

REPORT TO ABERDEENSHIRE COUNCIL – 18 JUNE 2015

CONSULTATION ON A PROPOSED BILL RELATING TO BURIAL AND CREMATION AND OTHER RELATED MATTERS IN SCOTLAND – PROPOSED RESPONSE

1 Recommendations

- 1.1 Council is recommended to consider the proposed response to the above consultation as detailed in Appendix 1 of this report.**

2 Background

- 2.1 The Infrastructure Services Committee on 14 May 2015 considered the proposed response regarding the above, the decision was to defer to full Council due to concerns in relation to some of the proposed changes and in particular the reuse of lairs and memorials.
- 2.2 Members of Infrastructure Services Committee were particularly concerned with section 22-44 “Alleviating pressure on burial grounds”. This section proposes providing permissive powers within the Act for authorities to reuse lairs should they wish. The consultation proposes a minimum period of 75 years, and an extensive process of checking, notification and other safeguarding procedures. The proposal would also extend to the reuse of existing memorials in certain circumstances.
- 2.3 Given the concerns that this may cause for various faiths, religions, and traditions Infrastructure Services Committee considered it would be appropriate for the matter to be debated by all 68 Members. However the guidance provided with the questionnaire states “ where it is proposed to reuse lairs in cemeteries which are used for particular religious and faith groups or where a given lair section of a cemetery used by a particular religious or faith group, the Burial Authority must specifically consult with that community. If the community objected to the proposal, reuse could not take place”.
- 2.4 As well as the potential to revise the answers to each consultation question there would be an opportunity to reinforce wider concerns in the “Any other relevant issues” section at the end of the questionnaire
- 2.5 The Infrastructure Services Committee 14 May 2015 report and proposed questionnaire response and guidance are attached as appendix 1

3 Equalities, Staffing and Financial Implications

- 3.1 An equality impact assessment is not required because the report is at an early stage and will result in legislation that Aberdeenshire Council must comply with and for which the Scottish Government will carry out equality impact assessments.

- 3.2 There are no staffing implications arising directly from this report however there may be staffing implications when the legislation is introduced.
- 3.3 There are no financial implications arising directly from this report however there may be staffing implications when legislation is introduced.

Stephen Archer
Director of Infrastructure Services
Report prepared by: Graham Wall
Date 16 April 2015



REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 14 MAY 2015

CONSULTATION ON A PROPOSED BILL RELATING TO BURIAL AND CREMATION AND OTHER RELATED MATTERS IN SCOTLAND – PROPOSED RESPONSE

1 Recommendations

The Committee is recommended to:

1.1 Approve the response to the above consultation as detailed in Appendix 1 to the report.

2 Background / Discussion

- 2.1 The legislation relating to burial and cremation in Scotland is in need of consolidation and modernisation. Burial legislation is over 150 years old, while the legislation covering cremation is over 100 years old. In addition, recommendations made by various expert groups in recent years have further hastened the need for the legislative framework to be overhauled and updated.
- 2.2 Relatively few amendments have been made to the Burial Grounds (Scotland) Act 1855 since its introduction, and it is no longer sufficient for modern purposes. The Act places duties on administrative units which no longer exist, such as Parochial Boards, and does not give current Burial Authorities the power they require. New powers are needed to ensure that modern practices can be implemented so that burial remains an affordable and realistic option.
- 2.3 In contrast, the Cremation Act 1902 and the Cremation (Scotland) Regulations 1935 have been amended many times, with the effect that the legal framework for cremation can be confusing and difficult to follow. A series of amendments have sought to address various issues and maintain the currency of the legislation, but recent events have demonstrated that gaps remains. These require to be filled to provide a comprehensive legislative framework for cremation in Scotland.
- 2.4 The Scottish Government will bring forward new legislation to address these issues. The proposed Burial and Cremation (Scotland) Bill (this may not be the final title of the Bill) will provide a modern and comprehensive legal framework for burial and cremation in Scotland, including other methods of respectfully and sensitively disposing of human remains, as well as various related topics. The bulk of the proposals which will form the basis of the Bill are based on the recommendations of two groups, the Burial and Cremation Review Group (chaired by Sheriff Robert Brodie, and included representatives from the Crown Office, the medical profession, the legal profession, the funeral industry and religious and faith groups, among others) and the Infant Cremation Commission, an independent Commission to examine the policies, practice and legislation related to the cremation of infants in Scotland.

