

Annex D

List of consultation questions and consultation response form

How to complete this response form

1 Each question in the consultation paper is listed below. Respondents are invited to answer as many questions as they wish to, and there is no requirement to answer every question. Completing this form as a Word document allows responses to be provided directly on to the form, although respondents may choose to respond in other ways.

2 Some questions provide a check box to provide a response - to mark a box, double-click it and then select 'Checked' from the menu. Where several questions are asked under the same number, the initial question is the one that should be answered using the check box. Further information can be provided by inserting free text under the heading 'Additional information'.

3 Where no check box is provided, responses are sought in the form of free text, which can be inserted under the heading 'Response'.

4 At the end of the questions consultees are invited to provide any other information which they feel is relevant.

5 Once completed this form can be emailed to burialandcremationbill@scotland.gsi.gov.uk or posted to:

Burial and Cremation Consultation
Scottish Government
3E St Andrew's House
Edinburgh
EH1 3DG

6 When returning responses please also complete and return the Respondent Information Form at Annex C. **The closing date for responses is Friday 24 April 2015.**

The legislative framework

Q1 – Do you agree that existing legislation relating to burial and cremation should be repealed and replaced by a new legislative framework?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q2 – Are there any particular powers that are required by Burial Authorities or Cremation Authorities that are not provided for by current legislation?

Response: *unsure.*

Q3 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q4 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q5 - Do you agree that the Bill should contain provisions to regulate environmentally friendly methods of disposal that are already available in Scotland?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q6 – Should the Burial and Cremation (Scotland) Bill contain provisions pertaining to home burial?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q7 - In making legal provision for home burial, what factors should be considered?

Response: *Information storage for sale of ground .
- to be part of the house deeds +
search criteria .*

Q8 - Are there any reasons why private cremation should not remain illegal?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q9 - Do you agree that alternative methods of disposing of the dead should be regulated for in this way? Are there any particular alternative methods that should be considered? Are there any particular methods which should be prevented from being used in Scotland? *This is 3 questions my response is to part A.*

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q10 - Do you agree with this definition of ashes? If not, how should ashes be defined?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q11 - 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 ☐ No ☒ Don't Know ☐

Additional information:

Q12 - What are your views on the use of enforcement powers or penalty powers in response to such a minimum distance being breached?

Response: - *Building removed, distance is not adequate.*

The right to instruct the disposal of human remains

Q13 - 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? In whom should this power be vested instead?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q14 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q15 - 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? 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?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q16 - 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? Is it appropriate that no similar provision is proposed for the death of an adult?

Yes ☒ No ☐ Don't Know ☐

Additional information:

The management of cemeteries

Q17 - 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 ☒ No ☒ Don't Know ☐

Additional information:

Q18 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q19 - 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? Should there be any exemptions?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Burial and cremation records

Q20 - Do you agree that records and forms relating to burial and cremation in Scotland should be stored and transferred electronically wherever possible? Should any exclusions apply? Should this be applied to all forms of disposing of human remains in Scotland?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q21 - Should records and forms relating to burial and cremation be kept for 50 years or is it better that they are kept indefinitely?

50 years ☐ Indefinitely ☒ Other period ☐

Additional information:

Alleviating pressure on burial grounds

Q22 - Do you agree that the sale of lairs in perpetuity should be ended?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q23 - Does the proposed alternative approach provide a suitable balance between enabling people to buy lairs and safeguarding lairs for the future?

Yes ☐ No ☒ Don't Know ☐

Additional information: *Please see attached comments.*

Q24 - Should there be any restrictions about to whom the owner of a lair can transfer his or her interest? Should this be restricted to family members?

Response: *No, it is up to the owner to decide and does not require legislation.*

Q25 - Do you agree that Burial Authorities should no longer be able to sell multiple lairs or blocks of lairs to an individual?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q26 - 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 could this be tested?

Response: *50 years.*

Q27 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q28 - Is a period of 75 years sufficient before reuse of a full lair can be considered?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q29 - Does the initial consultation provide sufficient assurance that relevant specialist interests have been consulted? Should any other specific organisations or groups be consulted at this stage?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Q30 - Does the process set out allow for sufficient notice to be given that a lair is being proposed for reuse? Should any particular methods of notification be used in addition to those noted?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Q31 - What can be done to make sure that there are no financial disincentives to opposing to the reuse of a grave?

