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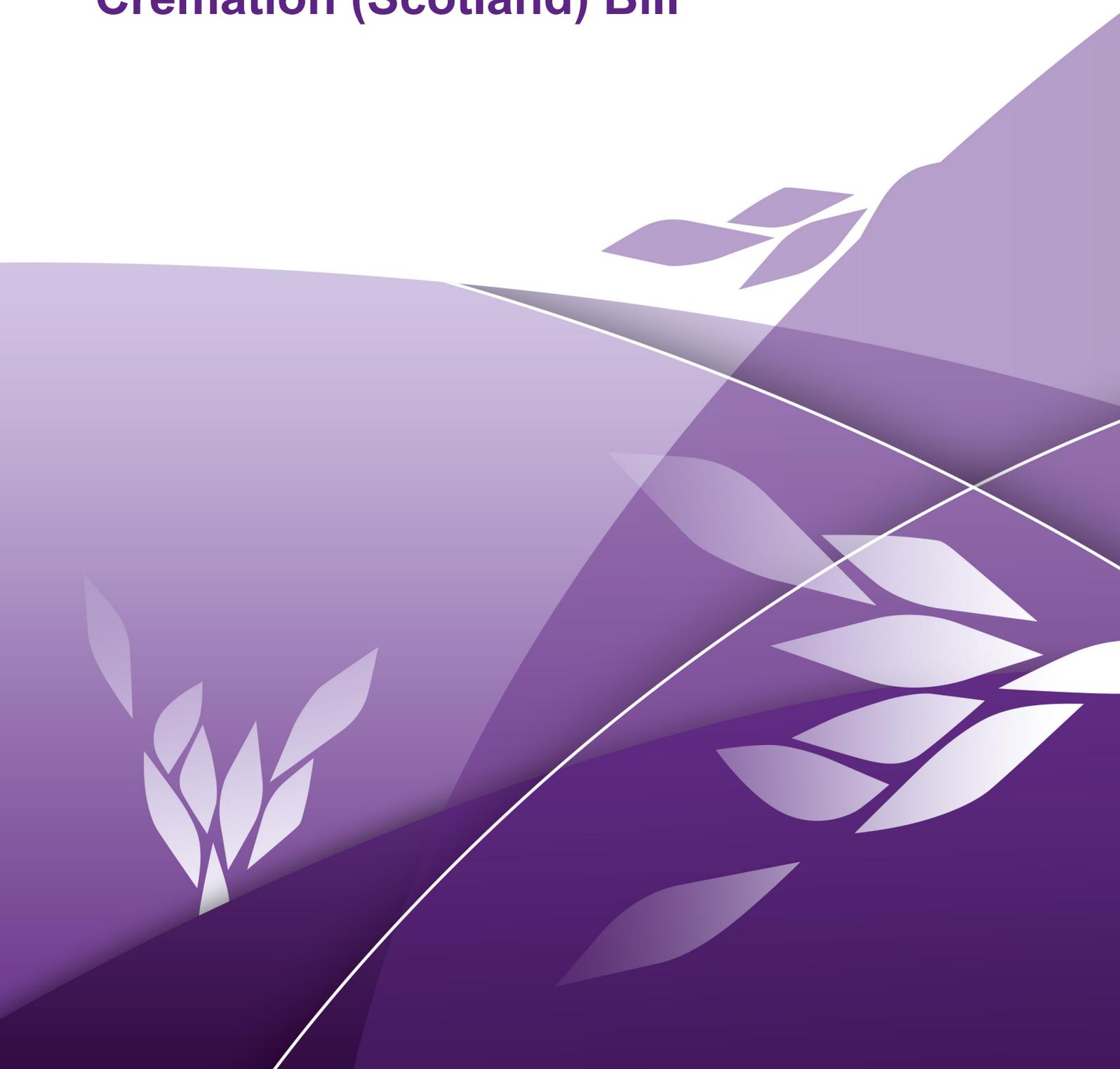
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5th Report, 2016 (Session 4)

Web

**Health and Sport Committee**

# **Stage 1 Report on the Burial and Cremation (Scotland) Bill**



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## Health and Sport Committee

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# Health and Sport Committee

To consider and report on health policy, the NHS in Scotland, sport and other matters falling within the responsibility of the Cabinet Secretary for Health, Wellbeing and Sport, and measures against child poverty.



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Scottish Conservative  
and Unionist Party



**Dennis Robertson**  
Scottish National Party

**Note: The membership of the Committee changed during the period covered by this report, as follows:**

Fiona McLeod replaced Bob Doris on 21 February.



# Introduction

## Overview of scrutiny

1. The Committee recognises that events leading to this Bill continue to cause distress to many of those affected. To those affected, the Committee offers its sincere condolences. Bills by their nature require the text to be very precise in the meaning and in the language they use. As such, there may be some language or terminology used in this report that some may find upsetting. The Committee wishes to make clear that no offence is intended by the language used in this report.
2. The Burial and Cremation (Scotland) Bill (“the Bill”) was introduced in the Scottish Parliament by the Scottish Government on 8 October 2015. The Health and Sport Committee was designated as the lead committee for the consideration of the Bill. Its focus was on the general principles of the Bill, as well as the provisions relating to pregnancy loss, still-birth and infant loss. The Local Government and Regeneration Committee was designated as the secondary committee for consideration of the Bill. Its focus was on the matters that fell within its remit.
3. The Stage 1 reports by the Health and Sport Committee and the Local Government and Regeneration Committee should therefore be read together. This report specifically addresses only those issues scrutinised by the Health and Sport Committee and which principally relate to pregnancy loss, still-birth and infant loss albeit there are some wider aspects of this which may be commented on by both Committees. We have, where possible, identified those sections where this overlap has arisen.
4. On 20 October 2015, we launched a call for written views to inform our consideration of the Bill. In total, 29 written submissions were received. COSLA and seven local authorities responded to the call for views. We also received five responses from health boards, seven responses from bodies in the cremation and funeral services industry and a further nine responses from other stakeholders.
5. The Committee also invited bereaved parents affected by the Bill to provide their views anonymously via e-mail and telephone. The Committee also arranged to meet privately with bereaved parents affected by the Bill on 6 January 2016. For the purposes of our scrutiny the views provided by telephone and e-mail were collated with the views provided at the meeting on 6 January 2016.
6. The Committee held public oral evidence sessions on 5 and 12 January 2016. The Committee took evidence from Willie Reid, SANDS UK, NHS Lothian, Institute of Cemetery and Crematorium Management (ICCM), National Association of Funeral Directors (NAFD), Society of Allied and Independent Funeral Directors (SAIFD), the City of Edinburgh Council and the Scottish Government. The Committee also invited Cheryl Buchanan and the Royal College of Midwives to give evidence, however they were unable to attend.

7. The Finance Committee and Delegated Powers and Law Reform Committee also considered the Bill with respect to their particular remits. This is discussed further below.
8. The Committee thanks those who submitted evidence on the Bill particularly those who generously shared with the Committee Members their experiences of losing a baby or pregnancy. This evidence greatly assisted the Committee with its deliberations.

## **Purpose of the Bill**

9. The policy memorandum of the Bill states that its purpose is “to provide a modern, comprehensive legislative framework for burial and cremation”.<sup>1</sup> The evidence received by the Committee revealed a consensus in favour of replacing existing legislation relating to burial and cremation with a new legislative framework.<sup>2</sup>
10. The policy memorandum of the Bill explains that the law on burial and cremation has not been substantially revised since the nineteenth century.<sup>3</sup> In the last ten years, there have been two main reviews of the legislation: the Burial and Cremation Review Group (2005-2008) and the Infant Cremation Commission (2013-2014).
11. In 2005, the then Minister for Health established the Burial and Cremation Review Group, chaired by Sheriff Robert Brodie. The Group considered two main subjects: death certification and the law relating to burial, cremation and cemeteries. The Group’s final report was published in 2008 and made a number of recommendations.<sup>4</sup>
12. In 2012, a Lothians-based charity, SANDS Lothians, engaged Lesley Winton, a freelance writer, to write a book about its work and the experiences of parents who had suffered the loss of their babies through miscarriage, still-birth or neonatal death.<sup>5</sup> During the course of her research, Ms Winton discovered cremation authorities in Scotland had different practices for the recovery of ashes from the cremation of babies. The City of Edinburgh Council then commissioned Dame Elish Angiolini DBE QC to prepare a report on the cremation of babies at Mortonhall Crematorium. The report was published in 2014.<sup>6</sup>
13. These events led the Scottish Government to establish the Infant Cremation Commission (“the Commission”), chaired by Lord Bonomy, in 2013. The Commission’s role was to examine the policies, practice and legislation related to the cremation of infants in Scotland and to provide recommendations. The work of the Commission superseded much of the work of the Burial and Cremation Review Group. The Commission reported its findings in 2014.<sup>7</sup>
14. The Commission made a number of recommendations, which aimed to remove ambiguity about the process of cremation in relation to pregnancy losses and the definition of ashes. It also recommended improvements to the application process

to ensure instructions about ashes are clear and recorded in registers to be kept indefinitely by relevant authorities.

15. The Commission also recommended the Scottish Government appoint an inspector of crematoria. The power to appoint an inspector of crematoria in Scotland currently exists under Regulation 2 of the Cremation (Scotland) Regulations 1935. The Scottish Government appointed Robert Swanson QPM as the first Inspector of Crematoria in March 2015. The Burial and Cremation (Scotland) Bill proposes to replace existing statute and provide a new power to appoint inspectors for burial, cremation and the funeral industry.
16. The Commission also recommended the Scottish Government establish a standing National Committee on Infant Cremation. This has been established with the aims and objectives to: develop a code of practice on baby and infant cremations; ensure that all of the Infant Cremation Commission's recommendations are implemented; and promote improvements in practice, technology and policy.
17. According to the National Committee on Infant Cremation's most recent annual report, it is expected that the Burial and Cremation (Scotland) Bill will complete 25 of the Infant Cremation Commission's 64 recommendations.<sup>8</sup>
18. The National Committee on Infant Cremation published a voluntary code of practice on baby and infant cremations on 4 December 2015.<sup>9</sup> The Bill proposes to give Scottish Ministers the power to issue codes of practice and make them binding on relevant authorities in the funeral and cremation industry.
19. On 17 June 2014, the Minister for Public Health announced in the Scottish Parliament the establishment of an independent National Investigation into infant cremations in Scotland led by the Right Honourable Dame Elish Angiolini DBE QC.<sup>10</sup> The National Cremation Investigation will report to Scottish Ministers in due course.
20. The policy memorandum to the Bill explains "many of the Bill's provisions are rooted in the recommendations made by various review groups, particularly the Infant Cremation Commission and the Burial and Cremation Review Group".<sup>11</sup> The Committee's consideration of the Bill focused on those provisions giving effect to these recommendations.

## **Finance Committee and Delegated Powers and Law Reform Committee consideration**

21. The Finance Committee launched a call for written views, which closed on 20 November 2015. It received three responses from the Commonwealth War Graves Commission; Falkirk Council, and NHS Lothian. NHS Lothian noted that it does not expect any additional costs to arise for health boards as a result of the legislation.<sup>12</sup> All submissions noted that the Bill will provide for many measures to be introduced by secondary legislation. As such, the respondents considered they were unable to comment conclusively on how they may be financially affected.

22. The Delegated Powers and Law Reform (DPLR) Committee published its Stage 1 report on 6 January 2016.<sup>13</sup> It raised concerns about the number of delegated powers in the Bill relative to its size, and considered that it does not achieve an appropriate balance between primary and secondary legislation. The DPLR Committee considered that more provisions should be set out on the face of the Bill.
23. The DPLR Committee also sought clarification from the Scottish Government on a number of provisions relating to suspension of private burials; cremation authorities' duties; application for cremation; licensing of funeral directors' premises; codes of practice, and power to suspend or modify enactments. We note that many of the DPLR Committee's concerns relate to provisions in the Bill within our remit. We have therefore given further consideration to these in the body of this report.

