

Response ID ANON-6XU2-MB8G-3

Submitted on 2015-03-07 23:43:28.969114

Information about you

Contact details and publishing consent:

Organisation/Group

Organisation/Group name*:

Brodies Funeral Services Ltd

Organisation/Group address:**

9 West Main St

Harthill

Organisation/Group postcode:**

ML7 5QD

Organisation/Group contact name*:

Jim Brodie

Organisation/Group contact email*:

jimbrodie@me.com

Private sector organisation

Organisation/Group type 'other':

Title*:

N/A

Forename or initials*:

N/A

Surname*:

N/A

Full postal address:**

Postcode:**

N/A

Email address*:

na@example.com

Publish this response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

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1 Do you agree that existing legislation relating to burial and cremation should be repealed and replaced by a new legislative framework?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

Why is this document not in UK English but US English?

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?:

The authority to remove dangerous memorials without undue delay.

The ability to inter a coffin less than 36 inches below ground level if a suitable retardant for animal egress is provided, only to meet the original purchase capacity of said grave. Too many families get a shock when their mother, widowed 40 years prior cannot be buried with her late husband.

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.:

At present the burial authorities seem to make up the interpretation of the laws on a whim or case by case basis.

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.:

The bill should be flexible enough to be amended without undue delays in the future.

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.:

Woodland burial sites have a widely varying degree of rules, which should be the same as any human remains repository. The use of 1 lair for 1 person is a wasteful use of land.

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

Yes

Please enter additional comments here:

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?:

Land ownership, Proximity to ground water courses, detailed marking of location of grave in title deeds. construction of grave i.e. a solid encased vault with hermetically sealed lid would have little or no effect on ground water contamination compared to an earth grave with no coffin.

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

No

Please enter additional comments here:

Notwithstanding some religious beliefs, private cremation outwith a properly regulated facility, poses far too many risks, hazards and lack of oversight to be feasible in modern Scotland.

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?:

Resomation which is Scottish developed and is worth a serious look.

Cryomation and Promession

All are fundamentally more environmentally friendly than normal cremation and use less space than burial, however they are a harder sell to the public, Cremation was abhorred for many years by a huge segment of Scottish society. Maryhill Crematorium in Glasgow's Western Necropolis, Scotland's oldest crematorium, originally had a hole in the floor, which the family would lower the coffin on cords into, to make it look more like a burial and therefore more acceptable to the public.

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?:

Sky burial and plastination.

Sky burial would never be allowed as much as open site cremation as it would more than likely offend too many citizens sensibilities.

Plastination is not actually disposing of the dead more a gimmick but worthwhile for teaching medical students etc. However if someone should wish this indefinite preservation, who are we to restrict its use? The final disposal would still have to be considered and accounted for, no matter how long after death. Lenin was eventually buried, after all.

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.:

This is a shortsighted approach, as with the advancement of cremation and subsequent alternative methods of disposal, there is no reason why a crematorium should be sited a set distance away from housing. At present, there are many funeral parlours and mortuary facilities surrounded by housing, quite safely looking after the deceased, therefore if another safe and dignified method of disposal is developed then there is every reason to believe that this process could take place in funeral homes and mortuaries. We mustn't get stuck in the belief that a large purpose built facility, costing millions of pounds, is the only way to handle cremation/disposal. In the U.S. many funeral homes have their own cremator and cremulator within their own facility or even in an industrial estate.

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.:

As the process for crematorium planning and siting are already very bureaucratic, it would be highly unlikely that this would be breached, however if a builder was to build housing around an existing crematorium, it would be up to the local planning authority to remedy/prevent this. Market forces would, I presume, also prevent this, as any buyers might not appreciate the view.

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?:

The only area of concern here is when the legal right to instruct is used to delay disposal by the next of kin. [REDACTED]

[REDACTED] Whilst a family cannot be forced to make a decision, a time limit should be legislated for, so that in these rare occurrences, an informed decision can be made by a Sheriff and action taken.

