

57 If ashes are left at the crematorium, how long should be required to elapse before the crematorium can make arrangements to dispose of the ashes?

If ashes are left at the crematorium, how long should be required to elapse before the crematorium can make arrangements to dispose of the ashes?:
as 56b, a statement to the timings be declared on the necessary form or on any leaflet (eg one devised by the bereavement authority and issued to the family via the undertaker)

58a Do you agree that the application should be countersigned by someone who is not a member of the applicant's family and who is not involved in the arrangements for the cremation?

Yes

58b Will this prove impractical?

No

Please enter additional comments:

for cremations, this follows current practice

58c Should the legislation specify categories of people who may countersign cremation application forms?

Yes

Please enter additional comments.:

59 Should application for other categories of cremation require a countersignature?

Yes

Please enter additional comments here:

open to argument if a consistent approach is not adopted

60a Given the similarities between the proposed forms, would a single application form applying to the cremation of people born alive and stillborn babies be appropriate, allowing for specific sections of the form to be completed depending on the kind of cremation?

Yes

60b Would separate forms for each category be more appropriate?

No

Please enter additional comments here.:

61 What information should be considered essential for the cremation application?

What information should be considered essential for the cremation application?:

already supplied an answer - see 51 above

62a What is the best way to enable Cremation Authorities to undertake this scrutiny?

What is the best way to enable Cremation Authorities to undertake this scrutiny?:

dont know

62b What level of seniority is appropriate for this role?

What level of seniority is appropriate for this role? :

dont know

62c Should the crematorium manager be legally responsible for this scrutiny, even if the actual scrutiny is delegated to a suitably senior member of staff?

Yes

62d Should a senior Cremation Authority staff member be required to countersign the form to confirm that all legal requirements have been met?

Yes

Please enter additional comments here.:

63 Is there any need for the introduction of statutory forms for applying for a burial?

Yes

Please enter additional comments here:

again to give consistency of approach irrespective to the type of funeral

Pregnancy Loss

64 Is a comparable process for the burial of a pregnancy loss of less than 24 weeks gestation required?

Don't Know

Please enter additional comments here.:

65 Is an alternative process required before the cremation of a pregnancy loss where there is no medical certificate?

Don't Know

Please enter additional comments here:

66 Do you agree with these proposals for the form used to seek the mother's agreement to the hospital organising the cremation of a pregnancy loss of less than 24 weeks' notice?

Don't Know

Please enter additional comments here:

67a Do you agree with the proposal for who should have the right to instruct the disposal of the remains in the event of a pregnancy loss of less than 24 weeks gestation?

Don't Know

67b If not, in whom should this right be vested?

If not, in whom should this right be vested?:

Dont know

Please enter additional comments here:

68a Do you agree with the proposal to provide a list of people who have the right to instruct the disposal of the remains in the event that the woman is unable to do so?

Don't Know

68b If so, who should be included in this list.

If so, who should be included in this list.:

Dont know

Please enter any additional comments here:

69a Should there be a maximum time for which a pregnancy loss can be stored by a hospital before it is cremated as part of a shared cremation?

69b How long should this be?

How long should this be?:

one calendar week

70 Should the forms for the cremation of a pregnancy loss of less than 24 weeks gestation be statutory?

Yes

if not, why not?:

71 Should the form used by the hospital to release a pregnancy loss to the mother be statutory?

Yes

Please enter additional comments here:

72 Should there be a prescribed form for the application for cremation of a pregnancy loss of less than 24 weeks gestation where the cremation is organised by the mother?

Yes

Please enter additional comments here:

73a Do you agree that the application should be countersigned by someone who is not a member of the applicant's family and who is not involved in the arrangements for the cremation?

Yes

73b Will this prove impractical?

No

73c Should the legislation specify categories of people who may countersign cremation application forms?

Yes

Please enter additional comments here:

Cremation Register

74a Is this list comprehensive?