## The Bill: Overview of provisions and evidence received

### Ashes

#### Definition

24. The Bill provides a definition of cremation (section 36(1) and as part of that definition provides a further definition of ashes (section 36(2)).
25. The policy objective behind the provisions relating to ashes is to “establish a clear, unambiguous understanding of what is meant by ‘ashes’”.<sup>14</sup> This is explained further:

” The cremation industry has tended to work to a particular definition which does not necessarily accord with non-professionals' concept of ashes. This has led to misunderstandings between crematoriums and individuals who have applied for a cremation. In some cases the applicant has been told that no ashes will be recovered, only to later discover that some remnants were recovered but were not considered by crematorium staff to constitute ashes.<sup>15</sup>

26. Willie Reid emphasised to the Committee why it is important to parents affected by the previous poor practices at Mortonhall and elsewhere in Scotland that the definition of ashes in the Bill is fit for purpose, noting:

” It has become apparent that there were 153 cases alone at Mortonhall in Edinburgh – funeral directors and cremation authorities got it wrong 153 times. In 50 years' time, we want there to be no such cases.<sup>16</sup>

27. The policy memorandum explains that Lord Bonomy recommended that “ashes” should be defined in legislation.<sup>17</sup> Lord Bonomy's report recommended ashes be

defined as “all that is left in the cremator at the end of the cremation process and following the removal of any metal”.<sup>18</sup>

28. The policy memorandum states the definition contained in the Bill will meet Lord Bonomy’s definition.<sup>19</sup> It explains the proposed approach is to define ‘ashes’ within the context of a definition of ‘cremation’.<sup>20</sup>

29. Section 36(1) of the Bill states that cremation means “the reduction to ashes of human remains by the burning of the remains and the application to the burnt remains of grinding or other processes”.<sup>21</sup> It further clarifies that ‘ashes’ does not include metal; ‘coffin’ includes any type of receptacle; and ‘human remains’ includes, “where the remains are clothed, in a coffin, or with any other thing, the clothing, the coffin or other thing.”<sup>22</sup>

30. SANDS UK agreed that the definition used in the Bill is in line with the definition recommended in Lord Bonomy’s report, noting:

” This is very significant for bereaved parents, as it matches the definition many parents have of what ashes are. It also increases the likelihood of parents being able to receive ashes following the cremation of a baby, which is often of great importance to them.<sup>23</sup>

31. Many stakeholders, including COSLA, West Lothian Council, Falkirk Council, Fife Council and NHS Greater Glasgow and Clyde were also supportive of the Bill’s definition and/or its objective to establish a clear definition of ashes.<sup>24</sup>

32. However, stakeholders from the cremation industry, such as the Federation of Burial and Cremation Authorities (FBCA),<sup>25</sup> the Association of Private Crematoria and Cemeteries (APCC),<sup>26</sup> and City of Edinburgh Council (itself a cremation authority),<sup>27</sup> considered the exact wording of the Lord Bonomy definition should be used. It was explained that the cremation sector uses the word ‘cremulating’, which it considers preferable to ‘grinding’.

33. Concerns were also raised by the APCC and NHS Lothian that certain faith groups and nationalities, such as Sikhs and Japanese, do not wish burnt human remains to be cremulated.<sup>28</sup> In this regard, the Committee also notes that the importance of being sympathetic to cultural considerations in policies and legislation on cremation and burial was noted by the Burial and Cremation Review Group.<sup>29</sup>

34. The Law Society of Scotland highlighted another issue with the way ashes are defined within the meaning of cremation, noting:

” Incineration of fetal tissue is not banned in Scotland, but is considered unacceptable in any circumstance. Although **incineration and cremation** both involve pregnancy losses being burnt, they are not the same. This is an important distinction that should be explained clearly.<sup>30</sup>

35. The explanatory notes to the Bill explain why the Bill's approach is to define ashes within a definition of cremation. It states "this definition is necessary to ensure that all parts of the process are captured."<sup>31</sup> The Minister for Public Health explained the definition used in the Bill further, noting: "The stakeholders thought that the definition of 'ashes' in Lord Bonomy's report was not quite what they had expected and, as a result, we have refined the term with their agreement."<sup>32</sup>

36. The Committee agrees with the definition of ashes in the Bill. We are content that this accords with the definition recommended by Lord Bonomy's report.

37. However, we have concerns that the definition of cremation, by referring to 'grinding and other processes', may not adequately enable bereaved families to understand that cremation may include cremulation. We therefore seek clarification from the Scottish Government of how this will be made clear to bereaved families so that those who do not agree with this process can take an informed choice about whether to proceed with cremulation. We invite the Scottish Government to also consider whether 'grinding' as used in the Bill at Section 36(1) should be amended to instead refer to 'cremulating' – a term we understand is more widely understood and used by the cremation sector.

38. We would also welcome clarification from the Scottish Government of whether the Bill adequately recognises the distinction between cremation and incineration as highlighted by the Law Society of Scotland.

### **Disclosure about ashes to applicants**

39. The policy memorandum to the Bill notes that applications for cremation are currently made using a statutory form as prescribed by the Cremation (Scotland) Regulations 1935.<sup>33</sup> According to the policy memorandum, the form "does not adequately cover every category of cremation, although in practice it is used for all cremations".<sup>34</sup>

40. Section 38(2) of the Bill contains a regulation making power which allows the Scottish Ministers to prescribe the form to be used to apply for a cremation. The policy memorandum notes "the form will be statutory and will cover all types of cremations".<sup>35</sup> It states further that a working group has been established to consider the form in more detail.

41. The policy memorandum also explains:

” The form will also specify that in certain circumstances, particularly those involving the cremation of babies, it may not be possible to recover ashes. However, given new processes introduced in the wake of the Commission's recommendations, it is now expected that ashes will be recovered in the vast majority of cremations. Where this does not happen, the Inspector of Crematoriums will investigate.<sup>36</sup>

42. The Committee heard from witnesses about the importance the forms will play in addressing poor historic practices. Willie Reid explained:

” The forms have to be correct. On my daughter’s form, there was a tick-box option to dispose of the remains in the garden of remembrance, but the undertaker told me that there were no ashes.<sup>37</sup>

43. The Committee asked witnesses whether the application form should contain a statement to the effect that there may be circumstances when ashes cannot be recovered. SANDS UK noted that it should be possible to recover ashes from every cremation of a baby, apart from very early losses where they are in communal cremation.<sup>38</sup> It also welcomed the role of the Inspector of Crematoria in investigating cases where ashes are not recovered as a necessary safeguard. However, it noted in relation to the application form:

” Whilst it is important to manage parents’ expectations around the cremation process, it is a source of possible concern that highlighting on the application form that it may not be possible to recover ashes does not provide adequate impetus to ensure that all efforts are made to collect ashes.<sup>39</sup>

44. The ICCM noted that “a pregnancy loss cremated in a cardboard container will not, in some circumstances, although very rare, produce ash. When a wooden coffin is used there will certainly always be ash”.<sup>40</sup> The SAIFD noted why sensitive and accurate communication with the client about such matters is key:

” In 30 years, I have never not got ashes when I asked for them. Now, the code of practice means that every effort will be made to retain ashes, and that if there are no ashes Her Majesty’s Inspector of Crematoria for Scotland will investigate why.<sup>41</sup>

45. Willie Reid explained to the Committee why it is important that the guidance given to cremation authorities is set in positive, rather than negative, terms:

” When I sat on the National Committee on Infant Cremation, one of the phrases that went about was that we should minimise the loss of ashes. I suggested that we should instead talk about maximising the recovery of ashes.<sup>42</sup>

46. The ICCM and City of Edinburgh Council agreed with Mr Reid’s evidence, noting that the operational guidance from the National Committee on Infant Cremation now sets out the cremation conditions that are ideal for maximising the recovery of ashes.<sup>43</sup>

47. The parents who spoke privately to the Committee considered that the form should not contain the statement (see paragraph 41) proposed in the policy memorandum to the Bill. Instead, they considered training should be offered to cremation staff to ensure that they are able to provide accurate and sensitive advice to clients.<sup>44</sup>

48. The Committee notes national guidance has been developed by the National Committee on Infant Cremation to the effect that it is now expected that ashes will be recovered in most circumstances. In particular, we note this guidance is rooted in an accepted discourse about “maximising” the recovery of ashes. We recognise that the use of positive language in the guidance is intentional and designed to promote best practice in the industry.
49. We note in the policy memorandum to the Bill that the statutory application form for cremation is likely to contain a statement that in some circumstances ashes will not be recovered from a cremation. The Committee considers such phrasing is not in keeping with the accepted discourse about maximising the recovery of ashes.
50. We therefore consider an alternative phrase may be more appropriate, to the effect that – “If you have requested ashes, it is expected that ashes will be recovered. If ashes are not recovered when they have been requested, the Inspector of Crematoria will investigate”. We recommend that the Scottish Government’ consider this change when it develops the statutory cremation application form.

### Disposal of ashes by cremation authorities

51. The Committee understands that the disposal of ashes by cremation authorities was one of the key issues of concern that emerged from investigations into poor historic practices. In written evidence to the Committee, Cheryl Buchanan explained:

” I discovered via local news that bereaved parents who had used Mortonhall Crematorium in Edinburgh for their baby’s cremation have been routinely misinformed of the existence and whereabouts of their baby’s ashes. They had been led to believe by crematoria staff that their baby’s cremations yielded no remains, when in fact there had been but they were withheld from parents and interned in a field at Mortonhall, something that had occurred routinely for over 30 years.<sup>45</sup>

52. In oral evidence to the Committee, Willie Reid explained:

” Revisiting the matter 25 years later has been the most horrendous thing that I have had to deal with in my life; I am sure that I speak on behalf of other parents who feel the same. Ultimately, the Bill has to ensure that what happened cannot and will not ever happen again.<sup>46</sup>

53. Section 37(1)(c) of the Bill deals with the disposal of ashes by cremation authorities. This section provides that the Scottish Government may by regulations make provision about ‘the disposal of ashes by cremation authorities’.

54. The Bill provides that a cremation authority must comply with any requirement imposed on it by regulations (section 37(2)). It further provides that a cremation authority which knowingly contravenes any requirement imposed on it by regulations commits an offence (section 37(3)).
55. Section 37(4) provides that a person who commits an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 12 months, or a fine not exceeding level 3 on the standard scale, or to both.
56. The DPLR Committee's Stage 1 report notes that the Scottish Government's rationale for the provision of disposal of ashes by cremation authorities at section 37(1)(c) is to address "a particular and narrow set of circumstances, namely where ashes have been left with a cremation authority and are unclaimed".<sup>47</sup>
57. In evidence to the Health and Sport Committee, the Minister for Public Health stated:
- ” That [unclaimed ashes] is a big problem...the Bill will specify what crematoria or funeral directors should do with unclaimed ashes. We would expect funeral directors to take them back to a crematorium, which would dispose of them periodically. However, in all cases, we would expect that there would still be attempts to contact the relatives.<sup>48</sup>
58. In written evidence to the DPLR Committee,<sup>49</sup> the Scottish Government confirmed that it intends to amend the Bill to set out more detail about the disposal of ashes by cremation authorities. The Scottish Government explains that this will have the effect of specifying the circumstances in which cremation authorities may dispose of ashes; the steps that must be taken before such action is taken; and information that must be recorded about any such activity. This will work in conjunction with the cremation application form, which will require applicants to state what should be done with ashes and provide information about what will happen if ashes are not claimed.
59. The Scottish Government also confirmed that it intends to amend the Bill to require that regulations made under the power in section 37(1) are subject to the affirmative procedure of the Parliament.

60. The Committee notes that the historic practice by some cremation authorities of disposing of ashes without the knowledge or consent of bereaved parents was a key issue that came to light from investigations into Mortonhall Crematorium and some other crematoria in Scotland. This practice has had a devastating and long-lasting impact on those parents and their families.
61. We therefore agree with the DPLR Committee that, due to the sensitive and important nature of this issue, it is crucial that the Scottish Government's policy in this area is clearly set out on the face of the Bill. Where any aspect of this policy is subject to subordinate legislation, we consider that given the devastating

impact it has had on parents often over many years, and the importance of ensuring it never happens again, any future changes to these regulations - no matter how minor they may be considered - should be subject to the affirmative procedure of the Parliament. As a result, the Parliament will be required in every case to take evidence on the changes proposed and reassure itself that previous poor practices will not arise as a result of those changes.