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?:

How should this be defined in legislation?:

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?:

Anyone who has the trust and knowledge of the parents

How should this right be defined in legislation? :

In the event of the parents being unable to give instruction to the method of disposal, an appointee, preferably from the Procurators Fiscal Service, shall be made after 3 months to give an informed opinion, however earth burial should be the default position to enable the parents to reconsider.

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

Not Answered

Please enter any additional comments here.:

If there is no ability to receive the instruction from the family, which can occur for a variety of reasons, then the authority to instruct should be given to the Procurators Fiscal Service, this will ensure that no law has been broken and a cause of death been determined. Also they will more than likely have already been involved with the case.

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.:

Without oversight, the burial authorities will have no incentive to address these issues.

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.:

Burial authorities have prevaricated over this issue for too many years. As an example, health and safety guidance about memorial safety has been paid scant attention by a great many. Some authorities don't even enforce their own regulations. Unless they are forced to meet legislative regulations they will continue to be the mixed bag of very good, average, poor and downright shocking, they are at present.

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?

Yes

Should there be any exemptions?:

Anyone who died from a notifiable disease for obvious reasons.

Please enter any additional comments here.:

With space within lairs and lair availability a major problem in urban areas especially, the ability to use more space is always a benefit. The major reason for the 3 foot minimum depth was to prevent animal egress. However if the cemetery authority were to use a sturdy board or thin slab covering the whole perimeter of the excavated area on top of the last coffin, this could be reduced to 15 to 20 inches thus allowing another coffin within the grave. The average coffin is 14-16 inches in depth.

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?:

Deaths from abroad, murder cases or politically sensitive cases.

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

Absolutely

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.:

Alleviating pressure on burial grounds

22 Do you agree that the sale of lairs in perpetuity should be ended?

Yes

Please enter additional comments here.:

There are many unused lairs around Scotland which could be resold. Too many lairholders think they actually own the land rather than the exclusive right to burial. If unused after 70 years with no means to identify lairholder, they should be resold.

23 Does the proposed alternative approach provide a suitable balance between enabling people to buy lairs and safeguarding lairs for the future?

No

Please enter additional comments here.:

Unfortunately in the real world the chances of omission to re-register after 25 years and then again in 10 year blocks thereafter would lead to many cases of error and miscarriages. As the title deeds would not be returned they would have to be rescinded legally, but they would still be in existence and circulation. I can easily

see the reaction to a family who thought they owned a lair finding out they had paid for something they no longer legally own. Court cases will abound around lack of duty of care from the burial authority.

24a Should there be any restrictions about to whom the owner of a lair can transfer his or her interest?

No

24b Should this be restricted to family members?

No

25 Do you agree that Burial Authorities should no longer be able to sell multiple lairs or blocks of lairs to an individual?

No

Please enter additional comments here.:

There are many families who are quite large and would like a family area. With restrictions on the amount of persons per lair it is very unfair to stop a family from being buried within adjacent plots. These lairs also tend to be often visited and well maintained for many generations. If said lairs are not used within 70 years then they can be resold as per previous section.

26 The Burial and Cremation Review Group recommended that Burial Authorities may refuse to sell a lair if it believes that it is not for imminent use. How long should constitute 'imminent' in this situation?

How long should constitute 'imminent' in this situation? :

This is a travesty. It restricts choice to the consumer of Scotland.

With burial authorities, constantly increasing the cost of lairs and the huge rise of pre-paid funeral plans, it only stands to reason that someone may wish to purchase a lair, when they can afford it. Rather than at the time of need, when all their funds have been used by the local authority for their nursing home care fees!

I'm fully aware that lair provision is becoming harder to provide, however if the local authorities actually used the profits made from the sale of lairs and invested it properly I'm sure that new cemeteries would be found.

How could this be tested?:

27 Do you agree with the proposal that full lairs and partially-full and unused lairs should be considered for reuse in certain circumstances with appropriate safeguards in place?