Response: *Councils pay for the notice to reuse, as they would planning permission.*

Q32 - Other than family members, who should be able to object to the proposed reuse of a lair?

Response: - *no one depending on the understanding of family, this is a changing sociological term.*

Q33 - What considerations should be made to determine whether an objection from a non-family member is legitimate?

Response: - *mediation.*

Q34 - 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? If not, should the Burial Authority remain responsible?

Response: *No they should not.*

Q35 - Do you agree that the 'dig and deepen' method should be used to allow the reuse of full lairs?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q36 - Are any other techniques available that should be considered?

Response: *No.*

Q37 - Do you agree that headstones and memorials may be reused if appropriate?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Q38 - Do you agree that headstones and memorials should be removed from lairs if they cannot be made safe? In this instance, what should happen to headstones and memorials that are removed? *laid flat on the lair or stood against a wall with lair identifier on them.*

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q39 - Are any other approaches for easing the pressure on burial land suitable for use in Scotland? For example, should above ground mausoleums, similar to those found in Europe, be considered?

Response: *Possibly, with integrated communities this should be considered.*

Q40 - Is a period of 25 years sufficient before the use of a partially-full or unused lair can be considered?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q41 - Is 12 months long enough to advertise the intended reuse of a full lair or use of a partially-full or unused lair? Where should the Burial Authority's intention be advertised?

Yes ☐ No ☒ Don't Know ☐

Additional information: *local press with planning, on notice boards in cemetery, on line.*

Q42 - 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 ☒ No ☐ Don't Know ☐

Additional information: *Absolutely crucial information.*

Q43 - Do the safeguards described provide sufficient reassurance to ensure that lairs are not reused inappropriately? Are any other safeguards required – for example, should the Burial Authority be required to seek a court order to reuse a lair?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q44 - Should certain categories of grave – such as Commonwealth War Graves – be automatically excluded from consideration for reuse?

Yes ☐ No ☒ Don't Know ☐

Additional information: *No a "lair is a lair" –*

Exhumation

Q45 - Do you agree with the proposals to streamline the process for authorising exhumations, including an additionally streamlined process for particular categories of exhumation?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Q46 - 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 ☐ No ☒ Don't Know ☐

Additional information:

Q47 - Do you agree that authorisation for exhumations should be carried out by the inspector, rather than the Scottish Government?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q48 - Do you agree with the proposed approach for the exhumation of cremated remains?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Pandemics and mass-fatality events

Q49 - Do you agree that the Bill should set out the process for applying for and authorising an exhumation for archaeological purposes? Should any particular issues be taken into account or conditions applied?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q50 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Cremation forms and procedures

Q51 - 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? Please set out your reasons for your view.

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q52 - Do you agree that each of these categories should be provided for in cremation application forms?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q53 - Do you agree that Form A should contain these options for any ashes which are recovered?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q54 - 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? Do the categories above cover all relevant options or should other options be offered?

Yes ☐ No ☒ Don't Know ☐

Additional information: *There should be time for people to think then and only then can they be disposed of.*

Q55 - 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 ☐ No ☒ Don't Know ☐

Q56 - Is the process for enabling a person other than the applicant to collect any ashes recovered appropriate? Are the timings proposed suitable?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q57 - 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?

1 year.

Response:

Q58 - 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? Will this prove impractical? Should the legislation specify categories of people who may countersign cremation application forms?

Yes ☐ No ☒ Don't Know ☐

Additional information: *Ridiculous suggestion and has no real validity.*

Q59 – Should application for other categories of cremation require a countersignature?

Yes ☐

No



Don't Know ☐

Additional information:

Q60 - 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? Would separate forms for each category be more appropriate?

Yes ☒

No



Don't Know ☐

Additional information: *Single form.*

Q61 - What information should be considered essential for the cremation application?

Response: *—*

Q62 - What is the best way to enable Cremation Authorities to undertake this scrutiny? What level of seniority is appropriate for this role? Should the crematorium manager be legally responsible for this scrutiny, even if the actual scrutiny is delegated to a suitably senior member of staff? Should a senior Cremation Authority staff member be required to countersign the form to confirm that all legal requirements have been met?

Response: *Senior plus two delegates named, per organisation.*

Q63 – Is there any need for the introduction of statutory forms for applying for a burial?

Yes ☒

No



Don't Know ☐

Additional information:

Pregnancy loss

Q64 – Is a comparable process for the burial of a pregnancy loss of less than 24 weeks gestation required?