62. The Committee therefore welcomes the confirmation from the Scottish Government provided to the DPLR Committee that it will amend the Bill to ensure that section 37(1) is subject to the affirmative procedure of the Parliament.<sup>50</sup>

### Disposal of metal

63. The definition of ashes in the Bill excludes metal in accordance with Lord Bonomy's recommendation. The Committee understands that metal is a common by-product from the cremation process, as it may be contained in coffin fittings, medical implants or any mementoes cremated with the human remains. The Committee therefore asked witnesses whether the Bill should specify what should happen to any metal by-product in the cremation process.

64. The ICCM considered the statutory application form for cremation should ask applicants for instructions on the disposal of metal, noting:

” At the present time, 60 per cent of UK crematoria and only five out of the 28 in Scotland recycle metal that is recovered with the specific consent of the applicant for cremation. A scheme that is administered by the Institute of Cemetery and Crematorium Management generated in the past 12 months £700,000 for charities that were nominated by the scheme-member crematoria.<sup>51</sup>

65. The Committee notes Lord Bonomy's report recommended that this practice be encouraged,<sup>52</sup> noting: “Good practice is for the applicant for cremation to consent to any extracted metal being disposed of in accordance with the recycling scheme”.<sup>53</sup>

66. When questioned about this, the Minister for Public Health noted: “...That sounds like a good idea, and we will definitely take it away from this morning's session and have a look at it”.<sup>54</sup>

67. The Committee considers it is important that the statutory application form for cremation ensures that, in every case, instructions are sought from the bereaved on the disposal of any metal by-product arising from the cremation process. The Committee seeks confirmation from the Scottish Government of whether it will include this information in the statutory cremation form.

## Making arrangements for pregnancy loss

### Definition of pregnancy loss

68. Section 50 provides that the term “pregnancy loss” applies to all circumstances in which a pregnancy ends at or before its twenty-fourth week. It clarifies that a loss has occurred if “after being parted from the woman the fetus does not breathe or show any other signs of life”.
69. The policy memorandum to the Bill notes that “the process involved in the disposal of a pregnancy loss was one of the key subjects considered by the Commission”.<sup>55</sup> The Committee notes that the Infant Cremation Commission considered pregnancy loss to include the loss of pregnancy prior to the 24<sup>th</sup> week of gestation.<sup>56</sup>
70. NHS Lothian considered the definition of pregnancy loss in the Bill needs to be refined, noting:
-  There is a huge range of circumstances of loss in the period up to 24 weeks. The current guidance from the Scottish Government on disposal of losses under 24 weeks covers everything from a very early miscarriage, to terminations of pregnancy for medical and non-medical reasons, later miscarriages and ectopic pregnancies.<sup>57</sup>
71. NHS Lothian’s written submission noted that the definition of pregnancy loss in section 50(1) includes a reference to the term “fetus”. It sought clarity as to whether this section is intended to apply to all pregnancy losses, as defined in the Infant Cremation Commission report. It noted “remains from earlier losses at the embryonic rather than fetal gestational stage may more often be described as ‘products of conception’ or ‘pregnancy tissue’ by healthcare professionals”.<sup>58</sup>
72. NHS Lothian considered this is significant because it is possible for a woman to experience pregnancy loss via a medically managed early miscarriage, or early medical termination at home. In those circumstances, NHS Lothian noted informal arrangements may be made by the woman, such as a private burial.<sup>59</sup> As such, NHS Lothian was concerned that the Bill does not make clear whether the disposing of the remains of an early pregnancy loss by way of private burial would be prohibited and the women concerned could face prosecution.
73. The issue of sensitivities arising from the disposal of the remains from pregnancy loss was also touched upon in a private meeting the Committee held with bereaved parents.<sup>60</sup> In the case of later pregnancy losses at or before the twenty-fourth week, concern was expressed about how the woman could take home the remains safely and respectfully. Bereaved parents were also concerned how reasonable it was to expect remains from pregnancy loss before 11 weeks to be returned to the woman.
74. When the Committee asked the Minister for Public Health for clarification on the definition of pregnancy loss, she noted: “It is our intention, having studied the Bill

further and had more consultation, that the Bill should apply to embryos, and we will lodge a Stage 2 amendment to make that clear”.<sup>61</sup>

75. We welcome the Bill’s approach to ensuring women can choose what arrangements to make for very early pregnancy losses up to those at 24 weeks. However, the Committee notes the concerns about the definition of pregnancy loss and whether it applies to embryos. The Committee welcomes the Scottish Government’s confirmation that it will address this issue by way of an amendment at Stage 2.

76. The Committee also notes that in circumstances where a woman has experienced pregnancy loss, she may wish to make her own arrangements for disposing of the remains and this is provided for in the Bill. The Committee recommends to the Scottish Government that guidance is issued to NHS staff advising how to arrange for a woman to take home the remains in a safe and respectful manner.

77. We also note NHS Lothian’s concerns that early pregnancy loss may be considered by some healthcare professionals as ‘products of conception’ or ‘pregnancy tissue’. We therefore seek clarification from the Scottish Government of how it will ensure that healthcare professionals are made aware of the requirements of this Bill in relation to making arrangements for losses during pregnancy.

### **Seven-day “initial period” of decision-making**

78. Section 50(2) provides that within seven days of a pregnancy loss, the health authority must give the woman the opportunity to decide whether she wishes to make arrangements for the disposal of the remains of the fetus, or whether she wishes to authorise an individual (aged 16 years or over) or the health authority to make the arrangements.

79. Section 50(4) provides that, as soon as practicable after the expiry of seven days from the loss of the pregnancy, the appropriate health authority must record whether or not the woman has made a decision under subsection 50(2).

80. The policy memorandum notes that “the process involved in the disposal of a pregnancy was one of the key subjects considered by the Commission”.<sup>62</sup> It explains further that the Commission recommended that the right to instruct the disposal of a pregnancy loss should vest in the woman and the intention is that this is set out in the Bill.<sup>63</sup>

81. SANDS UK,<sup>64</sup> Edinburgh Crematorium Ltd,<sup>65</sup> Fife Council,<sup>66</sup> ICCM,<sup>67</sup> and NHS Greater Glasgow and Clyde,<sup>68</sup> supported the approach in the Bill to vest the decision about disposal of a pregnancy loss with the woman who has experienced the loss.

82. The Committee sought views on the requirement in section 50(4) that it is only after seven days after the loss that the health authority must record the woman's decision and obtain her signature as soon as practicable. Willie Reid considered there was merit in having a 'cooling-off period' to give women the chance to reflect on their wishes.<sup>69</sup> NHS Ayrshire and Arran and NHS Lothian also considered that, in some circumstances, women may need more time to decide how to dispose of the remains as proposed by section 50(4).<sup>70</sup> They noted, for example, women who experience a spontaneous abortion (such as an abortion resulting from foetal abnormality) may need time to consider options for disposal and options can be discussed with them at a later time.<sup>71</sup>

83. In this regard, NHS Lothian considered "the Bill focuses on what we would think of as minimum good practice for early loss, not best practice".<sup>72</sup> This view was reiterated by the parents who met privately with the Committee.<sup>73</sup> Both NHS Ayrshire and Arran and NHS Lothian suggested the Bill should provide for a more flexible, person-centred procedure for making arrangements to acknowledge the many different circumstances in which loss may occur.<sup>74</sup> They explained, for example, it is good practice to obtain consent to dispose of the remains at the time of the termination in certain circumstances, such as where a woman is about to go through a procedure that will lead to the birth of a still-born child (or fetus for earlier losses).<sup>75</sup> NHS Lothian considered in such circumstances it may in fact be distressing for women to be contacted by hospital staff, or to have to return to the hospital, after seven days to complete the paperwork.<sup>76</sup>

84. NHS Lothian also considered the procedure proposed in the Bill could raise practical issues for health authorities. It noted, for example, it would be difficult for staff to contact women who do not want to engage further with hospital staff following discharge. NHS Lothian highlighted the following text in the explanatory notes to the Bill:

” ...some women may choose not to engage with the health authority, or maybe be physically unable to do so. As such, the health authority is expected to try to find out the woman's wishes, but is not under an obligation to establish her wishes.<sup>77</sup>

85. NHS Lothian considered this is not clearly set out in the Bill, which states after the initial seven-day period the health authority 'must' record the wishes of the woman and take reasonable steps to secure her signature. The Bill does not, for example, explain what 'reasonable steps' should be taken to secure the woman's signature or when issues of capacity to make decisions arise.<sup>78</sup> They considered this may also raise a number of practical issues for health authorities, such as when, how, whom and where they should seek to re-establish contact.<sup>79</sup> NHS Lothian explained that if the woman's wishes could be recorded and agreed earlier this would lead to better outcomes:

” That means that, for women who did not come back a week later to go through paperwork, we would have something that was authorised in their

name and, after a week, rather than not being sure whether they had not signed because someone had not given them the form or because the form was not well explained, we could presume that they had decided to remain with their decision.<sup>80</sup>

86. The Muslim Council of Scotland also supported a more flexible procedure for recording a woman's decision. It explained that some cultures require arrangements to be made quickly for burial, which may be obstructed by a mandatory 'cooling-off' period.<sup>81</sup>
87. These concerns about the impact on some cultural practices were echoed by NHS Lothian,<sup>82</sup> and the affected parents with whom the Committee met privately.<sup>83</sup> The Committee also notes the Burial and Cremation Review Group's recommendation that "the procedure for certifying deaths should be sensitive to the many different faiths and beliefs in Scotland and ensure as short a delay as possible between death and disposal".<sup>84</sup>
88. The Scottish Government noted that the seven day period was originally developed in response to consultation with SANDS UK. It explained:

” We have subsequently had representation from the likes of the Muslim Council of Scotland, which has noted that the provision might prevent a burial from taking place sooner rather than later. We are now going to consider lodging a Stage 2 amendment so that a woman, whether it be for a religious or cultural belief, or just because she is clear in her mind that she knows what she wants to happen, can waive the seven-day period.<sup>85</sup>

89. We welcome the Bill's approach to ensure women who have experienced a pregnancy loss are given a specific time period within which they can consider what arrangements they may wish to make. However we consider that the procedure set out in section 50(4) does not permit adequate flexibility to provide an appropriate patient-centred approach to care. The Committee therefore welcomes the Scottish Government's confirmation that it will consider amending the Bill at Stage 2 to provide for a more flexible approach to recording a woman's decision (including when she does not wish to decide).

### **Arrangements by health authorities**

90. The Bill provides for a number of scenarios in which health authorities are to make arrangements to dispose of remains of a pregnancy loss, notably: where a woman authorises the health authority to make arrangements (section 50(2)(c) or section 51(2)); and where an individual authorised by the woman to make arrangements authorises the health authority to do so (section 52(2)).

