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[redacted – s.38(1)(b) personal data of a third party]

Sent by email to: **[redacted – s.38(1)(b) personal data of a third party]**

4 July 2019

Dear **[redacted – s.38(1)(b) personal data of a third party]**

Thank you for your email, sent to funeralpoverty@gov.scot on 20 February 2019, asking for the Scottish Government's position on statements quoted in the report *Draft Guidance on Funeral Costs: Analysis of Consultation Responses*. When you wrote, adequate arrangements to monitor that mailbox had not been put in place and staff changes in the Funeral Poverty Policy team meant that we were unaware of your email, or your earlier email of 11 February, until they were highlighted by **[redacted – s.38(1)(b) personal data of a third party]** request on 1 June, under the Freedom of Information (Scotland) Act 2002. I would like to apologise for this oversight and for the lengthy delay in responding to your emails. The mailbox has now been modified and our processes have been improved to ensure that it will now be monitored properly.

It may be helpful if I explain the purpose of our consultation on the draft guidance and the report of the analysis of responses. The consultation enables people potentially affected by the Government's proposals (including individuals, businesses, professional bodies and third sector organisations) to provide their views. This enables us to understand the extent to which our proposals are supported and whether they should be changed before we introduce them. The report published on 8 February quantified the levels of agreement to each question in the consultation and, where possible, illustrated the reasons given either by quoting individual responses or by summarising points raised in a number of responses. The analysis, carried out by an independent researcher, provides an organised examination of the views expressed by respondents. It is not intended to establish whether those views are well founded, nor to explain whether they are aligned to the views of Scottish Ministers. The Government's position is set out in our response to the consultation (available at <https://www.gov.scot/publications/guidance-funeral-costs-response-consultation/>) and is reflected in the guidance as published on 16 May.

Overall your emails express concern that the Scottish Government has taken a position which is too closely aligned to the interests of the funeral industry and does not recognise that bereaved families may have a positive experience if they take a more active role in a funeral. However, the published guidance makes it clear that there is no legal requirement for bereaved people to use a funeral director and encourages burial and cremation authorities to make reasonable efforts to accommodate the wishes of those who choose not to. An overwhelming majority of respondents to the consultation supported this.

You have suggested that instead of issuing guidance on funeral costs, the Scottish Government should simply strengthen consumer protection legislation. Market regulation and consumer protection are matters reserved to the UK Government. You may be aware



that the Competition and Markets Authority is currently undertaking an investigation into the UK funeral market, further information about which can be found at <https://www.gov.uk/cma-cases/funerals-market-study>.

You also claim that our forthcoming Funeral Support Payment benefit will only be payable to an undertaker and not directly to bereaved individuals. This is not the case. Indeed, the Social Security (Scotland) Act 2018 requires that the Funeral Support Payment must be paid to the applicant, unless the applicant provides permission to Social Security Scotland to make the payment to a funeral director on their behalf.

Finally, you may wish to note that the Scottish Government's consultation on the funeral director draft code of practice is under way and will run until 20 September 2019. You are welcome to respond to the consultation at <https://consult.gov.scot/population-health/funeral-director-code-of-practice>. Responses will inform the development of regulations which will set out legal requirements and restrictions on the work of funeral directors.

I hope that this helps to clarify the Scottish Government's position on these issues.

Yours sincerely,

Ann McVie

Deputy Director, Social Security Policy Division