- 2.5 The consultation paper sets out a range of proposals and approaches in response to the recommendations of the Burial and Cremation Review Group and the Infant Cremation Commission. Throughout the consultation paper, views are sought on certain issues and specific questions are asked and consultees are invited to express their views on any issues they feel should be considered but which are not discussed in the consultation paper.
- 2.6 All responses received to the consultation will be taken into consideration in developing the Burial and Cremation (Scotland) Bill. In line with standard Scottish Government practice, consultation responses will be published online where the consultee has given permission.
- 2.7 Officers from Landscape Services, Legal and Governance and Built Heritage Planning and Archaeology Service were consulted and their comments are incorporated in **Appendix 1**.
- 2.8 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are in agreement with the contents of the report.

3 Equalities, Staffing and Financial Implications

- 3.1 An equality impact assessment is not required because the report is at an early stage and will result in legislation that Aberdeenshire Council must comply with and for which the Scottish Government will carry out equality impact assessments.
- 3.2 There are no staffing implications arising directly from this report however there may be staffing implications when the legislation is introduced.
- 3.3 There are no financial implications arising directly from this report however there may be staffing implications when legislation is introduced.

Stephen Archer
Director of Infrastructure Services
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ANNEX C

Consultation on a proposed Bill relating to burial and cremation and other related matters in Scotland



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation

Aberdeenshire Council

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Forename

2. Postal Address

<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>	<input type="text"/>	<input type="text"/>
Postcode	Phone	Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick ONE of the following boxes

Please tick as appropriate

Yes No

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

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?

Additional regulation and guidance on the recording of home burials and private burial ground burials.

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: It should also include more detailed guidance.

Q7 - In making legal provision for home burial, what factors should be considered? Location, Interment specification/standards, ground conditions, records, decency, public health & hygiene.

Yes all of the above. In addition consideration should be given the requirement for a map identifying where in the grounds the interment has taken place. Additionally consideration should be given to the inclusion of mandatory marking of the site.

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: Changing beliefs and changing technologies will require alternative methods to be considered. Each method must be evaluated on a case by case basis, with a view to applying tried and tested levels of control and regulation, as applied to traditional methods.

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: The Crematorium 1902 Act states that no crematorium shall be constructed nearer to any dwelling-house than two hundred yards, except with the consent, in writing of the owner, lessee and occupier of such house. There is no Planning policy either national, or policy in our Local Development Plan, referring to a blanket 200yds exclusion. Aberdeenshire Council would not wish to see any distance stipulation, unless there was a clear requirement for such a limit to fulfil the requirements of other legislation eg from SEPA or guidelines used by Environmental Health. It is considered that current general policies relating to amenity/nuisance etc, are sufficient to determine applications on an individual basis. Therefore, 200 yards or any prescribed distance (longer or shorter) is not considered necessary.

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

If a minimum distance is set then a planning application would have to comply with this. Enforcement, through Planning, would not be required unless the approved building is built in the wrong place. It should therefore be unnecessary for additional powers to be 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:

Presently our position would be that the Lair holder or his/her heirs should instruct interment, however the use of a list requires checks to be put in place to ensure the correct relative is requesting the interment. Family issues could result in appeals against the person requesting the interment. This would be onerous and costly and could result in the authority not being able to offer burial within 48 working hours and may result in having to instruct and pay for an exhumation. There are other concerns relating to this approach, namely: Is the list in priority order; how would the authority know if other family members on the list (above the person requesting the interment) would be available to instruct the interment; what proof of being the relative entitled to request the interment would be required and or acceptable. Further consideration would have to be given to the detailed operation of such a procedure.

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: Unless there was suspicious circumstances surrounding the death or stillbirth. This should apply for all deaths under 16 including stillbirth and foetus over 24 weeks.

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: In the absence of the mother or father it could be extremely difficult and time consuming for the authority to know if the person requesting the interment is the correct person to be able to do so. Family circumstances offer scope for disagreement for which the Authority would not be best placed to adjudicate or resolve.

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: A similar provision should be made for adults, no list required for the reasons previously stated.

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: Agree with the majority of suggested regulations, however under the Health & Safety duty of care Local Authorities are already able to address unsafe damaged memorials/lairs as they see fit. Most Scottish LA's are facing extremely difficult financial challenges and will not necessarily be in a position to take accept responsibility for perpetual care and maintenance of memorials/lairs. Consideration should be given to the appropriateness of insurance policy cover for memorial owners to cover longer term liabilities.