Yes

Please enter any additional comments here.:

Unused certainly but lairs with an existing safe memorial would be politically very sensitive. Dig and deepen on extremely old lairs is an excellent idea, however it is also a sensitive issue and memorials would be have to be included within the safeguards.

28 Is a period of 75 years sufficient before reuse of a full lair can be considered?

No

Please enter additional comments here.:

125 year minimum. this would be 5 generations from the original owner.

29a Does the initial consultation provide sufficient assurance that relevant specialist interests have been consulted?

Yes

Please enter any additional comments here.:

This is a public consultation and any specialist parties should be well aware of its existence.

29b Should any other specific organisations or groups be consulted at this stage?

No

30a Does the process set out allow for sufficient notice to be given that a lair is being proposed for reuse?

Yes

Please enter additional comments here.:

30b Should any particular methods of notification be used in addition to those noted?

Yes

Please enter any addition comments.:

A search of deaths from the registrar general to see if the lairholder has already died and who registered their death as they may have exclusive right of burial. Prepaid funeral plan providers to see if the lairholder is still alive but in care or has moved to a different location, but may still wish to use said lair.

31 What can be done to make sure that there are no financial disincentives to opposing to the reuse of a grave?

What can be done to make sure that there are no financial disincentives to opposing to the reuse of a grave?:

The burial authority must meet all the relevant costs to its reuse and any objections. These costs can be recouped in the purchase price of the New lair.

32 Other than family members, who should be able to object to the proposed reuse of a lair?

What considerations should be made to determine whether an objection from a non-family member is legitimate? :

Anyone with a relevant objection, such as historical societies, community groups and such like.

33 What considerations should be made to determine whether an objection from a non-family member is legitimate?

What considerations should be made to determine whether an objection from a non-family member is legitimate? :

The relevance of the objection is paramount I would assume, not who is making it.

34a If the Burial Authority decides not to reuse a lair on the basis of an objection from a non-family member, should that person become liable for the maintenance of the lair?

No

34b If not, should the Burial Authority remain responsible?

Yes

35 Do you agree that the 'dig and deepen' method should be used to allow the reuse of full lairs?

Yes

Please enter additional comments here.:

My only reservation is that many cemeteries are on ground so poor the process of deepening may be too dangerous.

36 Are any other techniques available that should be considered?

Yes

Please enter additional comments here:

Above ground chambers and mausoleums, where space is rented for a period and afterwards the bones interred in a communal area.

37 Do you agree that headstones and memorials may be reused if appropriate?

Yes

Please enter additional comments here.:

Most older stones will not be suitable or conform to modern standards of safety.

38 Do you agree that headstones and memorials should be removed from lairs if they cannot be made safe?

Yes

In this instance, what should happen to headstones and memorials that are removed? :

They should be stored in a safe location for a period of 18 months, if no owner can be found, they should be refaced for reuse within the burial authority sites or if beyond repair sensitively destroyed.

39a Are any other approaches for easing the pressure on burial land suitable for use in Scotland?

Yes

39b For example, should above ground mausoleums, similar to those found in Europe, be considered?

Yes

40 Is a period of 25 years sufficient before the use of a partially-full or unused lair can be considered?

No

Please enter additional comments here.:

Partially used 125 years

Unused 75 years

41 Is 12 months long enough to advertise the intended reuse of a full lair or use of a partially-full or unused lair?

No

Where should the Burial Authority's intention be advertised? :

18 months as this will encompass at least 1 birthday, anniversary or memorable date special to the family.

42 Where a Burial Authority intends to reuse a lair having undertaken all appropriate consultations, should it be required to make clear to prospective purchasers that the lair is being reused or is part of a lair that is partly full?

Yes

Please enter additional comments:

With detailed, signed informed consent from the purchaser.

43a Do the safeguards described provide sufficient reassurance to ensure that lairs are not reused inappropriately?

No

Please enter additional comments here:

See 30 b

A search of deaths from the registrar general to see if the lairholder has already died and who registered their death as they may have exclusive right of burial. Prepaid funeral plan providers to see if the lairholder is still alive but in care or has moved to a different location, but may still wish to use said lair.

