

# **Funeral Director: Code of Practice**

**June 2019**

## ***Introduction***

The Funeral Director: Code of Practice ('the Code') applies to all funeral directors carrying out the activities of a funeral director in Scotland, regardless of where their business is based.

The Code has been developed using the knowledge and expertise of members of the funeral profession and is based on the guiding principles of responsible practice. The desired outcome from implementing the Code is that every person in Scotland has a dignified and respectful funeral, and bereaved families can be reassured that good standards of care will be provided.

The Code requires funeral directors to adhere to good standards of care of the deceased and to provide transparency in the goods and services offered to the bereaved.

The Code has been issued by Scottish Ministers by virtue of the powers set out in section 97 of the Burial and Cremation (Scotland) Act 2016 and is organised into the following sections:

1. Engagement of a funeral director and transfer of the deceased.
2. Care of the deceased and the premises used by the funeral director.
3. Planning of the funeral service according to the wishes of the deceased and bereaved persons.
4. Delivery of the funeral.
5. Complaints.
6. Business continuity and managing risks.

## ***Definition of a Funeral Director***

For the purposes of the Code a funeral director is defined as:

A person whose business consists of, or includes the arrangement and conduct of funerals.

This definition is set out at section 31 of the Certification of Death (Scotland) Act 2011 which replicates that in section 62 of the Civic Government (Scotland) Act 1982 (as amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006).

## ***Rationale***

The Code of Practice will be issued by Scottish Ministers and approved by resolution of the Scottish Parliament.

Scottish Ministers have issued the Code by virtue of the powers set out in section 97 of the Burial and Cremation (Scotland) Act 2016:

## Section 97 Funeral Director Code of Practice

- (1) A funeral director must comply with any Code of Practice issued by the Scottish Ministers about the carrying out of a funeral director's functions (a "funeral director's code").
- (2) Before issuing any funeral director's Code, the Scottish Ministers must consult –
  - (a) persons appearing to the Scottish Ministers to be representative of the interests of funeral directors in Scotland, and
  - (b) other persons appearing to the Scottish Ministers to have an interest.
- (3) After taking account of any representations received by them by virtue of subsection (2), the Scottish Ministers must lay a draft of the funeral director's Code before the Scottish Parliament.
- (4) The Scottish Ministers may not issue a funeral director's Code unless a draft of the Code is approved by resolution of the Scottish Parliament.
- (5) The Scottish Ministers must publish a funeral director's Code in such a manner as they consider appropriate.
- (6) The Scottish Ministers must keep under review a funeral director's Code.
- (7) In this section, references to a funeral director's code include references to a funeral director's Code as revised from time to time by the Scottish Ministers.

The **Burial and Cremation (Scotland) Act 2016** was passed by the Scottish Parliament in March 2016 and provides the statutory framework to issue the Code and to appoint Inspectors of Funeral Directors. The Act also makes provision for Scottish Ministers to introduce a licencing scheme for funeral directors' businesses.

### **Outcomes**

The Code aims to achieve the following outcomes:

- Increase transparency of choice of goods and services to help customers make informed decisions.
- Ensure good standards of care in relation to care of the deceased.
- Create and promote a common understanding of good practice in relation to care of the deceased.

## ***Accountability and compliance***

The Code applies to all funeral directors carrying out the activities of a funeral director in Scotland, regardless of where their business is based.

The Code does not negate the responsibility of the funeral director to adhere to and take account of other legislation and guidance. It is the responsibility of each funeral director to ensure that they are operating in accordance with all relevant legislation.

The Scottish Government and inspectors will:

- Work collaboratively with funeral directors in the administration of the Code.
- Periodically review the Code in consultation with funeral directors and the representative trade associations and make any necessary changes in line with the changing needs of the profession.
- Carry out inspections against the standards set out in the Code.
- Investigate and address serious or significant complaints.
- Take enforcement action in respect of the Code.

Inspectors must not be obstructed or prevented from speaking to any staff member(s) during an inspection.

## ***Existing codes and trade associations***

For many years, trade associations have played an important role in promoting best practice and in improving operational practice amongst their members. The Code has been developed in collaboration with the trade associations and other members of the profession. It recognises the trade associations' own existing codes of practice, best practice guidance and codes of conduct.

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# **1. Engagement of the funeral director and transfer of the deceased**

1. The funeral director must be transparent with the client about the goods and services they offer. If the funeral director does not offer the goods or services the client has requested, the funeral director must make that clear and must make the client aware that those services can be accessed elsewhere. All written and verbal communication must be clear and in plain language avoiding technical jargon. The funeral director must act on the views of the client without prejudice.

