

The Public Health etc. (Scotland) Act 2008
Consultation on Draft Guidance on Implementation of Parts 3, 4, 5 and 6

Response from the Scottish Council of Jewish Communities

[Click here](#) to read the Scottish Government draft Guidance

The Scottish Council of Jewish Communities welcomes the general provisions of the Public Health etc (Scotland) Act. The impact of the majority of the Bill appears no different for the Jewish community than for any other community in Scotland. However, several provisions, particularly Part 6, "Protection of the public from risks arising from bodies", could potentially impact on religious requirements.

48. Engaging with Communities

We welcome the commitment to support community leaders able to assist in providing information about health protection to their communities, and the recognition that relevant information must be made available in a wide range of formats.

82. Conditions of Quarantine

In imposing conditions relating to access to places of quarantine, and to quarantined people, we recommend that sheriffs should also take account of religious and cultural, as well as medical, social, financial, legal, and advocacy needs.

135. Terminology

It is important that terminology should be clear and unambiguous, and we therefore urge that the term "carer" should not be defined so as to contradict its plain meaning. (This has been a particular problem with other recent legislation, for example in the Protection of Children (Scotland) Act which, by defining "childcare" to mean something other than its plain meaning, has caused much confusion undoubtedly resulting in reduced compliance.)

We therefore suggest replacing the definition with the statement:

"A carer is entitled to compensation if he :

- is over 16 and cares for the person subject to the public health advice, other than by a contract of employment (or other kind of contract) or as a volunteer for a voluntary organisation; and
- incurs loss as a result of doing so."

152. Responsibility for a child

The guidance should be amended to state "parent or guardian" in place of "parent".

159-169. Disinfection

We note the duty on Local Authorities "*to disinfect, disinfect and decontaminate things*". In cases when such "*things*" may be connected with religious observance, it is important that an appropriate religious authority is consulted to ensure that the items are treated with respect, and, where possible without risk to public health, are decontaminated or destroyed in a manner that respects the practices of the relevant religion. For example, it would be highly preferable for a Jewish prayer book, or *tefillin* (phylacteries), to be disposed of by burial than by being burned.

Part 6. Protection of the public from risks arising from bodies

Halachah (Jewish Law) regards the human body – including all body parts, and tissue – as sacrosanct, and requires that it should always be treated with dignity. According to *Halachah*, there should be as little interference with a dead body as possible, it should not be left unattended, and burial should take place as early as possible, preferably before sunset on the day that death occurred. Any delay, or procedures such as a post-mortem examination, are therefore likely to be particularly distressing to the family of the deceased. In addition, the *shivah* (initial period of mourning) cannot begin until after the burial has taken place, and consequently any postponement will delay the grieving process, and inevitably cause great psychological stress to the bereaved.

232-239. Disposal

We welcome the explicit statement (232) that “*disposal ... includes preparation of the body for burial or cremation, including preparations required by religious observance, e.g. such as those generally undertaken for Jewish people, for Muslims, Sikhs and Hindus etc.*”.

We also welcome the requirement (239-243) for the Health Board to give detailed and accurate information about the risk of infection or contamination to anyone with responsibility for disposal of the body (and therefore anyone with responsibility for preparing the body for burial), and to advise them about appropriate precautions. This will enable the *Chevra Kadisha* (Jewish Burial Society) and similar organisations to carry out their work with greater confidence.

Provided that there is leveling up rather than down, we support the view (234) that consistency of practice across all Health Boards is highly desirable. This is of particular importance for Jewish people living outwith the central belt since it is likely that, in many cases, the Health Board and nearest Jewish cemetery will be in different Local Authority areas.

234. Section heading

Since bodies do not die, we suggest that the heading should be amended to read "Need the person have died of an infectious disease?"

242. Provision of information

We very much welcome the proposal always to provide mortuary staff, funeral workers or lay people preparing the body for disposal with written health and safety information. As stated, this would provide reassurance that relevant information has not been overlooked. It is, however, important that administrative procedures should not cause delay in releasing the body.

246. Power to order immediate disposal of the body

We trust that the power of the sheriff to order immediate disposal of the body will only be invoked where the risk to public health is significant and immediate. However, when applied, it is unlikely to cause difficulties for the Jewish community, since, as already stated, Jewish law requires burial to take place as soon after death as is practically possible. It should however be noted that any disposal other than burial would be strongly resisted, as Jewish law does not permit cremation, and we would,

therefore, urge that the power of the Sheriff to order disposal should not extend to specifying a method of disposal. Were that permitted and the Sheriff were unaware of religious or cultural sensitivities, this could lead to unnecessary and avoidable distress.

Annex E. Part 5: Section 76 Notice

We are concerned that the proposed wording may cause anxiety, for example among people unused to dealing with authority. In order to make receipt of the form less threatening, we suggest amending the final paragraph to read:

"As owner/occupier, you are hereby notified that under section 76 of the above Act, the authority require access to your premises to carry out the actions specified in the schedule to this notice..

Please contact us on [give phone and e-mail contact info] to arrange a convenient date and time. However, if you do not do so, we will call on (specify date and time) _____"

Annex H. Example Last Offices Policy

We welcome the emphasis given to respecting the religious and cultural beliefs, so that the first stated "Aim" is "*To prepare the deceased for the mortuary respecting their cultural beliefs.*", which is reiterated in the "Statement", and again, with advice as to where relevant information may be found, in "Requirements".

It should be noted that there are differences even within individual faith communities, and it is, therefore, important that staff do not make assumptions about appropriate procedures, even if these are based on previous experience, but enquire whether any instruction was left by the deceased, and also consult relatives. In cases in which the deceased's religion has been noted but where there are no known relatives, staff should consult a reliable authority in the relevant faith community about procedures that should be followed.

Summary

We welcome the provisions of the Public Health etc Act, are pleased that its provisions are such as to accommodate Jewish practice, and that this is explicit in the implementation guidance. We do, however, urge that the above comments should be acted upon in order to clarify issues that could cause confusion.

Note: The Scottish Council of Jewish Communities (SCoJeC) is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen, and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges. SCoJeC is Scottish Charity SC029438, and its aims are to advance public understanding about the Jewish religion, culture and community. It works with others to promote good relations and understanding among community groups and to promote equality, and represents the Jewish community in Scotland to government and other statutory and official bodies on matters affecting the Jewish community.

In preparing this response we have consulted widely among members of the Scottish Jewish community.