43b Are any other safeguards required – for example, should the Burial Authority be required to seek a court order to reuse a lair?

No

Please enter additional comments here:

Please enter additional comments here.:

44 Should certain categories of grave – such as Commonwealth War Graves – be automatically excluded from consideration for reuse?

Yes

Please enter additional comments here.:

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.:

The well known delays in exhumation and the exorbitant cost are used by many local authorities to put families off this process. As long as there are genuine reasons for the exhumation and a proper assessment have been carried out, there should be very few limitations or delays with this process

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? :

Archaeological exhumations are quite rightly far more complicated than a families request. In view of this any exhumations of this type should be overseen by other non connected groups but not essentially the Scottish Government, in the interests of transparency and public interest.

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?

Yes

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?

No

Please set out your reasons for your view. :

I believe there should be no more than 3 forms for cremation.

1. Adults/Children over 1 year
2. Infants under 1 year
- 3.Any still born child, NVF including shared cremations

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

No

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.:

Already required in any of the crematoriums I use.

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.:

Absolutely and the applicant should receive a copy of this form

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

No

Please enter additional comments here.:

At present only the applicant has the sole right to determine the disposal of said ashes. This can lead to problems when the applicant isn't the client of the funeral

director. Provision must be made to ensure that the funeral director who collects on the applicants behalf, keeps accurate records of all cremated remains collection, storage and delivery. At present this is advised but has no legal requirement.

56b Are the timings proposed suitable?

Yes

Please enter additional comments here:

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?:

A period of 12 weeks after the cremation takes place and then only after every effort has been made by all parties, including the funeral director, to ascertain disposal instruction from the applicant.

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?

No

58b Will this prove impractical?

Yes

Please enter additional comments:

At the time of signing just about everyone in the room will be involved with the cremation. It would be very hard for anyone not involved with the applicant or cremation to be found, who was willing to sign.

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?

No

Please enter additional comments here:

In the case of a termination, it is imperative that the mother is allowed total privacy and anonymity in the process.

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?:

Name, Address, Age/date of Birth, Place of Death, Time of Death, Cause of Death (from Death Cert/Form 14, post May 2015)

Applicants details and relationship (as per current NHS rules of next of kin)

Unique code number from Form 14, this will ensure that no cremation can occur till after registration.

PF involvement and district.

Notifiable infections

Radioactive implants or Pinions

Disposal of ashes

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?:

If not them, Who?

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

What level of seniority is appropriate for this role? :

Obviously anyone with this authority must have the relevant training and experience to fulfill this task effectively.

No less than 2 years as a qualified cremation technician or fully qualified crematorium manager with relevant trade association diploma.

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.:

If not then no paper trail for disputes.

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

Yes

Please enter additional comments here:

Burial regulation and legislation is a complete mess in Scotland with different burial authorities giving different opinion and requirements.

Pregnancy Loss

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

Yes

Please enter additional comments here.:

Any burial of human remains should be recorded.

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

Yes

Please enter additional comments here:

The relevant application form should answer this.

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?

Yes

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?

Yes

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

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

N/A

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?

Yes

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

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

Any person known to and nominated by the woman.

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?:

3 months

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:

Relevant application form will handle this

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?

No

73b Will this prove impractical?

Yes

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?:

no

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:

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:

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

How should a person's accreditation be checked?:

By supply of accreditation paperwork and the examination board having all accredited persons noted on-line, including strike-offs of removed persons

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

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

An annual declaration by means of on-line submission to inspectors office.

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:

Adding the burials to this task may be logistically problematic, however at present if a family have a problem with their burial authority they have no redress other than the courts, and as the legislation is so open and subjective at present, they need someone for over-watch to keep the authority honest.

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?

Yes

Please enter additional comments here.:

He should give an annual report either in person or on line with all the relevant information, numbers etc and also the state of the over-watch with complaints and warnings issued with total transparency. Nothing will encourage good practice better than making sure "your names not in the window".

