



Management of burial grounds, application for burial, exhumation, private burial and restoration of lairs: regulation in Scotland

Response from the Scottish Council of Jewish Communities

Background information

The Scottish Council of Jewish Communities (SCoJeC) is the representative body of all the Jewish communities in Scotland. SCoJeC advances public understanding about the Jewish religion, culture and community, by providing information and assistance to educational, health, and welfare organisations, representing the Jewish community in Scotland to Government and other statutory and official bodies, and liaising with Ministers, MSPs, Churches, Trades Unions, and others on matters affecting the Jewish community. SCoJeC also provides a support network for the smaller communities and for individuals and families who live outwith any Jewish community or are not connected with any Jewish communities, and assists organisations within the Scottish Jewish community to comply with various regulatory requirements. SCoJeC also promotes dialogue and understanding between the Jewish community and other communities in Scotland, and works in partnership with other organisations and stakeholders to promote equality, good relations, and understanding among community groups.

In preparing this response we have consulted widely among members of the Scottish Jewish community and with all of the Jewish burial societies, and this response reflects the views of all branches of Judaism that have communities in Scotland.

Initial concerns

Some cemeteries used by the Jewish community consist of specially designated areas of council-run cemeteries. In these cases the council, and not any Jewish community organisation is the burial authority. However, there are also a number of cemeteries operated on a not-for-profit basis by Jewish community charities. The smallest of the active Jewish community burial authorities conducts fewer than one burial each year, and the largest only around 40 burials each year. The trustees and the many helpers necessary for running these burial authorities are all volunteers. Paid staff are limited to administrators and gardeners most of whom work fewer than ten hours each week. In some cases, the burial authority and the volunteer burial society that prepares the deceased for burial according to Jewish religious law, comprise a single organisation.

1. What do you think is an appropriate timeframe for burial authorities to prepare for the changes to the sale of right of burial?

- 3 months
- 6 months
- 12 months
- Another timeframe

Please give reasons for your answer.

The timescale for implementing the proposed changes should vary according to the type and size of burial authority. Large burial authorities with full-time paid staff will be able to implement changes more quickly and easily than small volunteer-run burial authorities such as those in the Jewish community.

2. Please provide any views you have on the proposed minimum content of the management plan, including whether any suggested content should be added to, or removed from, the plan.

Some of the proposed content is not relevant to the Jewish community burial authorities. For example, it is proposed that business hours should be listed. It is not possible to specify these a) because these very small organisations are volunteer-run by people fitting the administration around their full-time work, family commitments, etc, rather than at specific times of day, and b) because, while there are few burials, these are not planned or plannable in advance since Jewish religious law requires that the deceased should be buried as soon after death as possible, often the same day. The bereaved do not necessarily, therefore, get in touch with the burial society or authority during office hours, but contact a volunteer or part-time administrator via an emergency phone number as soon after the death as possible.

3. Who do you think should be able to inspect or view a management plan on request?

- Inspectors
- Scottish Government
- Members of the public
- Another burial authority
- Other parties
- No one – internal document only

Please give reasons for your answer.

There are concerns that allowing wider access to the management plan could result in malicious interference, especially in the case of cemeteries specific to communities such as the Jewish community that regularly find themselves the victims of hate crime. In the past Jewish cemeteries in Scotland have been the target of explicitly antisemitic attacks, resulting in increased feelings of distress and vulnerability among Jewish people in Scotland. It would not be wise to provide potential perpetrators with information that might assist in the planning of future attacks.

4. What timeframe should burial authorities be given to put a management plan in place after the regulations come into force?

- 3 months
- 6 months
- 12 months
- Other
- Don't know

Please give reasons for your answer.

The timescale for putting a management plan in place should vary according to the type and size of burial authority. Large burial authorities with full-time paid staff will be able to implement changes more quickly and easily than small volunteer-run burial authorities such as those in the Jewish community.

There are already considerable difficulties in recruiting volunteers, and the requirement to take on responsibility for statutory administrative duties, and the significant extra commitment that would be needed to produce a formal management plan is likely to discourage people from volunteering in Jewish burial authorities to the extent that they may be forced to cease operations. The 'solution' to employ a commercial provider to undertake such duties is unfeasible, as that would very quickly deplete the burial authorities' reserves and result in massively increased subscriptions which would also soon force them to cease operations.