91. Where the health authority is authorised to make arrangements, section 53 provides that the health authority must wait seven days beginning with the day on which authorisation is given before disposing of the remains.
92. In cases where no arrangements to dispose of the remains of a fetus have been made and the relevant period has expired, the health authority must make arrangements for disposal as soon as practicable (section 54).
93. SANDS UK considered that the provisions allowing health authorities to dispose of remains are appropriate. It noted that, in cases where a health authority is authorised to make arrangements, it should take care to attempt to inform the woman of its plans for disposal in time for her to request any changes if desired.<sup>86</sup> In this regard, SANDS UK favoured the requirement of health authorities to keep a register, stating this is both “necessary and significant”.<sup>87</sup> SANDS UK explained further:
- ” It would protect the rights of bereaved parents to have information about how the remains of their child were disposed. This is particularly important for bereaved parents who may not have wanted or been able to make arrangements in the immediate aftermath of their baby’s loss, but who subsequently feel that they would like to know more details.<sup>88</sup>
94. NHS Greater Glasgow and Clyde supported the proposals “in order to prevent storage in pathology for prolonged periods”.<sup>89</sup> NHS Western Isles advised it already has a practice for disposing of remains where no instructions have been received.<sup>90</sup> Similarly, NHS Forth Valley noted it currently keeps remains for six weeks before disposal. In this regard, it sought clarification on whether the arrangements specified in the Bill would require new information leaflets and transport, as well as changes to crematorium arrangements, at a cost to health authorities.<sup>91</sup>
95. NHS Lothian considered that the duty on health authorities in section 54 may result in the wishes of women who are not able to decide within the relevant period being overridden. It noted many circumstances in which women may not be able to decide in the timescale, such as awaiting a decision from the Department of Welfare Payments for a social fund funeral payment. For this reason, it suggested the provision should be drafted in permissive, rather than mandatory, language.<sup>92</sup>
96. The Minister for Public Health agreed in principle that a flexible approach to the timeframe is desirable:
- ” I think that the duty is to ensure that the action is taken only after six weeks, not before, so that a woman is given the right to change her mind if, after the initial trauma,...she wants to do something different with the remains...However, if that is not enough time, we would expect the authorities to be sympathetic.<sup>93</sup>
97. The SAIFD noted that the effect of what is contained in the National Commission on Infant Cremation’s code of practice provides that “...if there is no engagement on

the part of a parent after a period, the health authority has the right to carry on”.<sup>94</sup> NHS Lothian noted it would be content with an amendment to the provision that would replace the existing drafting with a right to act, or a duty to act unless there is cause shown as to why the health authority should delay disposal or try to reconnect with the woman.<sup>95</sup>

98. The Committee also notes the concerns raised by the Muslim Council of Scotland that the mandatory waiting periods in the Bill, such as section 53, will impact on women whose cultural beliefs require a prompt burial. These concerns were echoed by NHS Lothian,<sup>96</sup> affected parents,<sup>97</sup> and were also raised by the Burial and Cremation Review Group in its recommendation that “the procedure for certifying deaths should be sensitive to the many different faiths and beliefs in Scotland and ensure as short a delay as possible between death and disposal”.<sup>98</sup>

99. In relation to the requirement to wait seven days to record the woman’s decisions (as set out in section 50(4)), the Scottish Government noted it was considering an amendment to enable the woman to authorise instructions sooner.<sup>99</sup> When asked about the provisions in the Bill that set out mandatory waiting periods and its impact on some cultural beliefs, the Minister for Public Health noted “we are very mindful of that, and I think that flexibility will be in-built in the guidance”.<sup>100</sup>

100. We acknowledge that it may be helpful for some health authorities to be clear about the timescale which must elapse before they can dispose of any remains from pregnancy loss where the woman affected has not been able to decide or wishes the health authority to make the arrangements. However, the Committee notes that there may be circumstances in which the timescale for the duty on health authorities to dispose of remains in section 54 should be extended beyond the end of the relevant period. Similarly, the Committee notes that the mandatory waiting period in section 53 does not provide a suitably flexible approach to enable quicker burial in circumstances where this may be required for cultural or other reasons.

101. The Committee therefore seeks the Scottish Government’s consideration of whether Stage 2 amendments should be brought forward to provide for greater flexibility in the duties on health authorities in sections 53 and 54.

### **Arrangements by authorised individuals**

102. Section 50(2)(b) provides that a woman who has suffered a pregnancy loss may authorise an individual of or over 16 years of age to make arrangements to dispose of the remains.

103. Section 52(2) provides that if the individual does not want to make arrangements, he or she may authorise the health authority to dispose of the remains in a way specified by the individual, or in a way specified by the health authority. It further

provides that the individual “otherwise may not authorise any other person to make arrangements for the disposal of remains”.

104. The Committee notes the Bill’s policy intention to give effect to Lord Bonomy’s recommendation that the right to instruct the disposal of pregnancy loss should vest in the woman who experienced the loss.<sup>101</sup> This principle is manifested in the Bill by giving the woman the option to decide how arrangements are to be made (by herself, an authorised individual or the health authority).<sup>102</sup> It is also manifested in the provision of ‘initial’ and ‘relevant’ timeframes for decision-making, which are intended to give women time to reconsider the decisions they have made.<sup>103</sup>
105. The procedure for authorising an individual in section 50(2)(b), however, does not give the woman the option to specify whether the arrangements for disposal are to be made in a way specified by her, or in a way specified by the authorised individual. By contrast, this information is required when the health authority is authorised to dispose of the remains. Section 52(2) also does not provide a procedure for consulting the woman further if the individual she authorises does not wish to make arrangements. In such circumstances, the authorised individual may only authorise the health authority to make arrangements for disposal.
106. NHS Western Isles expressed concern about the provisions enabling a woman to authorise an individual to make arrangements, noting that there should be some requirement to record the individual’s relationship to the woman and why they had been chosen to make the arrangements. It considered this was particularly important in cases where the individual is not related to the woman.<sup>104</sup>
107. In oral evidence, the Minister for Public Health explained:

” In the case of a pregnancy loss, the woman who has experienced the loss is placed at the centre of the decision-making process. The bill requires that her options are explained to her and that she will have the sole right to make key decisions.<sup>105</sup>

108. We welcome the Bill’s provisions that give the woman who has experienced pregnancy loss a range of choices about what arrangements, if any, she would like to put in place for burying or cremating that pregnancy loss.
109. However, we consider that in circumstances where an authorised individual does not wish to make arrangements for the disposal of pregnancy remains, the Bill should provide a mechanism for giving further consideration to the wishes of the woman who experienced the pregnancy loss.
110. The Committee therefore invites the Scottish Government to consider amending the Bill at Stage 2 accordingly.

## Capacity to make decisions

111. The policy memorandum to the Bill explains that the policy intention is to give effect to the Infant Cremation Commission's recommendation that the right to instruct the disposal of pregnancy loss should vest in the woman.<sup>106</sup>

112. Cheryl Buchanan explained to the Committee the importance of this:

” My daughter died at 23 weeks gestation of pregnancy in 2004...At that time I was not given the option of burial, either via the hospital or privately. Minutes after her death I was handed cremation forms to sign, I had been sedated shortly beforehand for a procedure related to the pregnancy...At no point were the forms explained to me; up until 2013 I was sure I had never signed any cremation forms so it came as a shock to me to see my signature on them. Even if they had been explained to me, I was in no fit state to sign legal documents and was still sedated, so would not have been able to give my informed consent.<sup>107</sup>

113. This issue was also raised by NHS Lothian, who considered it is not clear in the Bill how the timeframes for making and recording decisions would apply in circumstances where the woman is incapacitated.<sup>108</sup>

114. The Committee noted that an individual who is authorised by the woman to make arrangements must be of or over 16 years of age. The Committee therefore questioned the Scottish Government whether a woman aged 16 years or under who experienced a loss would be considered able to offer informed consent when making arrangements for disposal of the fetus. The Minister for Public Health noted:

” That, again, is a sensitive situation. We would hope that either a close relative would be involved, or if the under 16-year-old does not want relatives involved, the NHS would provide that support.<sup>109</sup>

115. Given the experiences we heard from women affected by pregnancy loss, we consider it is important that the Bill adequately provides flexibility for those circumstances when a woman may be incapacitated and therefore not able to consider any decisions within some of the specified timescales in the Bill. We therefore seek clarification from the Scottish Government of whether the Bill, as presently drafted, adequately provides flexibility for these circumstances.

116. We welcome the Minister's clarification that those aged 16 years of age or under who experience pregnancy loss should be supported by family or the health authority in considering what arrangements to make for disposal of that pregnancy loss. However, for young women who may be estranged from their family we consider it important that the health authority has a clear role to support that young woman in considering her choices. We therefore seek

confirmation from the Scottish Government of what steps it is taking to ensure that this is the case (including whether the Bill should be amended accordingly).

### Change in arrangements

117. Section 51 provides that a woman may make changes to a decision she has made as to the arrangements for disposal of a pregnancy loss if the remains have not been disposed of and the relevant period has not expired. The relevant period is defined in the Bill as a period of six weeks after the woman experiences the pregnancy loss.
118. NHS Lothian supported this provision in principle.<sup>110</sup> The bereaved parents with whom the Committee met privately also considered that the relevant six week period is an appropriate timescale to allow changes to the arrangements to be made.<sup>111</sup>
119. SANDS UK noted that section 51 “provides an important method in which a bereaved parent may exercise an informed choice in what is most often an incredibly emotional and difficult period”.<sup>112</sup> SANDS UK also noted that it is important that health authorities should try to accommodate any changes requested by the woman at any point in the process. In its view, it would be helpful for health authorities to attempt to inform the woman of their plans in time for any changes to be requested.<sup>113</sup>
120. The Minister for Public Health explained that in drafting this provision, the Scottish Government consulted widely with bereaved parents and charities, such as SANDS. The Minister noted: “It is a terribly traumatic time, and we have to realise that a person might change their mind during that time. There might also be a requirement to examine the tissue or the fetus. Because of those factors, six weeks was considered to be roughly the right amount of time”.<sup>114</sup>
121. The Committee recognises the importance of allowing women the opportunity to change their mind about any arrangements for disposing of pregnancy loss. We therefore welcome the arrangements set out in section 51.

## Making arrangements for still-births and on the death of a child

### Third trimester pregnancy losses

122. Section 47 provides a framework for making arrangements on the death of a child. It applies where a child dies or a still-birth occurs. It defines child as “a person who is under 16 years of age”. It provides that “still-birth” and “still-born child” have the meanings given by section 56(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965. Section 56(1) of the 1965 Act provides “‘still-born child’ means a child which has issued forth from its mother after the twenty-fourth week of pregnancy and which did not at any time after being completely expelled

from its mother breathe or show any other signs of life, and the expression “still-birth’ shall be construed accordingly”.<sup>115</sup>

123. NHS Lothian noted that the loss of a pregnancy in the third-trimester, whilst rare, does occur and requires sensitive treatment.<sup>116</sup> In particular, it noted that third-trimester pregnancy losses often involve challenging circumstances, such as medical abnormalities or a grave risk to a woman’s medical or psychiatric health.<sup>117</sup> In its view, more thought needs to be given in the Bill to the circumstances involving still-birth:

” The Bill addresses in detail the healthcare provider’s responsibilities in circumstances of early loss under 24 weeks, but it lets the still-birth group sit alongside those who have suffered a perinatal or a neonatal death, with the assumption of private family responsibility. That is not currently how it is done under the auspices of many health boards in Scotland.<sup>118</sup>

124. The Committee also considered the situation arising from the Bill that women who lose their pregnancy after 24 weeks gestation will not be afforded confidentiality on the statutory registers created by the Bill. The affected parents who met privately with the Committee expressed the view that anonymity should be afforded to women who experience a still-birth.<sup>119</sup>

125. When the issue was raised with the Scottish Government, the official noted:

” We have not considered the particular distinction between what happens at 23 weeks and six days and at 24 weeks, as set out in the Registration of Births, Deaths and Marriages (Scotland) Act 1965. We have developed the bill on that basis, and our understanding is that any delivery beyond 24 weeks that is dead, regardless of how that has come about, must legally be registered as a stillbirth, which means that the name of the mother is recorded. We could certainly look at whether we could do something to ensure that, in particular circumstances, the mother’s anonymity is maintained.<sup>120</sup>

126. The Committee considers there may be sensitive circumstances leading to the loss of a pregnancy after 24 weeks gestation which mean the woman may wish not to be identified on the statutory cremation register. The Committee therefore welcomes the Scottish Government’s consideration of how this could be addressed in the Bill by way of a Stage 2 amendment.

127. We also seek confirmation from the Scottish Government of how the role of the healthcare provider could be strengthened in relation to supporting the woman in making arrangements for burial or cremation where she experiences a still-birth (particularly when this involves a medical termination).