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?

Yes

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?:

Why is there no "don't know"?

.

I note you ask funeral industry, I've been a funeral director for 30 years and my family firm in existence for 94 years, I call it a vocation not a trade.

The funeral profession has been looking after our communities for over 200 years. In that time the profession has changed greatly. Many years ago, we "undertook" to look after the deceased persons and their families within our community, we supplied coffins, cared for them and provided cars, in a time when few had them.

In my time alone the changes have been significant, no longer do we get the death notification from the local minister or priest, we are engaged by the family direct and then we contact the relevant officiant, now only approx 50% of services are conducted by the clergy and the rest by professional orators or family /friends. Nowadays we are engaged to provide a fitting and dignified service to honour and remember the person who has died. We are under huge pressure to get it right every time, as we are only as good as our last funeral in the public's eye. In my time we have only had a tiny amount of complaints, usually about third party providers rather than ourselves. If we have erred we do everything in our power to correct it or make amends. In essence our reputation is absolutely everything to us.

If you look back only a few short years ago, Politicians, Police officers, Bankers, Clergy, Doctors, Funeral Directors and Lawyers were looked upon with absolute trust, only Funeral Directors can claim that position now. Why is this? Maybe because what we do isn't quantified, listed and written down in minutia. How can you quantify and legislate care? It is so subjective to each individual that its almost impossible.

However, as the corporate funeral directors continue to buy up small local independents, we have seen a lot of start up companies being formed, some of them

with years of experience, some with little or none. I have no problem with competition as it promotes fair play for the community, I have on the other hand very strong concerns for the families who are not served well by inexperience and poor practice as these reflect on all the of profession by connection. A properly regulated funeral profession would minimize these occurrences and offer a legitimate client redress.

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

What are the disadvantages of regulating the funeral industry?:

The disadvantages of a regulated profession would be constriction of ideals and innovation.

As a small example: our firm pioneered the supply of hymn-sheets to our clients way back in the 80's, now the majority of services have them. My father also pioneered locally sited funeral homes to encourage families to view in safe hygienic surroundings rather than lying at home. Nowadays very few persons are taken home. If regulation was in force then, He would probably not have had the guts or financial ability to challenge convention.

Regulation promotes conformity rather than freedom of choice, therefore any regulation must be tempered common sense and the ability to change with speed rather than every 160 years!

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?:

My honest opinion would be for mandatory trade association registration (significantly the same as medical doctors, The BMA and the GMC) with the teeth to remove bad practice and unfit persons from the profession.

However whole-sale licensing of the profession would be virtually impossible, as a firm conducting 10 funerals a year in the islands, couldn't possibly afford to meet the same criteria as a firm conducting 300 plus in the urban areas, therefore if a licensing system was to be introduced it would be skewed from the very start, and would lead to the absorption of many smaller firms by the corporate's, which may look beneficial at first, but in the long term will only promote cartels and loss of choice to the consumer, the "Tesco effect"

Also Licensing would have to done individually, as if it were company licensing could you for a moment, imagine a series of serious breaches by Cooperative Funeralcare or Dignity, apart from huge financial penalties, how could these huge corporations be chastised, the inspector couldn't close them down, as they could a small operator. They would be deemed too big to fail, and would lead away from a level playing field. Also both these corporations are English based and controlled, which would make them even harder to bring to task, as they merely play lip service to Scottish Law, if you were to read their terms and conditions.

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

No

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

Yes

Please enter additional comments here:

We already have this with both the current trade associations in Scotland, although they do have different criteria for those inspections.

Significantly the number of NAFD members are falling and the number of SAIF members are increasing, Scottish SAIF have the higher standard of criteria. Scottish SAIF have a single inspector who has great experience in the profession and inspects each member on the basis of number of funerals and facilities available to their clients. This means that everyone is inspected to the same degree with the added benefit of tempered, real world experience.

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:

They should also by legislation give a breakdown of how these costs are calculated, as a great many merely lose the massive profits of both burial and cremation services in other areas of council services, as in Leisure and Recreation.