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: We are of the opinion that any regulations introduced should be statutory.

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: While generally acceptable there may be occasions where local conditions may make this unachievable. To allow potential to maximise space in burial grounds there should be exemptions, perhaps with additional conditions e.g, require slabbing when less than 30 inches is achieved

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: Agree that records/forms should be stored electronically, no exclusions should apply. However short term use of manual systems may be required in exceptional circumstances. Aberdeenshire Council already maintain a Sites and Monuments Record within its Archaeology Service, and this would provide an excellent repository for this data once the records became historic documents.

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

If electronic indefinitely.

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: Our view is that a reminder from Council should be issued after 40 years (basically a generation) to re-register, then the customer would have to re-register interest after every subsequent 10 years.

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 this should be a personal decision

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: Our view is that sales should be restricted to two, the lair for burial at the time and an adjacent lair.

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: Following a death and the production of a relevant death certificate.

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: In principle yes, however this is likely to be unpopular. In some locations it may be the only option. There is a concern that this may be unreasonably costly with regard to partially full lairs, while much more reasonable to implement with unused 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: In our view this is sufficient

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: As we have not seen the list of who was consulted it is difficult to respond, for example have War Graves commission been consulted?

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: In addition our view is that the Scottish Government should nationally publicise that reuse is being considered/implemented. Furthermore internal mechanisms within Local Authorities will need to be established in terms of liaising between Landscape Services (or their equivalent) and their Built Heritage Planning and Archaeology Service colleagues in order to fully assess potential impacts of lair re-use within historic graveyards.

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

Response: Clarify on the responsibilities or costs that will accompany the purchase of a reused lair. Presently grass lair maintenance (which are the majority of lairs in Aberdeenshire) is the responsibility of this authority not the lair holder.

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

Response: There are concerns that similar issues to other questions regarding what the definition of family member is may be problematic. Perhaps section 50 of the Human Tissue (Scotland) Act should apply.

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

Response: What the terms of the objection are, and whether they have any competent basis

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: See question 31

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: As we have no experience with this or information on the actual complexity and cost, it would appear many potential difficulties with achieving required depth, equipment required, potential collapse, water ingress and others.

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

Response: Excavate and Remove remains following which remains are cremated.

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

Yes No Don't Know

Additional information: Agree in principle but feel this is likely to cause significant concern to members of the public, history researchers and others. Also will depend on what form of reuse is proposed. Historically it was not uncommon for stones to be reused however distinction is needed when it comes to reuse. Some graveyards are Scheduled Monuments or Listed structures. Graveyards which are Scheduled should be excluded entirely from these proposals as they may have rare headstones by virtue of:

- 1 the individual buried
- 2 the quality or detail of stone carving
- 3 the materials used in the headstone which may be rare in the locality (cast iron, terracotta)

Also the collection of headstones in one graveyard may make a unique and important collection. Older gravestones, made before mechanical stone working was possible, are usually made of softer stone such as sandstone which would be liable

to break if moved or lifted. Recumbent stones should not be reused due to the risk of damaging fragile stone and many recumbent table stones have already been incised on their reverse

The cost to the Local Authority in terms of archaeological surveys to record stones, if they were to reuse a historic graveyard, could also be prohibitive.

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: Kept on site where possible or partially buried so the memorial is in a safe position and not able to tip. If this not possible then remove offsite and recycle/reuse. Moving stones which are unsafe has been done by typically resting them along boundary walls but how they are stored/displayed is important. Would the inscriptions be visible? What would happen to stones with inscriptions on both faces? Would the reverse face be fully recorded as once relocated it is unlikely to be moved again. Would detailed records be made of their original location within the graveyard using GPS? Lairs in old graveyards are not in straight lines or at standard depths. If stones are to be reused, such as made into chips as in the London Case Study, they should be fully recorded before being destroyed. The cost and time of recording could be significant for those headstones and memorials which are removed.

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: Yes alternative methods should be explored, however any alternative will need to be funded by the family and leave no liability for the LA

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: Our view is that 25 years is not long enough and that 40 years should be a minimum, this is around a generation. If partially used then perhaps 75 years is required.

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 papers, libraries etc.

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: Our view is that we would need to be transparent and open in relation to the fact the lair is being reused.

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: Our view is that the safeguards proposed are sufficient – we see no need for a court order.

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: - In principle our view is no exclusions in terms of certain categories of grave, however this is likely to be very controversial. As a compromise perhaps reuse the lair but retain the memorial within the burial ground, and reuse has to apply across the board.