## ***First contact***

2. When the funeral director is contacted in relation to the death of a person, initial details must be gathered. The funeral director at first contact must, whenever practicable, obtain and record the following minimum information:
  - The full name, address and telephone number of the person making contact with the funeral director.
  - Confirmation that the death has been confirmed by a medical professional.
  - The full name and address of the deceased.
  - The date of birth and age of the deceased, if known.
  - The current location and address of the deceased, if different to the above address.

## ***Transfer of the deceased into the funeral director's care***

3. In the event that the funeral director has been contacted by someone other than the client, the funeral director must make all reasonable enquiries to establish the identity and location of the client at this stage, and to establish contact with the client as soon as possible.
4. Before transferring the deceased into their care the funeral director must ensure that:
  - The equipment to be used is suitable, sufficient and well maintained.
  - The staff involved in the transfer of the deceased are trained to do so.
  - The vehicle used to transfer the deceased must be specifically for that purpose, clean and well maintained.
  - The deceased is treated with care and dignity.
  - Consideration is given to any bereaved persons present.

5. At the location where the deceased is, the funeral director must:
  - Confirm the identity of the deceased.
  - Obtain signed authorisation from the client, or other person if the client has yet to be identified, for the transfer of the deceased into their care and advise that person in writing or by e-mail where the deceased is being transferred to, the location's address, and contact phone number, if applicable.
  - At the earliest opportunity inform the client of all locations where the deceased will be cared for (and all addresses of the premises where the deceased will be kept).
  - Make or obtain a written/electronic and signed record of the deceased's personal effects that the funeral director will have in their care and a record of any personal effects which have been returned to the person signing the record at the time of transfer.
  - Securely attach to the deceased a completed identity tag (e.g. to the wrist).
  
6. The funeral director must retain a comprehensive record of all deceased persons who have been in their care. This record must be sufficiently detailed to record what actions have been carried out in relation to the deceased person (e.g. first offices, washing, dressing - where, when and by whom, time of deceased's arrival and departure at funeral director). This record must be stored in an accessible form and in secure conditions.

## ***2. Care of the deceased and the premises used by the funeral director***

7. The funeral director should familiarise themselves with the Health and Safety Executive's [guidance](#) on managing infection risks when handling the deceased. It covers the safe handling, storage and examination of bodies and pathological specimens in hospitals, mortuaries and post-mortem rooms. It also provides guidance for those involved in funeral services (including embalmers).
8. The funeral director must clearly and sensitively describe their services for care of the deceased to the client.
9. The client should not be pressured or exploited, and advice should be given to them by experienced and/or trained staff in a clear manner using plain language. The funeral director must be mindful of the difficult circumstances the client is likely to be experiencing.
10. The client must be told the location(s) at which the deceased will be cared for/kept.
11. Where the funeral director is using the services of another business or organisation, or any third party, for any part of the care of the deceased, a written Service Level Agreement must be in place. Each Service Level Agreement must be reviewed regularly and at least once per year. Where aspects of care of the deceased are being carried out by a third party, the funeral director must clearly and sensitively inform the client which aspects of the care of the deceased these are.
12. All care of the deceased must take place in a location(s) specifically chosen for that purpose and the funeral director must ensure that their care facility or mortuary is fit for purpose. This requires:
  - That the premises are lockable and accessible by authorised persons only.
  - That the premises are clean, well maintained and regularly inspected to ensure high standards of cleanliness.
  - The location of, and access to and from, the building is suitable for the designated purpose.
  - That the funeral director has access to equipment that can accommodate all body types and care services offered by the funeral director, and this equipment must be well maintained.
  - That the funeral director takes account of the Health and Safety Executive's [guidance](#) on managing infection risks when handling the deceased.

13. The funeral director must carry out a visual check of the condition of the deceased at least once every 24 hours and immediately before the coffin is closed or immediately prior to the funeral service if no coffin is being used.

### **Care Practices**

14. The funeral director must be able to demonstrate that they have assessed the activities undertaken by every staff member whose role includes duties of care of the deceased. A record of each assessment, the outcome of the assessment and training requirements/training undertaken must be kept by the funeral director and made available to inspectors on request.

### **First offices**

15. When requested, the funeral director must describe their services for first offices in a way that is sensitive to the client, to ensure that the client has an understanding of how the deceased will be cared for by the funeral director.
16. Where it is possible to do so, first offices must take place in every case, unless the client has specifically requested that first offices are not to take place.
17. Where first offices have not taken place, the funeral director must have a record of the reason/s for this.
18. At all times during their care, the dignity of the deceased must be maintained and appropriate shrouds, clothes and/or modesty covers used.