Yes

74b Should any other information be required to be recorded in the Cremation Register?

Should any other information be required to be recorded in the Cremation Register?:

Dont know

75 Does this proposal provide sufficient confidentiality in the case of the cremation of a pregnancy loss?

Yes

76 Are there any reasons why the Cremation Register should not be a public document, assuming that appropriate data protection and confidentiality considerations are in place?

No

If yes, please enter additional comments here.:

77 Do you agree that the Cremation Register should be retained indefinitely?

Yes

Please enter additional comments here:

especially if the electronic system is compatible or is developed by GRS

Accreditation of Cremation Authority staff

78 Should the accreditation requirements described in paragraph 176 be set out in a Code of Practice or in legislation?

Yes

Please enter additional comments here:

Code of Practice is best if its supported by the legislation thereby making it a formal requirement, failure to comply would be a breach of law.

79a How should a person's accreditation be checked?

How should a person's accreditation be checked?:

Initial registration, password protected, updated when changes occur or annually by each bereavement authority.

79b How often should a person's accreditation be checked or renewed?

How often should a person's accreditation be checked or renewed?:

audited at max 3yr intervals, irrespective of where they are based

Inspector of Crematoria

80 Do you agree that the role of Inspector should be responsible for crematoria and cemeteries?

Yes

Please enter additional comments here:

81a Do you agree that the Inspector should be responsible for particular additional functions, as described?

Yes

81b Are there any other functions that the inspector should carry out?

No

Please enter additional comments here.:

82 Should there be a formal schedule of inspection to ensure that every Cremation Authority and Burial Authority is inspected at least once during a given period?

No

Regulation of the Funeral Industry

83a Would regulation of the funeral industry be beneficial?

Yes

83b What would regulating the industry achieve that cannot be achieved already?

What would regulating the industry achieve that cannot be achieved already?:

There have been some horror stories by "rogue" undertakers, a formal registration scheme or similar maintained by the industry body with that being contained in all communications

83c What are the disadvantages of regulating the funeral industry?

What are the disadvantages of regulating the funeral industry?:

let the industry body regulate, with the caveat if its not done robustly it will be taken away.

84a If the funeral industry were to be regulated, what approach would be most useful for Scotland?

If the funeral industry were to be regulated, what approach would be most useful for Scotland?:

see 83c above

84b Do the examples given from other jurisdictions provide useful models, ranging from a fully licensed system to a process of self-regulation?

Yes

85 Do you agree that an additional inspector role, separate from the Inspector of Crematoria, would be required to support a regulatory regime?

Don't Know

Please enter additional comments here:

Funeral Poverty

86 Do you agree with the proposal that Local Authorities should have a legal duty to ensure that their up-to-date burial and cremation costs are published on their website in clear and accessible way?

Yes

Please enter any additional comments:

87 Should Local Authorities be required by law to charge funeral costs on a cost-recovery basis only?

No

Please enter additional comments here:

What is meant by cost-recovery. the bereavement service requires to be managed so back office costs must also be included as should maintenance / replacement cost for cremators / excavators etc not simply the "front office" costs.

Any Other Relevant Issues

89 Please use this space to provide information about relevant issues which are not covered in the consultation paper or any topic which you think should be considered:

Please use this space to provide information about relevant issues which are not covered in the consultation paper or any topic which you think should be considered::

What is not asked is the imposition of costs on local authorities when dealing with destitute funerals. It is galling that because the deceased has little or no funds, family/next of kin are increasingly seeking use of the National Assistance Act and we then regularly see family fund several hundreds of pounds worth of flowers. The DWP process is so protracted so local authorities have to arrange the funeral not knowing if a person will apply or be granted a death fund grant. The opportunity must be taken to update that process as at approx £1800 per funeral - "basic" service only - another way must be found to recupe the cost on local taxpayers eg either by way of contributions from a workers NI payments or a % of benefit payments for that person, or the first £XX of the pension is available.