Where the local authority owns a lair which has been used for indigent burials would family members or others be permitted to object to the reuse of the lair? as the lair rights belong to the local authority?

Where graveyards are partially or fully designated as Scheduled Monuments then they should be excluded from reuse.

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: Presently the process is cumbersome and difficult

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: As above

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: As long as this does not cause a similar time lag as with a court order/sheriff.

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

Yes No Don't Know

Additional information: As cremated remains have not required authorisation in the past our view is no need to change this procedure, potential unnecessary delay to process. Cremated remains are to be classified as "ashes" rather than human remains

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: With the same conditions as heritage lairs. Historic Scotland, where applicable, and the Local Authority Archaeologist should be involved in deciding the appropriate mitigation for the exhumation of graves if they are to be opened for archaeological purposes. Mitigation should be undertaken in line with the existing Chartered Institute for Archaeology guidelines on recording and excavation.

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: Our authority does not own or operate a crematorium but in the interest of consistency we would be in favour of a single form.

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

Yes No Don't Know

Additional information: Our view is that a single form with sufficient sections to cover all categories is the preferable option

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:

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?

Response: One month then 14 days written notice given

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: As we do not manage a crematorium we are unsure of the implications or purpose of this.

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

Yes No Don't Know

Additional information: If an application for any type of cremation requires a countersignature then for consistency answer is yes

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: First question yes. Would separate forms for each category be more appropriate - No

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

Response: As we do not manage a crematorium we are unsure of the current information requested, we would imagine all those on the current Form A plus any additional information on the category of cremation as suggested in Q 52.

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: Our view is the Crematorium Manager or his delegated officer

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

Yes No Don't Know

Additional information: As most/all LA's will have a burial form (interment form) it may be beneficial (for undertakers/bereaved) if consistent information was provided to all LA's and would not necessarily be additional as it would be a replacement for existing. If additional resources required it would not cost effective when the current system is working.

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: Perhaps for consistency as above

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: Agree there should be a list,

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: Our suggestion is a Maximum of 12 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: As with all cremation categories

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: We do not see why it would need to be a different form to that being organised by the 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 we do not manage a crematorium we are unsure of the implications or purpose of this.

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: Yes to part 1 above, No to part 2

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

Yes No Don't Know

Additional information: In our view it would appear to.

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?

Response: An evaluation test carried out every 3 years, checked by looking at training register. Refresher recommended every 3 years and when regulations/procedures change

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: Unsure of resource requirements they could be considerable? Or actual need for this, for consistency perhaps

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: We are aware that Funeral Directors/Undertakers currently have professional associations which have standards of practice, although membership is not compulsory. Minimal standards should be set, undertakers should be licensed. More consistent approach, possible increased public confidence in undertaker accreditation.

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

From the information supplied it would appear the model from Canada would be our preferred option.

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: Possibly from within existing professional organisation e.g. ICCM, NAFD or local authorities.

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: We do not feel the need to include fees for indigent burial to be published on the website. These are contract details between ourselves and our supplier

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: Do not agree it should a legal requirement. It will depend on what the definition of cost recovery is in this statement, this will increase costs by a large margin if all costs for the burial service including future provision for extension to burial grounds, stabilisation of monuments, maintenance of burial grounds. However pressure is on local authorities is to have no deficit funding for the burial service so they may choose to recover all costs

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

Response: Standardisation of funeral directors service may assist in reducing costs, however customers choose the standard required. Funeral directors should have a legal duty to ensure that their up-to-date costs are published on their website in clear and accessible way. Local authorities could offer to spread payments for lair purchases. Local authorities could provide the services of the Funeral Directors on a not for profit basis. Increase green burial provision, reduce costs by maintaining burial grounds as green burial grounds. Actively promote cremation as the cheaper option, designate casket areas with no grass giving a lower carbon footprint.

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:

There is no specific mention of indigent burial within the questionnaire, we have referred to this in answer 86 above (funeral poverty)

Indigent burial puts financial burden on local authorities trying to recoup costs from the deceased's estate (if they have one). Such burials are increasing, where family members refuse to pay for the interment, or even occasions where there are funds left by the deceased, but relatives gain access prior to the authority having the burial costs recovered and the authority has to bear the cost in these cases.

Although we are aware the legislation referring to indigent death is within a separate Act (Public Health (Control of disease) Act 1984), it would have been helpful to have had this issue considered in more detail.