

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Q1 – Do you agree that existing legislation relating to burial and cremation should be repealed and replaced by a new legislative framework?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

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:

Inclusion of details of any burial on the title deeds for the property, impact on neighbouring properties, consideration of acceptable depths that interment should take place at, reference to adherence of safe working practices when carrying out

preparation for interment, risk/entitlement of exhumation by new property owners if property sold on.

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?

Yes No Don't Know

Additional information:

Yes to first part of question, not aware of any other particular methods or methods that should be prevented from use.

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:

However this should be applied in reverse and no housing should be allowed to be developed within such a distance of a crematorium.

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

Response:

Definitely should be enforcement/penalty powers in place to act as a deterrent but should be actively used where necessary.

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:

Needs to also be recognised that some deceased have no other surviving family and that arrangements have been made through an executor to exercise the deceased's wishes.

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:

If mother or father are unable to do so use of the definition of Section 50 of the Human Tissue (Scotland) Act 2006 should be used.

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:

Think that there would need to be a clear list of what is considered to be a just cause for someone other than listed making this decision. Should apply to adults surely just as much as those aged below 16 years.

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:

Having regulations in place gives the burial authority a stronger stance to deal with issues.

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:

It would be a useful option but would prefer the introduction of regulations as per Q17.

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:

There are many situations where either to former practice or issues during previous backfill where insufficient depth is available in a lair following the first interment to accommodate a second interment and still have 3 feet of cover. What are the reasons for a depth of 3 feet cover as opposed to for arguments sake 2 feet or 18 inches?

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:

Wherever possible however getting to that stage and having scanning facilities to enable this will be a huge resource issue for many authorities.

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:

Think records should be kept indefinitely, with any forms relating to a particular record scanned and attached to that record or any record keeping format changed to ensure that it picks up all the relevant information from the form.

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:

Feel that 25 years is still a long time to have a lair sitting potentially unused for the majority of that time.

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, that is surely that person's right providing any transfer is carried out using the correct legally binding process.

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:

Do not think this can be tested. Would prefer consideration given to withdrawal of any pre-sale of lairs.

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:

Agree with re-use of unused lairs and possibly partially full lairs but no full lairs.

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

Yes No Don't Know

Additional information:

Think it should be longer, there is still a possibility of remains even after this period of time.

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:

You can't but if someone is coming forward to say that they have a right to a lair then surely they should take responsibility for it's upkeep.

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

Response:

Legally bound executors.

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

Response:

Common sense approach on what argument was put forward for objecting.

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:

Objector should not become liable for the maintenance of a lair if they have no rights via succession or testamentary writing. If no successor etc Burial Authority should remain responsible.

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:

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?

Yes No Don't Know

Additional information:

If headstones are beyond repair they should be broken up and disposed of appropriately.

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:

Above ground mausoleums would be an alternative my concern however would be the cost of these that would have to be passed on to families and it may be a case that it's only those and such as those that would be able to afford this form of burial.

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:

Use of local press, national press, Council web and social media.

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:

Without a doubt.

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:

Do feel that some form of legal backing may be required to back up the Authority's actions.

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:

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:

Do not feel that cremated remains need to follow the same process. A robust process that each Authority can use would be more appropriate, ensuring proper permissions from family etc.

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:

Much of the key information required for the different categories of cremation are the same. A well designed form should be developed which captures all that information and where necessary any other information for the different categories. Avoids confusion and issues of lots of different forms.

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:

Inclusion of an 8 week retention period despite a clause on the application form will put added pressure on resources and storage within crematoria. Still think that there will be issues over lack of clear instruction for ashes despite signatures. Offer of dispersal (no family present) 7 days following cremation and collection should be the options. Where families wish to be present at dispersal they can arrange a suitable date and time with the crematorium and return with the ashes for the dispersal.

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:

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:

Agree with process enabling a person other than the applicant to collect ashes are appropriate.

Disagree with timings – why is responsibility for the ashes being left with the Funeral Director or Crematorium?

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?

Response:

Don't agree with ashes being left at the crematorium, if that is to be the case then it should be no longer than 4 weeks.

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:

Think this is impractical and will put added pressure on families when arranging funerals if someone else needs to be involved to provide a countersignature.

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 with specific sections.

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

Response:

Minimum of: Applicant details (name, address incl. postcode, relationship to deceased); Deceased details (name, address, age/stillbirth; implants/infectious diseases etc); mode of disposal for ashes with signature of applicant.

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:

Different structures in authorities will possibly mean it is difficult to state what level but would assume that it would be appropriate as with previous forms that the crematorium manager is responsible albeit delegated members of staff are scrutinising the paperwork on a daily basis.

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

Yes No Don't Know

Additional information:

Definitely, constant issues over who has the right to arrange the opening of graves, needs to be covered better with in legislation and with a form that gives the Authority the back-up they require.

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:

Introduction of properly recognised paperwork for burial could pick this up.

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:

Again as per cremation (Q53) do not agree with all proposals for ashes. If there is any uncertainty over dispersal for any ashes retrieved from a cremation I don't believe that they should remain at the crematorium and should be collected either by FD or family representative.

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:

Father of child (with mother's agreement); parents of mother/father (in case of paternal grandparents with mother's agreement); siblings of mother.

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:

6 to 8 weeks

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:

Given current situation there is obviously a need for a structured system with statutory backing that gives proper guidance and support to all stakeholders involved in the process and provision of the service to families.

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:

For the same reason as Q70.

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:

There should be an application for individual cremations of pregnancy loss of less than 24 weeks gestation that would cover whether organised by mother or via hospital.

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:

As per Q58.

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:

Should also include details of Doctor certifying death; Where appropriate registration details – Registrar, when registered.

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:

Sepra requires that staff operating cremators have the proper accreditation. Direct management perhaps require an overview but their overall remit is wider and a management diploma such as the ICCM Diploma may be more appropriate.

Q79 - How should a person's accreditation be checked? How often should a person's accreditation be checked or renewed?

Response:

Checked through regular visits by Inspector of Crematoria as minimum. Renewed following any changes in operational/legislative requirements.

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:

Regular monitoring is important in identifying areas for improvement.

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:

Regulation would ensure consistent good practice and adherence to codes of practice/ guidelines and in some cases legislative requirements. The danger of any on-costs being passed to families would be the disadvantage.

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:

Should work closely with the Inspector of Crematoria.

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:

Assume that this means only the local authorities fees and not funeral director costs which vary greatly within a local area.

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:

To charge funeral costs on a cost-recovery basis would actually increase the charges we apply.

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

Response:
Closer regulation of Funeral Directors.

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: