

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1 Do you agree that existing legislation relating to burial and cremation should be repealed and replaced by a new legislative framework?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

The practice of having to have 2 death certificates for cremation means undue delay in removal of a body from a hospital/nursing home where there is no suitable storage place for such. This is not only an inconvenience for the hospital/nursing home but also for the relatives responsible for the disposal of the body.

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?:

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.

No

If not, please set out reasons why not.:

Private cemeteries should be able to agree tenure of lairs if they wish. Also whether headstones may remain in perpetuity or not. There is no reason why this should not be so. There are also small family owned cemeteries which should not come under this sort of restriction.

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.:

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

Yes

Please enter additional comments here:

I agree that certain standards must be met but would not want to see anything too restrictive. Minimum depths of burials & suitability of ground must be of importance.

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?:

Suitability of locality - whether too near to or on ground that may be in a housing development or developed for housing etc in the near future. Suitability of the proposed ground - water table etc, within a certain distance of a water source.

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

No

Please enter additional comments here:

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?:

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?:

Open air funeral pyres/cremation. Ashes or remains disposed of in rivers.

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.

Yes

If not, please explain why not.:

I would make an exception in the case of a lodge or cottage in the crematorium grounds.

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.:

Either no houses should be built within the specified distance or no crematoria should be built within the specified distance of housing. It is surely the responsibility of the planning department of each council.

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?:

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?:

Nearest relative of either parent giving maternal preference in the case of non-agreement.

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?

Don't Know

Not Answered

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?

No

Please enter any additional comments here.:

Some powers would be useful but I completely disagree with the proposal to assume lairs may be abandoned. Burial Authorities should have the right to pursue relatives if memorials require attention, require the relatives to make safe any dangerous headstones & request re-use of a lair or use of an unused lair. It would be wrong to re-use lairs that were purchased in good faith in perpetuity without relatives' consent. Many families do visit their ancestral graves, particularly now there is an increased interest in genealogy. Headstones were purchased by the family with the intention of it remaining as memorials to their loved ones' last resting places. It would be deplorable to find they had been re-used for some other interment for another family. If the lair is re-used, the headstone should remain in place, not engraved for any new occupant. If lairs are to be re-used, the gap between burials of 75 years is far too short a time. It would mean my grandfather's grave would be violated which is far too close for comfort & very upsetting. No legislation on this subject should be retrospective. When lairs were purchased in perpetuity, it was done in good faith - for perpetuity.

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?

Yes

Please enter additional comments here.:

I agree that Burial Authorities should be able to contract out lairs for an agreed time with relatives at the time of burial if they wish. I suggest they could make a written contract if necessary that would allow families to contribute after so long to the maintenance & tenure of any lair but discontinue any such contract at any time that family wished, so making the lair available for re-use. It would be the responsibility of the family to inform the Burial Authority of any change of address or contact name. Non-statutory guidance on this subject would be useful.

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?:

For ashes it would not be necessary to have such a deep burial.

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.:

Alleviating pressure on burial grounds

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

No

Please enter additional comments here.:

It should be up to individual Burial Authorities. In some areas where there is plenty of space, there is no reason why single lairs should not be sold in perpetuity. Block lairs should not be available as they are often never used. Or a lair could be sold 'in perpetuity' on the understanding that it must be used within a stipulated number of years. Where a couple wish to remain together it should be possible for them to buy a lair in perpetuity. Many people wish to visit the graves of their ancestors & the situation will probably be the same in the future. Many people come from overseas to look for their Scottish roots & probably bring income to these areas where their ancestors lie.

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

Don't Know

Please enter additional comments here.:

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

Yes

24b Should this be restricted to family members?

Yes

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

Yes

Please enter additional comments here.:

As in my answer to question 22, I agree multiple blocks should not be available as many are never used but there could be a time limit placed as to how long they may remain unoccupied. It might be of financial benefit to the Burial Authority in a sparsely populated area to be able to resell lairs after a limited number of years.

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? :

10 years would seem reasonable unless the lair is purchased for a spouse.

How could this be tested?:

It should be up to each individual Burial Authority.

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?

No

Please enter any additional comments here.:

Unused lairs by all means but those already occupied should be last resort measures. Existing headstones should be left in place with no further inscriptions on them. Where headstones are so worn or in a dangerous condition, they could be removed to a suitable site within the cemetery & full details taken of the occupants & their memorials. These details should be freely available to any descendants or family.

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

No

Please enter additional comments here.:

75 years is far too short a time. To find my grandfather's grave occupied by another person would be extremely upsetting for me. I have many close relatives who were buried outwith the 75 year period. I want to be able to visit them knowing that the lair that was purchased for them & the headstone carefully chosen are still as they were & have not been usurped by an unknown person.

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

Yes

Please enter any additional comments here.:

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

Don't Know

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

No

Please enter additional comments here.:

Notices in a local newspaper are unlikely to be read by many relatives as so many people move away from their home areas now. Further steps should be necessary.

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

Yes

Please enter any addition comments.:

Perhaps if a Burial Authority considers reusing lairs in particular cemeteries, it might be possible to notify relatives through one or more of the genealogy sites such as Ancestry or Find My Past which are patronised by thousands of interested people. Possibly one of these sites might be interested in having a database of cemeteries that were going to reuse lairs.

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?:

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? :

It should be up to family members, by marriage or blood, mainly. The church attached to a cemetery should be able to object or where the occupant of a lair is of historical or local interest there would be reason not to reuse that lair.

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? :

Ultimately, it should be up to the family to decide.

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?

Yes

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

Not Answered

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

No

Please enter additional comments here.:

Where lairs were purchased in perpetuity, it was done in good faith & should remain so. There are many multiple lairs that contain the remains of many family members who wished to remain together in death. Their descendants still visit them & these remains should not be disinterred to have other remains interred over them.

36 Are any other techniques available that should be considered?

Don't Know

Please enter additional comments here:

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

No

Please enter additional comments here.:

The were purchased by their families who would not wish them to be 'sold' to some other family.

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

Don't Know

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

Only if the relevant families cannot be traced should they be removed. If removed, they should be placed in a safe position somewhere within the cemetery so they can be viewed. Thier removal should not be used as an excuse to reuse any lair. If the lair is reused, there must be some record kept so descendants & relatives can locate the grave.

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.:

25 years might be long enough for an unused lair to be reconsidered but not long enough for a partially-full one. There could be a space left for a son or daughter who had cared for their parent & purchased sufficient space to be reunited after death.

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

Yes

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

Local, national newspapers should be used & if possible genealogy sites after efforts have been made to trace family members.

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:

Many people would prefer to purchase an empty lair & they should have the option of reusing one or trying to find an empty lair elsewhere. As there should be an existing memorial in place, they might not wish to add their own headstone in the same place.

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

No

Please enter additional comments here:

There seems little to ensure that Burial Authorities cannot decide unnecessarily to sell used lairs at a lower price than unused ones or unused ones for a higher price. There appears to be nothing to dissuade them from the cheaper option of reusing lairs rather than make every effort to buy more ground.

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

Yes

Please enter additional comments here:

At least relatives would be given some assurance that another authority had sanctioned the reuse.

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.:

Under no circumstances should these War Graves be disturbed. There are many very fine old memorials in old cemeteries which should be excluded under some sort of categorisation.

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?

Don't Know

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?

No

Please enter additional comments here:

I do not like the idea that Burial Authorities should be able to reuse a full lair without the family's permission.

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:

Only where a family wishes to move remains.

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

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?

Don't Know

Please enter additional comments here:

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:

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