### **Embalming**

19. Embalming is defined as the preservation of a body from decay through injection of a chemical embalming fluid. The preservative solution (the embalming fluid) replaces the blood as well as treating the body cavity and organs.<sup>1</sup>
20. Embalming is not a requirement for burial or cremation.
21. There is no requirement for the funeral director to offer embalming as a service.
22. The funeral director must provide clear information to the client about embalming in order that the client can make an informed decision about whether or not to instruct embalming.
23. The funeral director must obtain the client's informed and written permission before embalming can take place.

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<sup>1</sup> P.41 *Managing infection risks when handling the deceased*, Health and Safety Executive, TSO (The Stationary Office), 2018

24. It is the responsibility of the funeral director to ensure that those performing embalming on behalf of their business are adequately trained/qualified to do so and are meeting the necessary health and safety requirements.

### ***Emergency invasive procedures***

25. In some circumstances it may be necessary for the funeral director to perform an emergency invasive procedure with the intent of preserving the deceased to a good standard.
26. In the event of these circumstances occurring, the funeral director must make reasonable attempts to contact the client and explain the circumstances in advance of performing the procedure.
27. In every case the funeral director must keep an accurate record of the circumstances and the procedure carried out. This record must be made available to inspectors on request.

### ***Refrigeration***

28. The funeral director must have on their premises, or have access to, clean and appropriate refrigeration facilities to store the deceased in their care. Where refrigeration is provided by a third party, a Service Level Agreement must be in place. Each Service Level Agreement must be reviewed regularly and at least once per year. Where refrigeration is being carried out by a third party, the funeral director must clearly and sensitively inform the client of that fact.
29. Refrigeration can be either a purpose built refrigeration unit or temperature controllable cold room. Refrigeration units and cold rooms must be kept between 4-7 degrees Celsius.
30. The required ratio for refrigeration capacity is one space for every 50 deceased persons received into the funeral director's care per year. Each deceased person must be stored individually in separate compartments within the unit.
31. Refrigeration units must be in a locked and secure location. Cold rooms must be locked and in a secure location.

### ***Viewing of the deceased***

32. As part of providing good care to the deceased, the funeral director must offer or be able to facilitate viewing of the deceased to the client as a service. The client can request to view the deceased, and appropriate costs should be made clear to them, if applicable.
33. Viewing areas must be fit for purpose, private, clean, regularly inspected and well maintained.

34. The funeral director must ensure that the identity of the deceased is checked prior to viewing, and that due regard is given to requests made by the client, such as about: make-up application, if the coffin is closed or left open, who can be permitted to view the deceased, etc.
35. The funeral director must ensure that bereaved persons are afforded privacy when viewing the deceased. The funeral director or another trained and competent member of their staff must remain near and 'on hand' to answer any questions or requests.
36. In some circumstances, viewing of the deceased may not be recommended by the funeral director or some restrictions may have to be put in place, such as viewing behind glass.
37. In circumstances where the funeral director advises against viewing entirely, the funeral director must provide the client with sensitively worded advice setting out their reasons and make every effort to support the wishes of the client in relation to that advice. The funeral director must keep a record of this advice.
38. Where the funeral director has advised against viewing but the client does not accept that advice, the funeral director must keep a record of this.

### ***3. Planning of the funeral service according to the wishes of the deceased and the bereaved persons***

#### ***Deceased and client identification, and who can be involved in making arrangements***

39. The funeral director must inform the client that they adhere to the Code and to provide the client with a copy or web link, if requested.
40. Where the deceased has not set out who should arrange their funeral before dying, the funeral director must make the client aware of the next of kin hierarchy as set out in the [Burial and Cremation \(Scotland\) Act 2016](#) (section 65 for adults, section 66 for children). It is then for the client or individual to determine whether they have the legal right to apply for the burial or cremation.
41. The funeral director must ensure that they and their staff are sufficiently knowledgeable and experienced to assist the client in making informed choices about the goods and services they offer. This must include an ability to describe, both verbally and in writing, the range and location of options for burial and cremation, if requested.
42. The funeral director must provide the client with clear and comprehensive descriptions of their goods and services.

#### ***Estimates and confirmations***

43. To enable the client to make an informed decision about the goods and services they would like, before the client makes a decision the funeral director must:
  - Provide the client with full and detailed information on the full range of funeral services available.
  - Make accurate, itemised and up to date price lists available to the client.
  - Endeavour to ensure that the client understands the full range of goods and services available, the prices and third party fees (disbursements) such as burial or cremation costs.
  - Provide the client with a description and a total price of funeral goods and services offered.