## Arrangements by nearest relatives

128. Section 47 provides that the nearest relative of the child who has died or the still-born child may make arrangements for disposal of the child's remains. It provides a ranked list of categories of nearest relatives. The policy memorandum of the Bill explains that the policy objective is to make clear who is entitled to instruct the disposal of human remains.<sup>121</sup>
129. The APCC, SANDS UK, West Lothian Council, North Ayrshire Council and Fife Council supported the objective of creating greater clarity in relation to the arrangements of the death of a child.<sup>122</sup>
130. NHS Lothian also considered that the list of nearest relatives is helpful and favourably noted the fact that the nearest relative provisions mirror the Human Tissue (Scotland) Act 2006.<sup>123</sup> NHS Lothian also noted that it would be useful if the nearest relative provisions mirrored other relevant legislation, such as the Registration of Births, Deaths and Marriages (Scotland) Act 1965 "because otherwise we would have the anomaly that a qualified informant would be a relative but that only a nearest relative could then go on to organise the funeral".<sup>124</sup>
131. Fife Council and NHS Forth Valley outlined a need for guidance in the event that agreement could not be reached between the parties involved.<sup>125</sup> The FBCA also raised concerns about the legal position regarding the instructions provided by the applicant for cremation after the completion of statutory forms. It noted: "In the case of a broken relationship, another relative issuing disposal instructions may result in significant distress to the applicant and a potential legal challenge".<sup>126</sup>
132. NHS Lothian noted that in circumstances where there has been a termination for medical reasons after 24 weeks, the Abortion Act 1967 would preclude health authorities from contacting any other nearest relatives.<sup>127</sup> In such circumstances, the health authority would not be able to register and proceed with a funeral.<sup>128</sup>
133. NHS Lothian considered the list of persons authorised to make arrangements should also be extended beyond nearest relatives to health authorities. Such a provision would allow health authorities to make arrangements in circumstances where the woman may have no nearest relatives or is otherwise socially isolated, such as women serving a sentence or residing in a care facility. If the nearest relative provisions were not amended in such a way, NHS Lothian considered "we would be left with no means of arranging a funeral if the woman who experienced the still-birth was either unable or unwilling to make such arrangements".<sup>129</sup>
134. The policy memorandum states that the policy objective is to make clear who is entitled to instruct the disposal of human remains.<sup>130</sup> It explains that there is currently no legislation setting out who may do so and "in practice, it is normally the nearest relative who arranges for disposal of the body and who chooses the method of disposal".<sup>131</sup>

135. The Minister for Public Health acknowledged that despite the Bill's aim to clarify the role of nearest relatives, there may still be a role for the NHS: "...in general we have said that if a woman does not want nearest relatives to be involved, her wish should be respected and the NHS should provide the services".<sup>132</sup>

136. The Committee welcomes the provisions in the Bill, which clearly set out a priority order of consultation in relation to who may make the arrangements for the burial or cremation following the loss of a child. We would welcome clarification from the Scottish Government of whether the Bill should be amended to allow the health authority to act in those circumstances where the woman has no family or whose family is unable or unwilling to make any arrangements.

137. We also consider that the provisions currently in the Bill may not adequately reflect those circumstances when a woman undergoes a medical termination after 24 weeks, when other legislation may prohibit the nearest relatives from being contacted, and where the woman is unable to make any arrangements for whatever reason. We therefore seek clarification from the Scottish Government of who should be able to take a decision in those circumstances and whether the Bill, as currently drafted, adequately provides for that decision taking.

## Application forms

### Issues arising from past practices

138. Cheryl Buchanan and Willie Reid's evidence to the Committee highlighted poor historic practices that occurred when bereaved parents were completing application forms. Cheryl Buchanan explained that, minutes after the death of her baby:

” I was handed cremation forms to sign, I had been sedated shortly beforehand for a procedure related to pregnancy, was not shown the forms and they were not explained to me.<sup>133</sup>

139. Willie Reid stated that, in his experience, “undertakers are the first point of contact for a funeral, and it was the undertakers who fed me the ‘there are no ashes line’”.<sup>134</sup> He explained how the conflict between the options on the application form and the advice that was given to him about the options for disposal led to tragic circumstances:

” However, 25 years later, on sight of the form, I saw that the back of the form could be ticked to allow dispersing of remains. Why would I have wanted remains to be dispersed if they were never there?<sup>135</sup>

140. This view was reiterated by the NAFD, which noted that the quality of the application forms informs the quality of the conversation with the bereaved about the options for burial and cremation:

” Because there is no statutory document, documents were submitted to crematoria with minimal information, and clearly the questions had not been asked. The documents will force those questions to be asked, either by a funeral director or somebody in a hospital setting.<sup>136</sup>

### Creation of statutory application forms

141. The Bill provides regulation making powers for the Scottish Ministers to specify the form and maintenance of statutory application forms to carry out a burial (section 8(2)) and a cremation (section 38(2)). The Bill also provides regulation making powers to create criminal offences in relation to applications (section 8(4) and 38(4)).

142. The policy memorandum explains that the policy objective in relation to applications for cremation is to “remove the current ambiguity and provide a legal framework which is suitable for all categories of cremation”.<sup>137</sup> It notes further that there is currently no statutory application form for burial, which has led to a wide variation in the information recorded in the past. The policy objective is therefore to address these issues by way of a statutory burial application form.<sup>138</sup>

143. The policy memorandum to the Bill further explains that a working group has been established to develop the forms.<sup>139</sup> The intention is that the forms will give effect to Lord Bonomy’s recommendations about the format and contents of cremation forms.<sup>i</sup> It considers this will help ensure that the information recorded is consistent and addresses issues arising from poor historic practices, such as the recovery of ashes.

144. The APCC, Edinburgh Crematorium, the Law Society of Scotland and Cheryl Buchanan welcomed the approach in the Bill to create statutory application forms.<sup>140</sup> SANDS UK was also supportive, noting “...standardised forms will help make sure that all relevant options have been discussed with bereaved parents and their families.”<sup>141</sup>

### Explaining options to the bereaved

145. The Scottish Government explained that health authorities will continue to have a role in explaining options to the bereaved, noting:

” On who should provide advice on filling out the form, we would look to funeral directors in a lot of instances, but also to NHS staff and healthcare staff generally.<sup>142</sup>

<sup>i</sup> Lord Bonomy’s report did not make recommendations in respect of burial forms.

146. The Scottish Government clarified further that its role will be to “...explain to her the various options that are open to her”.<sup>143</sup> The Scottish Government confirmed that further training will be provided to funeral directors and NHS staff accordingly: “We will provide guidance to both those groups as part of the implementation process, and we will work with them to ensure that they understand their responsibilities”.<sup>144</sup>
147. The parents who met privately with the Committee considered that further training was essential to remedy the mistakes made in the past.<sup>145</sup>
148. The Committee also heard evidence that professionals are often not only involved in explaining options, but also in completing forms on behalf of applicants. The SAIFD, for example, noted:

” ...99.9 per cent of the cremation forms that are filled out for cremations in Scotland are completed by the funeral director who asks the client the questions and explains the form.”<sup>146</sup>

149. When the Committee raised this issue with the Scottish Government it noted: “By all means, funeral directors should be there to support and guide a person through the process, but funeral directors should not be the ones to complete a form on behalf of an applicant.”<sup>147</sup> The Scottish Government further clarified:

” We are trying to design the form so that the onus is put on the applicant – the person who is applying for the funeral – to complete the form themselves or, at the very least, to say ‘Yes, I have understood everything that has been asked of me, and I have given answers to all these questions’.”<sup>148</sup>

## **Offence provisions**

150. In addition to the measures to improve training and the quality of application forms, Willie Reid and the parents who met privately with the Committee considered it is very important that the Bill provides sanctions against professionals who provide false or misleading information in relation to making arrangements for burial and cremation.<sup>149</sup>
151. The Bill provides regulation making powers for Scottish Ministers to create criminal offences in relation to applications (sections 8(4) and 38(4)). In relation to applications for cremation, section 39 also provides that a person will commit an offence if a person provides information in, or in connection with, an application under section 38(1) which the person knows to be false or misleading in a material way; or recklessly provides information in, or in connection with, such an application which is false or misleading in a material way.
152. Given the role various professionals will play in explaining the forms to bereaved parents, the Committee sought clarification from the Minister for Public Health as to whom the offence provisions will apply and whether this should be specified

more clearly in the Bill. The Minister for Public Health explained that the offences would relate to the information contained in the forms, rather than the verbal explanation of options for burial and cremation given by professionals:

” It is not the advice that is likely to cause the offence. What is written down on the form has to be accurate. At the end of the day, that is the responsibility of the person who makes the application, not someone who has given advice.<sup>150</sup>

153. Following these remarks, the Minister for Public Health noted she would consider whether further clarification needs to be provided in the Bill in this regard.<sup>151</sup> On 21 January 2016, the Scottish Government wrote to the DPLR Committee confirming that it intended to amend the Bill at Stage 2 to remove the power to create criminal offences in connection with applications for cremation contained in section 38(4)(g) and (h) as it considers this power is unnecessary, given the specific criminal offence set out on the face of the Bill in section 39.

154. More generally, the Scottish Government confirmed that it has reviewed the Bill's approaches to offences and intends to make other amendments to the Bill in relation to offences, removing some offences given they are provided for elsewhere in the Bill. The Scottish Government also confirmed that it intends to amend the Bill to remove the powers authorising the creation of criminal offences in regulations under section 22 (in relation to exhumations) and under section 55 (in relation to the health authority register) with a view to instead creating specific criminal offences on the face of the Bill in relation to those topics.

155. The Committee considers explanations given to the bereaved in relation to applications for burial and cremation is an important issue. We heard from some witnesses that, since the recent investigations into poor historic practices, some midwives have been reluctant to engage with bereaved parents for fear of giving the wrong information.<sup>152</sup> The Committee also notes the comments by witnesses that the bereaved are often dependent on professionals to explain the options and complete the forms.

156. The Committee welcomes the creation of statutory application forms for burial and cremation, which will help ensure necessary and consistent information is recorded.

157. The Committee welcomes that professionals, such as NHS staff and funeral directors, will continue to have a role in explaining options to the bereaved in the application process. We welcome the Scottish Government's commitment to provide further training in this regard. The Committee seeks clarification from the Scottish Government as to how it will assess that bereaved families are adequately informed about the choices they have available to them.

158. The Committee notes from the evidence provided by the Scottish Government that it intends to change past practices, so that application forms should usually

be completed by the applicant, rather than by a healthcare professional or funeral director.

159. We welcome clarification of whether completing the form on behalf of an applicant will constitute an offence. If this is the case, the Committee would have concerns and reservations, unless false and misleading information had been provided on the form.
160. The Committee welcomes the intention to create offences where false or misleading information is provided about options for burial or cremation. The Committee notes that the Scottish Government intends to clarify the provisions that provide for criminal offences by bringing forward amendments at Stage 2.

### **Counselling services**

161. It was clear to the Committee from the evidence it received that making decisions about disposal of remains can be emotionally challenging for any individual. The Committee was also reminded that some people affected by the Bill may have disordered and chaotic lives,<sup>153</sup> or may be socially isolated, such as individuals in residential care or serving a sentence.<sup>154</sup> Some witnesses therefore suggested that it would be desirable for women to be offered counselling and emotional support when making decisions about disposal of remains.<sup>155</sup>
162. It was noted by NHS Lothian, SANDS UK and parents who spoke privately to the Committee, that more could be done to develop specialist roles in midwifery, maternity and bereavement services.<sup>156</sup> NHS Lothian also commented that, in major hospitals south of the border, it is more routine to have bereavement department and specialist staff. In contrast, the Committee was informed that there is only one designated specialist bereavement midwife in Scotland.<sup>157</sup>
163. NHS Lothian further clarified that any specialist bereavement services should be separate from the duties on health authorities under the Bill:

” I make a clear distinction between grief and bereavement counselling, which in most circumstances of loss belongs some way after the loss, and the giving of accurate and clear information to facilitate discussions about the final act of care.<sup>158</sup>

164. The Minister for Public Health noted: “Things have moved on greatly. Any person who finds themselves in this situation is signposted to counselling services.”<sup>159</sup>

165. The Committee notes the concern expressed by some witnesses that grief and bereavement counselling should be available and offered to all those who require it. The Committee seeks clarification from the Scottish Government of what action it has taken, or is taking, to ensure that all women who experience the loss of a child or pregnancy are directed to appropriate support services, particularly when that loss arises outwith a healthcare setting.