We have been advised in writing by the Scottish Government that "Funeral regulation is primarily concerned with care of the deceased and ensuring the wishes of the bereaved are followed." If, however, volunteers cannot be found to take on additional duties – and potentially legal liability for inadvertent non-compliance – care of the deceased according to Jewish religious law would no longer be possible in Scotland, and the wishes of the bereaved could not be complied with. This would cause severe difficulty for the Scottish Jewish community, and, in particular, very great distress for elderly and sick people who might fear they would not be buried according to Jewish religious law, and for the bereaved who may be distraught at their inability to bury their loved ones according to Jewish religious law.

5. Do you think that burial authorities should be required to review the management plan annually?

- Yes - it sounds right
- No - it's too often
- No - it's not often enough
- Not sure
- Other

Please give reasons for your answer.

The consultation document for the proposed statutory inspection of burial authorities suggests that there should be "routine inspection cycles of approximately three years for low risk bodies and annual inspections for higher risk bodies". It would

seem sensible for the management plan review cycle to align with the relevant inspection cycle.

There are already considerable difficulties in recruiting volunteers, and the significant extra commitment that would arise from a more frequent review cycle may discourage people from volunteering in Jewish burial authorities to the extent that they may be forced to cease operations. The 'solution' to employ a commercial provider to undertake such duties is unfeasible, as that would very quickly deplete the burial authorities' reserves and result in massively increased subscriptions which would also soon force them to cease operations.

We have been advised in writing by the Scottish Government that "Funeral regulation is primarily concerned with care of the deceased and ensuring the wishes of the bereaved are followed." If, however, volunteers cannot be found to take on additional duties – and potentially legal liability for inadvertent non-compliance – care of the deceased according to Jewish religious law would no longer be possible in Scotland, and the wishes of the bereaved could not be complied with. This would cause severe difficulty for the Scottish Jewish community, and, in particular, very great distress for elderly and sick people who might fear they would not be buried according to Jewish religious law, and for the bereaved who may be distraught at their inability to bury their loved ones according to Jewish religious law.

6. What is your view on the proposed list of powers (set out in the bullet points above) to be granted to burial authorities to enable them to manage and maintain their burial grounds to a safe standard?)

- It looks right**
- It does not look right**
- Some of these powers are unnecessary**
- Some powers are missing**
- Not sure**

Please give reasons for your answer and provide any further comment.

The proposed powers are proportionate, and will enable burial authorities to maintain cemeteries appropriately and effectively.

7. Where a lair right-holder is 'known' (or at least some form of contact details are held), and the danger is not imminent, do you think that regulations should require a burial authority to notify the lair right-holder prior to taking corrective action to a lair, headstone or memorial?

- Yes**
- No**
- Not sure**

Please give reasons for your answer.

Notification is a matter of courtesy. Failure to notify a right-holder that work will be undertaken on a headstone or other memorial could cause considerable distress. Although, however, the ideal would be individual notification to relevant lair holders, there will be many times when this would be onerous and time-consuming for a

small, volunteer-run burial authority, and in such cases a more general notification should be acceptable. In non-urgent situations, when danger is not imminent – bearing in mind that it may not always be straightforward to know whether the danger is imminent – this could be done by listing forthcoming work in a circular or newsletter.

It is very important that any additional duties on small volunteer-led burial authorities should only be minor otherwise we are concerned that the extra commitment may discourage people from volunteering in Jewish burial authorities to the extent that they may be forced to cease operations. This would result in severe difficulty for the Scottish Jewish community, and, in particular, very great distress for elderly and sick people who might fear they would not be buried according to Jewish religious law, and for the bereaved who may be distraught at their inability to bury their loved ones according to Jewish religious law.

8. If you answered ‘yes’ to question 7, how long should the lair right-holder be given to carry out necessary repairs to a headstone or memorial before a burial authority takes corrective action to make the memorial safe?

- 1 month
- 2 months
- 3 months
- 6 months
- Other

Please give reasons for your answer.

Large commercial or council burial authorities should provide lair right-holders with the relevant information 6 months in advance. Small, volunteer-run burial authorities that inform right-holders by means of a circular or newsletter, should be allowed to provide relevant information on an annual basis, no less than 1 month in advance of the planned work being carried out.

9. Where lair right-holders are unknown (contact details are outdated), please provide views on the most appropriate way to publicise the intention to carry out inspections and potential corrective action to make headstones and memorials safe.

This will depend on the type of cemetery managed by the burial authority. In the case of a cemetery specific to a particular faith community, or an area of a council cemetery set aside for a specific faith community, notification of inspections and potential corrective action should be publicised in local and national media specific to that faith community. For example, Jewish burial societies, which largely operate on a membership basis may circulate regular newsletters. Local religious leaders and appropriate organisations in the relevant faith community should also be notified as they may have knowledge of families concerned. Very small volunteer-run burial authorities are, however, unlikely to have sufficient resources to undertake lengthy searches, or to contact lair-holders on an individual basis, and should not be required to do so.