44. Once the client has made a decision about the goods and services they would like, the funeral director must:
- Provide written or electronic confirmation of the funeral arrangements and a written or electronic itemised estimate of all funeral charges, including third party fees (disbursements) where known.
  - Provide the client with a written or electronic itemised final account that is comparable with the estimate provided.
45. All changes from estimate to final bill must be clearly described, prior notified and agreed to by the client, and the funeral director must be able to account for any changes via an audit trail.

## ***4. Delivery of the funeral***

46. The funeral director is responsible for managing the delivery of the funeral according to the wishes of the client, including:
- Making, when instructed to do so by the client, bookings of the requested venues, church, celebrant, etc.
  - Ensuring that the client has completed the required statutory forms and that these forms are sent to the appropriate statutory authorities in good time.
  - Keeping and updating records and documentation, and ensuring that the client's requests for goods and services are recorded accurately, including any changes made.
  - Ensuring that the deceased is presented in accordance with the wishes and instructions of the client.
  - Managing donations appropriately, transparently and as requested by the client. All funeral directors must have a policy in place for managing donations which is understood/known by staff and is readily accessible to the client.
47. The funeral director must keep the following records, which are accessible by authorised personnel only:
- A record of all the funerals provided, including requested services, estimates and invoice.
  - A record of all deceased individuals who have been cared for by the funeral director and the actions carried out in relation to each deceased individual.
  - A record of assessments, assessment outcomes and training requirements/training undertaken in relation to staff training for care of the deceased.
  - A record of the advice given to clients in relation to viewing of the deceased and the outcome of the advice.
  - A record relating to the management and handling of ashes.

## **Ashes**

48. The funeral director must have a written ashes management policy in place. This must set out the business practices and policy for the management of ashes. The funeral director must ensure the careful and appropriate storage, handling, recording and dignified management of ashes. All records relating to ashes must be kept by the funeral director.
49. At a minimum, an ashes management policy must cover:
  - Ashes storage in a designated, locked, clean, dry and well maintained location.
  - Ashes and the cremation certificate be stored together.
  - Procedures for recording each individual set of ashes.
  - Procedures for the splitting of ashes, including the transfer of ashes from one container to another.
  - A clear description of the options available to the client e.g., scattering, interment, retention in an urn.
  - Procedures for the transfer or release of ashes, including procedures for contacting the client and obtaining identification prior to the release of ashes to the client.
  - Adequate safeguards to ensure ashes cannot be combined with other(s) i.e., only preparing one set of ashes at a time.
  - Provision for a change of instruction by the client in respect of ashes.
  - Procedures for reporting lost or damaged ashes to appropriate management.
  - Procedures for reporting lost or damaged ashes to inspectors within 48 hours.
  - A record of the scattering or interment of ashes if undertaken by the funeral director.
  - An audit trail of all actions taken with the ashes.

## **5. Complaints**

50. The funeral director must have a written complaints procedure that is readily accessible to the client. In the event of a complaint, this complaint procedure must be followed and must include:
- Advice for the client on how to make a formal complaint.
  - The funeral director's procedures for dealing with a complaint and timescales for response.
  - A requirement that any complaint resolution or answer will be provided in writing to the client.
51. Where a complaint relates to the care of the deceased, the funeral director must inform inspectors within 48 hours.
52. In the event of a complaint made against the funeral director, the client may:
- Raise a complaint with the funeral director directly. The funeral director must genuinely attempt to seek a resolution in a reasonable amount of time.
  - Raise a complaint with a trade association to which the funeral director belongs, if applicable.
  - Raise a complaint with inspectors.

## **6. Business continuity and managing risks**

53. The funeral director must prepare and maintain a contingency plan which contains provisions about:
- Dealing with any unexpected increase in the number of deaths.
  - Contingency arrangements for any unexpected disruption to, or loss of, services.
54. When drafting and reviewing this plan, where possible, the funeral director must engage with third parties such as: local crematoriums and burial grounds, other funeral directors, and their relevant NHS Board.
55. The plan must be made available to inspectors on request.
56. The funeral director must notify inspectors of any serious business or service failures as soon as practicable e.g., in the event of a fire, bankruptcy, etc.

**Thank you for reading the Funeral Director: Code of Practice. Please now follow this link to take you to the consultation questions:**  
**<https://consult.gov.scot/population-health/funeral-director-code-of-practice>**



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