Yes ☐

No



Don't Know ☐

Additional information:

Q65 - Is an alternative process required before the cremation of a pregnancy loss where there is no medical certificate?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q66 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q67 - 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? If not, in whom should this right be vested?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q68 - 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? If so, who should be included in this list?

Yes ☒ No ☐ Don't Know ☐

Additional information: *NOK, partner.*

Q69 - 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? How long should this be?

Yes ☒ No ☐ Don't Know ☐

Additional information: *1 week.*

Q70 - Should the forms for the cremation of a pregnancy loss of less than 24 weeks gestation be statutory? If not, why not?

Yes ☐ No ☒ Don't Know ☐

Additional information: *if the child is legally not viable then why would there be forms.*

Q71 - Should the form used by the hospital to release a pregnancy loss to the mother be statutory?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q72 – 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 ☒ No ☐ Don't Know ☐

Additional information:

Q73 – 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? Will this prove impractical? Should the legislation specify categories of people who may countersign cremation application forms?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Cremation register

Q74 - Is this list comprehensive? Should any other information be required to be recorded in the Cremation Register?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Q75 – Does this proposal provide sufficient confidentiality in the case of the cremation of a pregnancy loss?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Q76 - 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?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q77 - Do you agree that the Cremation Register should be retained indefinitely?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Accreditation of Cremation Authority staff

Q78 - Should the accreditation requirements described in paragraph 176 be set out in a Code of Practice or in legislation?

Code of Practice ☐ Legislation ☒ Don't Know ☐

Additional information:

Q79 - How should a person's accreditation be checked? How often should a person's accreditation be checked or renewed? *PVG in place*.

Response:

Inspector of crematoria

Q80 - Do you agree that the role of Inspector should be responsible for crematoria and cemeteries?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q81 - Do you agree that the Inspector should be responsible for particular additional functions, as described? Are there any other functions that the inspector should carry out?

Yes ☐ No ☐ Don't Know ☒

Additional information:

Q82 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Regulation of the funeral industry

Q83 - Would regulation of the funeral industry be beneficial? What would regulating the industry achieve that cannot be achieved already? What are the disadvantages of regulating the funeral industry?

Yes ☒ No ☐ Don't Know ☐

Additional information: *If there are no cases then no but clearly there have been some indicating that regulation is required.*

Q84 - If the funeral industry were to be regulated, what approach would be most useful for Scotland? Do the examples given from other jurisdictions provide useful models, ranging from a fully licensed system to a process of self-regulation?

Yes ☐ No ☐ Don't Know ☒

Q85 - Do you agree that an additional inspector role, separate from the Inspector of Crematoria, would be required to support a regulatory regime?

Yes ☐ No ☒ Don't Know ☐

Additional information:

Funeral poverty

Q86 - 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 ☒ No ☐ Don't Know ☐

Additional information:

Q87 - Should Local Authorities be required by law to charge funeral costs on a cost-recovery basis only?

Yes ☒ No ☐ Don't Know ☐

Additional information:

Q88 - What else could be done to reduce funeral costs and ensure that they remain affordable for everyone?

Response: *Basic funeral costs published with breakdown of bill for local authorities.*

Any other relevant issues

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:

I think that the bill overall is fair, my concern is the part about the

61 The Group recommended that the sale of burial lairs in perpetuity should end and be replaced by a limited tenure of 25 years in the first instance, which could be extended in 10-year periods for as long as interest in the lair remained, either through the original purchaser or someone else to whom the interest passed. This would still allow a person to purchase a lair and have exclusive rights to bury in that lair for a given period of time, but would require that interest to be maintained and renewed in 10-year periods to ensure that a current link was maintained between the lair and its owner.

62 In order to maintain his or her interest at the end of the initial 25-year period, it is proposed that the owner of the lair (or his or her representative) would have to contact the Burial Authority to extend his or her ownership. Authority would be required to maintain an up-to-date register of lairs and their owners, but the responsibility for taking action to extend ownership at the end of either the initial 25

Many people may outlive the person buried in a plot by 25 years , this is not uncommon. If as they get older they forget to renew their rite to use the plot , then they may have lost the opportunity to be buried with their relative. I feel 25 years is too short a time and this should be extended to 40 years.

There is also likely to be a charge for people to renew their rites which would seem unfair given that they have purchased the plot in the first place. Those on low incomes etc may not be able to renew their rite due to lack of funds meaning that on their death a further issue may arise,

Regards

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