It is very important that any additional duties on small volunteer-led burial authorities should only be minor otherwise we are concerned that the extra commitment may

discourage people from volunteering in Jewish burial authorities to the extent that they may be forced to cease operations. This would result in severe difficulty for the Scottish Jewish community, and, in particular, very great distress for elderly and sick people who might fear they would not be buried according to Jewish religious law, and for the bereaved who may be distraught at their inability to bury their loved ones according to Jewish religious law.

10. In relation to Question 9, how long should burial authorities be required to publicise their intentions, prior to taking corrective action?

- 1 month
- 2 months
- 3 months
- 6 months
- Other
- Don't know

Please explain your reason for choosing this timeframe.

Large commercial or council burial authorities should publicise their intention to carry out work 6 months in advance. Small, volunteer-run burial authorities that inform right-holders by means of a circular or newsletter, should be allowed to provide relevant information on an annual basis, no less than 1 month in advance of the planned work being carried out.

11. Please provide any views you have in relation to headstones or other memorials requiring urgent attention.

Burial authorities should display a notice at the cemetery advising of their policy in this respect, and should also include the same information in newsletters etc, for example, that stones deemed unstable will be laid flat by the burial authority, and may, if they wish, be re-erected by the lair rights holder at their own expense.

12. Please provide any comments you have on the proposed training requirements and the keeping of training records for burial authority staff.

We agree that it would not be appropriate for education and training requirements to be set out in regulations. Furthermore, any guidance issued by Scottish Ministers should not stipulate certified training programmes but must allow for in-house training, the more especially in the case of small volunteer-run burial authorities that do not have the resources to pay for training courses for their volunteers and part-time staff – and it would also not be appropriate to expect these to cover the cost of training courses themselves.

We agree that burial authorities should keep training records, but it may not always be possible to define “all training undertaken” since, in small burial authorities, much training will take place informally, ‘on the job’.

13. Please share your views on the designation of parts of a burial ground for different faiths.

It is essential that all faith communities throughout Scotland should have access to a burial ground that meets their needs either in a faith-specific cemetery or else a

dedicated area of a commercial or council cemetery. In areas where there is no faith-specific cemetery, burial authorities should be required to engage with members of specific faiths on request, and actively to do everything in their power to facilitate an appropriate burial space. We are aware of several instances of good practice in this respect. For example, one person living outwith any settled Jewish community told us: *“I contacted Highland Council about burial in the local cemetery, and two days later a young man called back, having looked into Jewish burial requirements so that he could comply with them ... We now have permission to be buried with white bricks around our graves to demarcate the ‘Jewish section’.”*

14. Please share your view on the proposed information to be collected in the burial application forms.

- It looks right
- It does not look right
- Some of this is unnecessary information
- There is some information missing
- Not sure

Please give reasons for your answer.

Burial application forms such as are proposed are entirely inappropriate for Jewish funerals. As has already been stated, the burial takes place as soon after death as possible, often on the same day. In order to expedite matters, all arrangements are made by telephone; much of the proposed information is unavailable at that time, and requiring it to be provided in advance of the funeral would cause delays that would be extremely distressing to the bereaved. Furthermore, once the bereaved have stated that they want a Jewish funeral, the care of the deceased, the coffin, and the burial procedure are all standard – there are no detailed choices to be made. Burial applications should not, therefore, be mandatory.

15. Please indicate if you think anything may be missing from the proposed accompanying documentation list, or should be removed from it.

Much of the proposed information and documentation is not available prior to a Jewish burial as this generally takes place as soon as possible after the death. For example, at this time of stress, it may be difficult for a family to agree who will be the lair right-holder, and in fact this may need to be shared. Furthermore, in order to expedite the burial, arrangements are generally made by telephone, and it is not possible for an applicant declaration to be made by this means. Burial applications should not, therefore, be mandatory.

It would be more appropriate for these details to be recorded after the funeral in the register of the burial.

16. Do you think that an application for the burial of ashes in a burial ground should be accompanied by a cremation certificate, where available?

- Yes
- No
- Not sure

Please give a reason for your answer.

The majority of the Jewish community does not make use of cremation. However, this is permitted by Liberal Judaism, of which there is a community in Edinburgh.

The provision of a cremation certificate is an appropriate measure to enable burial authorities to confirm identity of the ashes before burial.

17. Where a cremation certificate is not available, and it is not possible to obtain a copy, do you think that an applicant should be able to submit one of the following instead:

- an extract copy of the cremation register entry or;
- a Certificate of Registration of Death (Form 14) or equivalent or;
- an abbreviated copy of the full death entry made in The Statutory Register of Deaths

Yes

No

Not sure

Please give a reason for your answer.