### Application format

166. The Bill provides regulation making powers for Scottish Ministers to specify the form and maintenance of statutory application forms to carry out a burial (Section 8(2)) and a cremation (section 38(2)). The policy memorandum to the Bill explains that a working group has been established to consider the format and content of the statutory application forms for burial and cremation.<sup>160</sup>

167. Witnesses were supportive of the measures to create statutory application forms for burial and cremation.<sup>161</sup> SANDS UK considered "...standardised application forms for burial will help ensure more consistent practice in this area, whilst also providing greater clarity to parents".<sup>162</sup>

168. Many witnesses, including bereaved parents and funeral directors, expressed the view that a separate application form should be used for specific circumstances of loss.<sup>163</sup> SANDS UK considered "...the variety in needs and circumstances of parents whose babies have died at different stages of gestation requires the use of separate forms".<sup>164</sup> The SAIFD also noted that it would be less physically onerous on the elderly to complete the form if it was tailored to their specific circumstances.<sup>165</sup>

169. The Committee considered views on the format of the application form. Whilst there was significant support for the use of standardised, statutory forms, SANDS UK,<sup>166</sup> Edinburgh Crematorium,<sup>167</sup> and NHS Lothian<sup>168</sup> expressed concern at using a single form to cover all applications. Edinburgh Crematorium thought one form would be "too cumbersome",<sup>169</sup> whilst NHS Lothian considered it would be too lengthy, complicated and may contain irrelevant information or questions.<sup>170</sup>

170. SANDS UK explained further:

” Separate forms would not only benefit bereaved parents, but also professionals and other organisations who may work with them. Using forms that are more specific to the circumstances bereaved parents may have experienced could aid professionals in highlighting information that needs to be discussed so that parents can make informed choices.<sup>171</sup>

171. The Minister for Public Health explained the Scottish Government’s approach to the form: “It has not been decided yet what the form will look like or how long it will be – that will be decided in consultation with organisations, health boards and

funeral directors. However, you can rest assured that we want to keep the form as sensitive and precise as possible, while making sure that we have enough information so that our records are accurate and consistent”.<sup>172</sup>

172. The Committee notes the preference of many witnesses for the use of separate statutory cremation forms to deal with different circumstances of loss (i.e. pregnancy loss, still-birth, infant death or adults). The Committee recommends that the Scottish Government considers these responses when it is deciding on the format of the statutory cremation application forms.

## Registers

173. The policy memorandum to the Bill explains that the Burial and Cremation Review Group made a number of recommendations about burial and cremation records, which the Bill seeks to give effect to.<sup>173</sup> The Bill therefore provides regulation making powers to specify the form and maintenance of registers by burial authorities (section 10(2)), cremation authorities (section 41(2)) and health authorities (section 55(2)).

### Format

174. Section 75(3) provides that where a provision of the Bill, or regulations under it, enables or requires information to be kept, the information may be kept in any form (including electronic form).

175. The policy memorandum notes that the Bill places a duty on all relevant bodies to maintain records under the Bill and to do so indefinitely.<sup>174</sup> It notes that the Bill enables record-keeping to be done electronically, but does not require this. It explains further that the relevant bodies will be “encouraged” to use electronic record keeping “in the longer term”. In the meantime, a working group of the National Committee on Infant Cremation is considering forms and record keeping.

176. The Burial and Cremation Review Group recommended a requirement that all records and forms relating to the disposal of bodies should *wherever possible* be maintained in electronic form.<sup>175</sup> In its view, electronic record keeping minimises delays and ensures that these important documents are preserved for future generations.<sup>176</sup>

177. The Infant Cremation Commission noted the Burial and Cremation Review Group’s recommendation in this regard. The Commission recommended that this issue be considered further in light of existing facilities.<sup>177</sup>

178. Willie Reid highlighted to the Committee why hard-copy record keeping can be inadequate:

” Twenty-five years on, I saw the records that the City of Edinburgh Council holds on my daughter’s cremation, and the register and the forms were on microfiche that was difficult to read.<sup>178</sup>

179. The Committee also heard from some health authorities and professional bodies who expressly supported the use of electronic record keeping.<sup>179</sup>
180. When asked about this, the Minister for Public Health noted: “We would obviously like to get to that point, but different organisations are at different stages of computerisation, and we do not want to force costs on crematoria or undertakers”.<sup>180</sup>
181. The Local Government and Regeneration Committee also considered whether the registers should be kept in electronic form. It considered this was an opportunity to modernise and increase the pace of change in the funeral and cremation industry. It therefore recommended that records should be required to be kept in electronic form.

182. The Committee notes that a key aim of the Bill is to promote best practice across the cremation industry and to standardise practice wherever possible.

183. In this regard, the Scottish Government has stated its long-term aim is to ensure the registers created under the Bill are kept in electronic form. The Committee therefore recommends that the Scottish Government considers amending the Bill to ensure that records should be kept in electronic form, recognising that a transitional period may be required before this can be achieved.

### Data from registers

184. The policy memorandum to the Bill explains that the Infant Cremation Commission recommended that a statutory cremation register should be maintained by all cremation authorities and that all cremations should be recorded, including those of pregnancy losses.<sup>181</sup>
185. The policy memorandum also explains that it is intended that the register will not identify the woman who has experienced a pregnancy loss. Instead, a unique identifying number will be used.<sup>182</sup>
186. The FBCA cautioned against the use of a single register for all cremations because pregnancy loss at or before the twenty-fourth week of gestation is not subject to the registration of death process. In its view, a discrepancy in the figures for cremations vis-à-vis deaths in Scotland would arise.
187. The Minister for Public Health explained how the register would work in relation to pregnancy losses: “...in the case of pregnancy loss, the public register will not identify the woman who has experienced the loss. In that case, a unique identifying

number will be used. That is about having an audit trail without revealing the identity of the woman".<sup>183</sup>

188. The Committee welcomes the Scottish Government's intention to protect a woman's identity on the cremation register in cases where she has lost her baby at or before the twenty-fourth week of gestation.

189. We seek clarification from the Scottish Government on how it intends to use the data from the cremation register, particularly given the concerns relating to how the figures in the cremation register will compare with figures from the register of deaths in Scotland.

## Inspection and enforcement

### Inspectors' powers: sanctions and offences

190. Section 59 of the Bill provides for the appointment of inspectors of burial, cremation and funeral directors. Section 60 provides that the inspector is to carry out prescribed functions. These are detailed further in sections 61 (inspection: regulations) and 62 (powers of entry and inspection).

191. These roles were welcomed by the parents who gave evidence to the Committee.<sup>184</sup> They considered inspections of premises should take place at least once per annum and suggested supplementing the inspectors' role with a system akin to custody visitors (in police custody centres) and prison visitors.<sup>185</sup>

192. Those parents also expressed strongly to the Committee their view that sanctions should be enforced against those who fail to comply with the new regimes created by the legislation. Willie Reid highlighted this when he noted:

” The big thing about the Bill is that it must ensure that the procedures of the past cannot continue, and there has to be some sort of censure for those who contravene the legislation.<sup>186</sup>

193. Willie Reid noted that the inspectors' powers in relation to sanctions and enforcement will play a key role in restoring public confidence in the industry:

” It is four years since the ashes scandal came out and, with regard to what I was saying about censure and punishment, no one has been put in a court of law in this country over what went on...I am not suggesting that we are looking for someone to go to jail right now, but if we do not ensure that the legislation is watertight, we could face another scandal in 50 years' time.<sup>187</sup>

194. This view was shared by the parents with whom the Committee met privately.<sup>188</sup> They considered a range of sanctions, such as fines and licence revocation, should be available to the inspectors. The parents also considered 'improvement orders' should be used, which would require the relevant authority to bring

practices up to a required standard within a specified timescale.<sup>189</sup> In addition, the ICCM suggested to the Committee that a relevant sanction would be to revoke a person's entitlement to work in the industry for breaking the law.<sup>190</sup>

195. Section 61(f) provides a regulation making power for Scottish Ministers whereby the inspectors will have the power to recommend to Scottish Ministers that the licence of a relevant body should be suspended or revoked. Section 61(i) also provides a regulation making power for Scottish Ministers to specify what sanctions inspectors may impose.
196. The policy memorandum notes that the policy objective behind the role of the inspectors is to “improve standards where necessary, address bad practice and improve public confidence in the funeral industry [crematoriums, burial authorities and funeral directors] as a whole”.<sup>191</sup> The Scottish Government explained further in oral evidence: “Our intent is set out in the section of the Bill on the inspectors’ powers, which we expect to range from providing advice to crematorium about how to comply with the law through to recommending to Ministers that the operation of a particular crematorium be suspended”.<sup>192</sup>

197. The Committee notes the power of inspectors to impose sanctions on relevant authorities will be of particular significance in restoring public confidence in the cremation industry. The Committee found it difficult to scrutinise the approach taken to inspection and the sanctions to be applied as this is not specified on the face of the Bill and insufficient information is provided in the supporting documentation. The Committee therefore recommends the Scottish Government consider whether a range of sanctions could be set out on the face of the Bill by way of an amendment at Stage 2.

### Inspection of health authorities

198. The parents with whom the Committee met privately considered the role of the inspectors should be to investigate every aspect of the decisions and actions taken in regard to burial and cremation from when the loss occurred to the final act of care.<sup>193</sup> However, some parents considered this role might be better suited to a body such as Healthcare Improvement Scotland, which already has a role in inspecting the NHS and promoting best practice.
199. The Scottish Government stated in its evidence that it intends for the inspectors to take a holistic approach to inspecting the processes created under the Bill, stating: “We view the whole process, from the point of the loss through to burial or cremation, as a single process”.<sup>194</sup>
200. The Committee notes that the Bill places a duty on health authorities to keep a register of arrangements for disposal of pregnancy loss (section 55). When asked what role the inspectors would have in inspecting the register, the Minister for Public Health noted: “The crematorium inspector will have the right to inspect the

NHS processes”.<sup>195</sup> The Scottish Government official explained further: “That might not be done in isolation; the inspector might do it alongside quality assurance staff in a particular NHS board”.<sup>196</sup>

201. The Committee notes that the policy memorandum to the Bill makes no mention of health authorities in the paragraphs relevant to the role of the inspectors.<sup>197</sup> This appears to be reflected in the Bill in section 62, which provides the inspectors’ power of entry and inspection. The three types of premises of which the inspectors will have power to enter and inspect (burial authority, cremation authority and business of a funeral director) does not include health authorities.

202. The Committee welcomes the role of inspectors and the Scottish Government’s proposal that the inspectors should inspect the whole process of making decisions about burial or cremation.

203. The Committee, however, notes that the Bill does not provide a power to the inspectors to inspect a health authority despite placing a duty on them to keep a register. The Committee therefore seeks clarification from the Scottish Government as to how this is to be achieved, and whether it considers an amendment should be brought forward at Stage 2 to clarify how the inspectors will undertake their inspection role in relation to health authorities.

## **Regulation of funeral directors and codes of practice**

### **Funeral directors**

204. Section 65(1) provides that the Scottish Ministers may make a scheme for the licensing of funeral directors’ premises. Section 66(2) provides what the regulations can specify, including who is to administer the scheme and the application process for joining the scheme.