This should be audited independently.

We are nearly at the next financial year, and at present, I cannot get any information on the proposed costs for local authority burial or cremation fees.

Some authorities seem to see just how much they can squeeze from the bereaved, yet Funeral Directors, are constantly questioned upon the cost of a funeral, most of which we cannot control.

Burial and cremation authorities should be forced to collect their own fees directly from the applicant, rather than passing the risk on the funeral director. This would give the public a more transparent look at the actual cost of a funeral.

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

Yes

Please enter additional comments here:

If this was to happen then we would actually see real investment in personnel and services provided by the councils or a dramatic decrease in the fees charged.

For far too long many operators have looked upon these services as cash cows to supplement their coffers.

How can a council such as Falkirk, charge huge out of area fees, in a way which is both abhorrent and illegal, as the crematorium was paid for years ago, so their

current citizens do not support its operational 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::

Funeral Pre paid planning.

This entire sector has been woefully overlooked since the early 2000's. There are some very good providers and there are some shall I say, not so good providers. Some are not even registered with the FCA, never mind regulated. I am registered with the FCA in case I need to accept more than 3 installments from my clients, yet a company selling monthly payment installment plans has no need to, just because the monies go to a trust?

The sales techniques are not regulated and the clients are often vulnerable to these sales staff. The amount of untruths and downright lies I have heard are shocking.

Many of these providers sell to anyone, whether appropriate or not (a good provider would never sell a mid term financial product to a terminally ill person) they then remove a significant "cut" from the amount paid, and offer these plans to the lowest bidder (funeral director) sometimes as much a 40% of the amount is removed prior to placing in the "trust fund".

If ever there was a "Trade" that needed looking at, third party funeral plan providers are most definitely one.

Police Sudden Death provision in Scotland.

At present this is also a mess. There are some areas where European law on procurement is strictly adhered to and others where a more relaxed and common sense approach has been used.

With the formation of Police Scotland this is being addressed, but although they have now finally realised that one major contractor for a huge area, might not provide the best service, they are about to find out that smaller local firms, especially in more rural areas are not interested in even applying for these contracts. In many cases, where they used to perform this duty on either a rota or request basis, they haven't had to provide this service for quite some time, due to the contracts. Their staffing levels have reduced over time, as there was no need to have constantly available personnel. Thus the amount of jobs throughout the funeral profession in Scotland have dropped steadily over the last 8-10 years. This has led to a shrinkage of the available skill set and physical ability (we're all 10 years older) across the board. In essence European Law for procurement has lost Scottish jobs. The laws themselves are quite correct, however we are not talking about computers or chairs or things which can be procured from various sources, we are talking about specialist skills and equipment on a very local and personal level.

Procurators Fiscal Service

The procurators fiscal service (under the Crown Office) have also found themselves in a mess as well. 25% of all deaths in Scotland involve the PF, however, few actually go as far as Autopsy. With the advent of NHS 24 we no longer have local medics available to pronounce life extinct, out of hours. Some of the NHS 24 medics are also extremely quick to call the police. Once this process has been started it is quite difficult to stop. Hence you have deceased 95 year old terminally ill patients being hauled all over the countryside, under the "protection" of the PF and their families being questioned by the Police at a terrible time in their lives. Then, when the health centre opens again, the GP is quite happy to issue a Medical Cause of Death Certificate. If this happens, there is no contact between GP and PF, as the Police do not send a death report, therefore you have a body being held, essentially illegally, in one part of the country and a family in another part, not being told anything, unless the GP happens to wonder why no-one has collected the certificate. I have lost count of the times this happens, it is usually up to the funeral director to tell the family, when we find out what is happening? Sometimes this can take several days.

As a suggestion, why doesn't the PF use places of safety locally to look after non suspicious deaths. The added cost would be easily offset by the reduction of wasted police time and contractor removal fees, and the families could have their loved one cared for properly, by their preferred funeral director, rather than stored in overflowing police mortuaries.