205. Parents expressed concern to the Committee that the licensing of funeral directors is not set out more fully in the Bill. Willie Reid, for example, stated:

” My point is that the funeral directors have a big part to play, but they do not appear in the Bill. As the first contact, they need to be licenced and regulated, as part of the Bill.<sup>198</sup>

206. It was explained to the Committee that funeral directors are one of the bereaved parents’ main sources of information about burial and cremation, and often play a role in explaining and completing the relevant forms. Willie Reid, for example, explained his experiences:

” It is almost 28 years since the loss of my daughter...Basically, I gave to the undertaker all the details about what had happened, and the undertaker filled out the form and told me to sign it. My mother passed away just eight months ago; I went to see an undertaker about her cremation and, again,

there was the undertaker quite happily filling in the form. Because I was a wee bit more experienced, I checked everything before I signed.<sup>199</sup>

207. The SAIFD supported the regulation of funeral directors but noted:

” To put that provision in the bill now would be virtually impossible...There is a sense that we need to meet all the [Infant Cremation Commission’s] recommendations as hastily as possible, but there is a reason why the laws in this area have not been looked at for 150 years: they are extremely complicated...I am whole-heartedly in favour of the bill; the fact that it has a few holes can be addressed later.<sup>200</sup>

208. The Minister for Public Health explained in her evidence that the Scottish Government wants to regulate the funeral industry more.<sup>201</sup>

209. The DPLR Committee’s Stage 1 report recommended that the Scottish Government should clarify how the power in section 66(1) is to be exercised, noting:

” The Bill as drafted indicates that the licensing scheme referred to in sections 55 and 66 of the Bill is to apply to funeral directors’ premises whereas in evidence before the Committee, Scottish Government officials indicated that the Scottish Government’s intended approach is to licence particular activities relating to funerals regardless of who carries out those activities.<sup>202</sup>

210. The DPLR Committee’s Stage 1 report also recommends that the licensing of funeral directors should be more fully set out on the face of the Bill.

211. We consider that the licensing of funeral directors is an issue of particular sensitivity to those who were affected by the poor historic practices. We therefore agree with the DPLR Committee’s recommendation that the licensing of funeral directors should be more fully set out on the face of the Bill. We welcome the Scottish Government’s consideration of how to give effect to this recommendation by way of amendments at Stage 2.

### Codes of practice

212. Section 67(1) of the Bill provides that the Scottish Ministers may issue codes of practice in relation to: the carrying out of functions conferred on a burial authority regarding the management and operation of a burial ground; the carrying out of functions conferred on a cremation authority relating to the management and operation of a crematorium; and the carrying out of the functions of a funeral director.

213. The Bill provides that a burial authority, cremation authority, or funeral director must comply with any codes of practice applicable to it (section 67(5)). The codes

of practice will not be subject to any parliamentary procedure, however a copy of the code must be laid in the Scottish Parliament when it is published by the Scottish Ministers.

214. The Committee heard from witnesses that the National Committee on Infant Cremation has already developed a new code of practice on infant cremation.<sup>203</sup> The Committee was informed that the code of practice deals with a number of issues relevant to the Committee's scrutiny of the Bill, including use of application forms,<sup>204</sup> arrangements by health authorities,<sup>205</sup> training for staff in the NHS, cremation and burial industries, as well as funeral directors,<sup>206</sup> and the recovery of ashes.<sup>207</sup>
215. The development of codes of practice will play a significant role in ensuring that poor historic practices do not happen again. This was made clear in an anonymous submission to the Committee, which noted with concern that the Bill "does not satisfactorily address the poor practices that were exposed surrounding the process of cremation itself".<sup>208</sup> In the view of the anonymous submission:

” The guidelines and code of practice introduced following the Bonomy commission go some way to addressing the issues mentioned above, however, we are concerned that there will still be variation in equipment and processes between crematoria. We believe that standard processes and equipment (including specialist infant cremators) should be used in every crematorium to give a consistent chance of recovering ashes from each cremation in every part of Scotland.<sup>209</sup>

216. We consider that the codes of practice will seek to address a number of issues that relate to sensitive and important matters arising from poor historic practices. As we heard the impact of getting this wrong has a devastating and long lasting impact on parents and families. We therefore welcome the Scottish Government's confirmation to the DPLR Committee that it intends to amend the Bill to the effect that the Scottish Ministers must lay any draft codes of practice before the Scottish Parliament, which it must approve before they can be issued and come into effect.
217. We also seek clarification from the Scottish Government of the extent to which the codes of practice will seek to continuously improve cremation practices, such that there is equal chance of ash recovery whichever crematorium is used in Scotland.

## Other issues

218. SANDS UK's written submission acknowledged that the Bill needs to use language that may be distressing or upsetting to bereaved parents. It therefore suggested that the enacted version of the Bill should contain a short introductory

paragraph to explain to bereaved parents that the terminology used in the legislation could be distressing or upsetting for them.<sup>210</sup>

219. The Muslim Council of Scotland noted that the first recommendation of the Burial and Cremation Review Group was that “the procedure for certifying deaths should be sensitive to the many different faiths and beliefs in Scotland and ensure as short a delay as possible between death and disposal”.<sup>211</sup> In light of the fact that the Bill gives rise to many Ministerial orders and regulations, it considered the Bill should contain a similar statement to ensure that this principle is firmly entrenched in legislation.

220. The Committee notes the cultural and historical sensitivities that have given rise to the Bill. In light of these, the Committee seeks clarification from the Scottish Government as to how it considers that the concerns highlighted by SANDS UK and the principle highlighted by the Muslim Council of Scotland will be addressed in subsequent orders and regulations.

## Overall conclusion

221. The Committee understands the objective of the Bill is to provide a modern and comprehensive legal framework for burial and cremation in Scotland. The evidence the Committee received considered that the Bill supported this objective.

222. In particular, the Bill seeks to legislate for a number of recommendations made by the Burial and Cremation Review Group and the Infant Cremation Commission. The Committee considers that the Bill goes some way towards addressing those recommendations and the Committee therefore supports the Bill’s general principles.

223. The Committee, however, consider a number of important provisions require clarification and amendment if we are to ensure, as much as possible, that previous poor practices are never repeated. We also recognise that there is an on-going role for the Scottish Parliament in ensuring that any forthcoming regulations to support the implementation of this Bill continue to support the aims of the Bill.

<sup>1</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 2.

<sup>2</sup> Falkirk Council. Written submission, page 1; West Lothian Council. Written submission, page 1; City of Edinburgh Council. Written submission, page 1; COSLA. Written submission, page 1; North Ayrshire Council. Written submission, page 1; South Lanarkshire Council. Written submission, page 1; Aberdeen City Council. Written submission, page 1; Fife Council. Written submission, page 1; NHS Greater Glasgow and Clyde. Written submission, page 1; NHS Lothian. Written submission, page 1; Association of Private Crematoria and Cemeteries. Written submission, page 1; Federation of Burial and Cremation Authorities.

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- Written submission, page 1; Edinburgh Crematorium Ltd. Written submission, page 1; National Association of Funeral Directors. Written submission, page 1; Institute of Cemetery and Crematorium Management. Written submission, page 1; SANDS UK. Written submission, page 1.
- <sup>3</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 4.
- <sup>4</sup> Scottish Government. (2008) [Burial and Cremation Review Group Report and Recommendations](#).
- <sup>5</sup> City of Edinburgh Council. (2013) [Mortonhall Investigation Report](#), page 9.
- <sup>6</sup> City of Edinburgh Council. (2013) [Mortonhall Investigation Report](#).
- <sup>7</sup> Scottish Government. (2014) [Report of the Infant Cremation Commission](#).
- <sup>8</sup> Scottish Government. (2016). [Report of the National Committee on Infant Cremation 2014-15](#).
- <sup>9</sup> Scottish Government. (2015) [National Committee on Infant Cremation – Code of Practice](#).
- <sup>10</sup> Scottish Parliament. *Official Report*, 17 June 2014, Col 32282.
- <sup>11</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 3; Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>12</sup> NHS Lothian. Written submission to the Finance Committee, page 1.
- <sup>13</sup> Delegated Powers and Law Reform Committee. *Burial and Cremation (Scotland) Bill at Stage 1* (2<sup>nd</sup> Report, Session 4 (2016)).
- <sup>14</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 34.
- <sup>15</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 34.
- <sup>16</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 11.
- <sup>17</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 36.
- <sup>18</sup> Scottish Government. (2014) [Report of the Infant Cremation Commission](#), recommendation 2.3, page 5.
- <sup>19</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 37.
- <sup>20</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 37.
- <sup>21</sup> Burial and Cremation (Scotland) Bill, section 38.
- <sup>22</sup> Burial and Cremation (Scotland) Bill, section 38.
- <sup>23</sup> SANDS UK. Written submission, pages 1-2.
- <sup>24</sup> COSLA. Written submission, page 1; West Lothian Council. Written submission, page 1; Falkirk Council. Written submission, page 1; Fife Council. Written submission, page 1; NHS Greater Glasgow and Clyde, Written submission, page 1.
- <sup>25</sup> Federation of Burial and Cremation Authorities. Written submission, page 1.
- <sup>26</sup> Association of Private Crematoria and Cemeteries. Written submission, page 1.
- <sup>27</sup> City of Edinburgh Council. Written submission, page 1.
- <sup>28</sup> Association of Private Crematoria and Cemeteries. Written submission, page 1; Health and Sport Committee. *Official Report*, 12 January 2016, Col 23.
- <sup>29</sup> Scottish Government. (2008) [Burial and Cremation Review Group Report and Recommendations](#), page 8.
- <sup>30</sup> Law Society of Scotland. Written submission, page 2.
- <sup>31</sup> [Burial and Cremation \(Scotland\) Bill. Explanatory Notes](#) (and other accompanying documents) (SP Bill 80-EN, Session 4 (2015)).
- <sup>32</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 34.
- <sup>33</sup> Cremation (Scotland) Regulations 1935.
- <sup>34</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 70.
- <sup>35</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 72.
- <sup>36</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 74.
- <sup>37</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 7.
- <sup>38</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 10.
- <sup>39</sup> SANDS UK. Written submission, page 2.
- <sup>40</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 21.
- <sup>41</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 21.
- <sup>42</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 10.
- <sup>43</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Cols 21, 22.
- <sup>44</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>45</sup> Cheryl Buchanan. Written submission, page 1.
- <sup>46</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 3.
- <sup>47</sup> Delegated Powers and Law Reform Committee. *Burial and Cremation (Scotland) Bill at Stage 1* (2<sup>nd</sup> Report, Session 4 (2016)), paragraph 27.
- <sup>48</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 35.
- <sup>49</sup> Scottish Government letter to the DPLR Committee, 21 January 2016.
- <sup>50</sup> Scottish Government letter to the DPLR Committee, 21 January 2016.
- <sup>51</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 22.
- <sup>52</sup> Scottish Government. (2014) [Report of the Infant Cremation Commission](#), paragraph 7.20.
- <sup>53</sup> Scottish Government. (2014) [Report of the Infant Cremation Commission](#), paragraph 7.20.
- <sup>54</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 34.
- <sup>55</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 80.
- <sup>56</sup> Scottish Government. (2014) [Report of the Infant Cremation Commission](#), page 23, paragraph 5.1.
- <sup>57</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 4.
- <sup>58</sup> NHS Lothian. Written submission, page 3.
- <sup>59</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 24.
- <sup>60</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>61</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 37.
- <sup>62</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 80.
- <sup>63</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 82.
- <sup>64</sup> SANDS UK. Written submission, page 3.
- <sup>65</sup> Edinburgh Crematorium Ltd. Written submission, page 1.
- <sup>66</sup> Fife Council. Written submission, page 1.
- <sup>67</sup> Institute for Cemetery and Crematorium Management. Written submission, page 3.
- <sup>68</sup> NHS Greater Glasgow and Clyde. Written submission, page 2.
- <sup>69</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 7.

- <sup>70</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 5; NHS Ayrshire and Arran. Written submission, page 1.
- <sup>71</sup> NHS Ayrshire and Arran. Written submission, page 1.
- <sup>72</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 5.
- <sup>73</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>74</sup> NHS Ayrshire and Arran. Written submission, page 1; Health and Sport Committee. *Official Report, 12 January 2016*, Col 4-5.
- <sup>75</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 7; NHS Ayrshire and Arran. Written submission, page 1.
- <sup>76</sup> NHS Lothian. Written submission, page 3.
- <sup>77</sup> [Burial and Cremation \(Scotland\) Bill. Explanatory Notes](#) (and other accompanying documents) (SP Bill 80-EN, Session 4 (2015)), paragraph 135.
- <sup>78</sup> NHS Lothian. Written submission, page 3.
- <sup>79</sup> NHS Lothian. Written submission, page 3.
- <sup>80</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 13-14.
- <sup>81</sup> Muslim Council of Scotland. Written submission, page 2.
- <sup>82</sup> NHS Lothian. Written submission, page 4.
- <sup>83</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>84</sup> Scottish Government. (2008) [Burial and Cremation Review Group Report and Recommendations](#), recommendation 1, page 3.
- <sup>85</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 30.
- <sup>86</sup> SANDS UK. Written submission, page 3.
- <sup>87</sup> SANDS UK. Written submission, page 3.
- <sup>88</sup> SANDS UK. Written submission, page 3.
- <sup>89</sup> NHS Greater Glasgow and Clyde. Written submission, page 2.
- <sup>90</sup> NHS Western Isles. Written submission, page 2.
- <sup>91</sup> NHS Forth Valley. Written submission, page 1.
- <sup>92</sup> NHS Lothian. Written submission, page 4.
- <sup>93</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 28.
- <sup>94</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 14.
- <sup>95</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 14.
- <sup>96</sup> NHS Lothian. Written submission, page 4.
- <sup>97</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>98</sup> Scottish Government. (2008) [Burial and Cremation Review Group Report and Recommendations](#), recommendation 1, page 3.
- <sup>99</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 30.
- <sup>100</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 29.
- <sup>101</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 82.
- <sup>102</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 85.
- <sup>103</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 30.
- <sup>104</sup> NHS Western Isles. Written submission, page 1.
- <sup>105</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 26.
- <sup>106</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 82.
- <sup>107</sup> Cheryl Buchanan. Written submission, page 1.
- <sup>108</sup> NHS Lothian. Written submission, page 2.
- <sup>109</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 33.
- <sup>110</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 13.
- <sup>111</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>112</sup> SANDS UK. Written submission, page 3.
- <sup>113</sup> SANDS UK. Written submission, page 3.
- <sup>114</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 27.
- <sup>115</sup> Registration of Births, Deaths and Marriages (Scotland) Act 1965.
- <sup>116</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 5.
- <sup>117</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 6.
- <sup>118</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 5.
- <sup>119</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>120</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 44.
- <sup>121</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 39.
- <sup>122</sup> Association of Private Crematoria and Cemeteries. Written submission, page 1; SANDS UK. Written submission, page 3; West Lothian Council. Written submission, page 2; North Ayrshire Council. Written submission, page 1; Fife Council. Written submission, page 1.
- <sup>123</sup> Human Tissue (Scotland) Act 2006; Health and Sport Committee. *Official Report, 12 January 2016*, Col 15.
- <sup>124</sup> Registration of Births, Deaths and Marriages (Scotland) Act 1965; Health and Sport Committee. *Official Report, 12 January 2016*, Col 15.
- <sup>125</sup> Fife Council. Written submission, page 1; NHS Forth Valley. Written submission, page 1.
- <sup>126</sup> Federation of Burial and Cremation Authorities. Written submission, page 2.
- <sup>127</sup> Abortion Act 1967.
- <sup>128</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 15.
- <sup>129</sup> NHS Lothian. Written submission, page 2
- <sup>130</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 39.
- <sup>131</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 39.
- <sup>132</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 33.
- <sup>133</sup> Cheryl Buchanan. Written submission, page 1.
- <sup>134</sup> Health and Sport Committee. *Official Report, 5 January 2016*, Col 9.
- <sup>135</sup> Health and Sport Committee. *Official Report, 5 January 2016*, Col 2.
- <sup>136</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 21.
- <sup>137</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 71.
- <sup>138</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 77.
- <sup>139</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 72.

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### Stage 1 Report on the Burial and Cremation (Scotland) Bill, 5th Report, 2016 (Session 4)

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- <sup>140</sup> Association of Private Crematoria and Cemeteries. Written evidence, page 1; Edinburgh Crematorium Ltd. Written submission, page 1; Law Society of Scotland. Written submission, pages 2-3; Cheryl Buchanan. Written submission, pages 2-3.
- <sup>141</sup> SANDS UK. Written submission, page 1.
- <sup>142</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 48.
- <sup>143</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 29.
- <sup>144</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 48.
- <sup>145</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>146</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 16.
- <sup>147</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 48.
- <sup>148</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 48.
- <sup>149</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 3; Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>150</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 52.
- <sup>151</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 52.
- <sup>152</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 9; Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>153</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Cols 14-15.
- <sup>154</sup> Scottish Prison Service. Written submission, page 1.
- <sup>155</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016; Muslim Council of Scotland. Written submission, page 2.
- <sup>156</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Cols 8-9; Health and Sport Committee. Private meeting with affected parents, 6 January 2016; Health and Sport Committee. *Official Report*, 5 January 2016, Col 8.
- <sup>157</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 10.
- <sup>158</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 12.
- <sup>159</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 42.
- <sup>160</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraphs 70-79.
- <sup>161</sup> SANDS UK. Written submission, pages 1,2.
- <sup>162</sup> SANDS UK. Written submission, page 1.
- <sup>163</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Cols 16-17; 18.
- <sup>164</sup> SANDS UK. Written submission, page 2.
- <sup>165</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 7.
- <sup>166</sup> SANDS UK. Written submission, page 2.
- <sup>167</sup> Edinburgh Crematorium Ltd. Written submission, page 1.
- <sup>168</sup> NHS Lothian. Written submission, page 1.
- <sup>169</sup> Edinburgh Crematorium Ltd. Written submission, page 1.
- <sup>170</sup> NHS Lothian. Written submission, page 1.
- <sup>171</sup> SANDS UK. Written submission, page 2.
- <sup>172</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 32.
- <sup>173</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 47.
- <sup>174</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 48.
- <sup>175</sup> Scottish Government. (2008) [Burial and Cremation Review Group: Report and Recommendations](#), recommendation 13.
- <sup>176</sup> Scottish Government. (2008) [Burial and Cremation Review Group: Report and Recommendations](#), page 8.
- <sup>177</sup> Scottish Government. (2014) [Report of the Infant Cremation Commission](#), recommendation 2.40, page 9.
- <sup>178</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 14.
- <sup>179</sup> NHS Forth Valley. Written submission, pages 1-2; Institute for Cemetery and Crematorium Management. Written submission, page 3; North Ayrshire Council. Written submission, page 2.
- <sup>180</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 43.
- <sup>181</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 89.
- <sup>182</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 91.
- <sup>183</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 42.
- <sup>184</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016; Health and Sport Committee. *Official Report*, 5 January 2016, Col 2.
- <sup>185</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016; Health and Sport Committee. *Official Report*, 5 January 2016, Col 2-3.
- <sup>186</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 3.
- <sup>187</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 12.
- <sup>188</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>189</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>190</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 23.
- <sup>191</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraph 96.
- <sup>192</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 36.
- <sup>193</sup> Health and Sport Committee. Private meeting with affected parents, 6 January 2016.
- <sup>194</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 40.
- <sup>195</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 40.
- <sup>196</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 40.
- <sup>197</sup> [Burial and Cremation \(Scotland\) Bill. Policy Memorandum](#) (SP Bill 80-PM, Session 4 (2015)), paragraphs 95-100.
- <sup>198</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 2.
- <sup>199</sup> Health and Sport Committee. *Official Report*, 5 January 2016, Col 6.
- <sup>200</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 25.
- <sup>201</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 35-36.
- <sup>202</sup> Delegated Powers and Law Reform Committee. 2<sup>nd</sup> Report, 2016 (Session 4). *Stage 1 Report on the Burial and Cremation (Scotland) Bill* (SP Paper 864) paragraph 45.
- <sup>203</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 12-13.
- <sup>204</sup> Health and Sport Committee. *Official Report*, 12 January 2016, Col 12-13.

<sup>205</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 14.

<sup>206</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 21.

<sup>207</sup> Health and Sport Committee. *Official Report, 12 January 2016*, Col 21.

<sup>208</sup> Anonymous. Written submission, page 1.

<sup>209</sup> Anonymous. Written submission, page 1.

<sup>210</sup> SANDS UK. Written submission, page 4.

<sup>211</sup> Muslim Council of Scotland. Written submission, page 1.

## Annexe A

### Extracts from the minutes of the Health and Sport Committee and associated written and supplementary evidence

#### 27th Meeting, Tuesday 6 October 2015

**Work programme (in private):** The Committee agreed its approach to developing its work programme.

#### 30th Meeting, Tuesday 10 November 2015

**Burial and Cremation (Scotland) Bill (in private):** The Committee agreed its approach to scrutiny of the Bill at Stage 1.

#### 1st Meeting, Tuesday 5 January 2016

**1. Burial and Cremation (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—

Willie Reid;

Ann McMurray, Stillbirth and Neonatal Death Charity Scotland (SANDS).

**7. Burial and Cremation (Scotland) Bill (in private):** The Committee considered the main themes arising from the oral evidence heard earlier in the meeting.

### Written Evidence

 SANDS

#### 3rd Meeting, Tuesday 12 January 2016

**2. Burial and Cremation (Scotland) Bill:** The Committee took evidence on the Bill at Stage 1 from—

Tim Morris, Chief Executive, Institute of Cemetery and Crematorium Management (ICCM);

Andrew Brown, National Association of Funeral Directors (NAFD);

Jim Brodie, Society of Allied and Independent Funeral Directors (SAIF);

Natalie McKail, Senior Manager, The City of Edinburgh Council;

Sandy Young, Head of Service – Spiritual Care and Bereavement, and

Caroline Pretty, Bereavement Service Coordinator, NHS Lothian;

Maureen Watt, Minister for Public Health, Dr Simon Cuthbert-Kerr, Burial and Cremation Bill Team Leader, and Graham McGlashan, Principal Legal Officer, Scottish Government.

**3. Burial and Cremation (Scotland) Bill:** The Committee considered the main themes arising from the oral evidence heard earlier in the meeting.

**Written Evidence**

-  Institute of Cemetery and Crematorium Management (ICCM)
-  National Association of Funeral Directors
-  City of Edinburgh Council
-  NHS Lothian

**8th Meeting, Tuesday 2 February 2016**

**Burial and Cremation (Scotland) Bill:** The Committee considered a revised draft Stage 1 report. Various changes were agreed to, and the report was agreed for publication.

**List of other written evidence**

-  Falkirk Council
-  West Lothian Council
-  Mark Shaw Funeral Services
-  Anonymous Submission
-  Scottish Prison Service
-  Competition and Markets Authority (CMA)
-  Association of Private Crematoria & Cemeteries
-  NHS Forth Valley
-  COSLA
-  North Ayrshire Council
-  Law Society of Scotland
-  Federation of Burial and Cremation Authorities
-  South Lanarkshire Council
-  Aberdeen City Council
-  Muslim Council of Scotland
-  Commonwealth War Graves Commission
-  Edinburgh Crematorium Ltd.
-  Fife Council
-  NHS Ayrshire and Arran
-  Police Scotland
-  Co-operative Funeralcare
-  NHS Western Isles
-  Cheryl Buchanan
-  NHS Greater Glasgow and Clyde

**Further Written Evidence**

-  Scottish Government

# Annexe B

## Report from the Delegated Powers and Law Reform Committee and the Finance Committee's call for evidence

### Report from the Local Government and Regeneration Committee

Report from the Local Government and Regeneration Committee report to the Health and Sport Committee's report on the Burial and Cremation (Scotland) Bill can be found on the Scottish Parliament's website at the following webpage:

 <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/96230.aspx>

### Report from the Delegated Powers and Law Reform Committee

The Delegated Powers and Law Reform Committee (DPLRC) report on the Burial and Cremation (Scotland) Bill can be found on the Scottish Parliament's website at the following webpage:

 <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/95223.aspx>

The Scottish Government's response can be found on the Scottish Parliament's website at the following webpage:

 [http://www.scottish.parliament.uk/S4\\_SubordinateLegislationCommittee/20160121\\_SG\\_response.pdf](http://www.scottish.parliament.uk/S4_SubordinateLegislationCommittee/20160121_SG_response.pdf)

### Call for evidence from the Finance Committee

The Finance Committee issued a call for evidence on the financial implications of the Bill. The evidence received can be found on the Scottish Parliament's website at the following webpage:

 <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/93150.aspx>