An extract copy of the cremation register would also enable burial authorities to have confidence in the identity of the ashes of the deceased.

18. Please share your view on the proposed information to be collected in the burial register entries.

It looks right

It does not look right

Some of this is unnecessary information

There is some information missing

Not sure

Please give a reason for your answer.

We agree with the proposals for information to be included in the burial register.

19. What is your view on the proposed list of organisations that an applicant should engage with to ensure they are complying with local requirements?

The list is complete

The list is missing some organisations

The list contains unnecessary organisations

Not sure

Please give a reason for your answer.

We do not wish to comment on this question.

20. Do you think an applicant should be required to submit evidence, alongside the application, to demonstrate that the proposed burial site is in line with third party agency and local authority rules and guidelines?

- Yes
- No
- Not sure

Please give a reason for your answer.

We do not wish to comment on this question.

21. What is your view on the proposed information to be collected in the private burial application form?

- Some of this is unnecessary information
- It looks right
- There is some information missing
- Not sure

Please give a reason for your answer.

We do not wish to comment on this question.

22. What do you think is a reasonable time limit for local authorities to give decisions on private burial applications?

- 1 week
- 2 weeks
- 3 weeks
- 1 month
- Other
- Not sure

Please give a reason for your answer.

We do not wish to comment on this question.

23. Please share your views on the Scottish Government's proposal not to allow for an application for private burial to be made for a person who is not yet deceased.

We do not wish to comment on this question.

24. Do you think private burial should be considered on a case-by-case basis?

- Yes
- No – restrictions should be included in the regulations
- Not sure

Please give a reason for your answer.

We do not wish to comment on this question.

25. Do you think that regulations should give local authorities the power to charge fees for their role in private burial applications?

- Yes
- No
- Not sure

26. If you answered “yes” to question 25, what services should local authorities be able to charge for in relation to private burial?

We do not wish to comment on this question.

27. What is your view on the proposed information to be collected in the Register of Private Burial?

- It looks right
- It does not look right
- Some of this is unnecessary information
- There is some information missing
- Not sure

Please give a reason for your answer.

We do not wish to comment on this question.

28. Please provide any comments on an appropriate way to record the precise location of the private burial site (e.g. coordinates or description).

We do not wish to comment on this question.

29. Please provide any views on the proposed appeal process for private burial decisions made by local authorities.

We do not wish to comment on this question.

30. Where an application for exhumation from a burial ground is made by a relative of the deceased who is also the lair right-holder but is not the nearest relative, do you think the applicant should be required to obtain written consent from the nearest relative(s) and any relatives of the deceased who have the same degree of kinship as the applicant (e.g. the applicants siblings)?

- Yes
- No
- Not sure

Please give a reason for your answer.

Exhumation is extremely rare in the Jewish community, so much so that it is impossible to legislate appropriately, and each case must be considered individually in consultation with the relevant religious authorities. We would, however, point out that in some cases the nearest kinship relative may not be the appropriate person to make a decision of this nature. For example, the deceased may have been

estranged from the relevant relative, or that relative may not have shared the deceased's religious beliefs. In such cases, it may be appropriate for a more distant relative to have a stronger voice in the decision.

31. Where an application for exhumation is made by a nearest relative of the deceased but they are not the lair right-holder, should that relative be required to obtain the written consent of the lair right-holder and any relatives of the deceased who have the same degree of kinship as the applicant (e.g. the applicant's siblings)?

- Yes
 No
 Not sure

Please give a reason for your answer.

Exhumation is extremely rare in the Jewish community, so much so that it is impossible to legislate appropriately, and each case must be considered individually in consultation with the relevant religious authorities. We would, however, point out that in some cases the nearest kinship relative may not be the appropriate person to make a decision of this nature. For example, the deceased may have been estranged from the relevant relative, or that relative may not have shared the deceased's religious beliefs. In such cases, it may be appropriate for a more distant relative to have a stronger voice in the decision.

32. Where an application for exhumation from a burial ground is made by a burial authority, from whom should written consent be obtained?

- Lair right-holder
 Nearest relatives
 Other

Please give a reason for your answer.

This is not relevant in the case of cemeteries owned and managed by the Jewish community, since there are no circumstances in which these burial authorities will wish to exhume a body.

Commercial and council burial authorities that manage a dedicated faith-specific area in cemeteries that they manage, should defer to relevant religious leaders in the case that they are considering exhumation for any reason. Having undertaken to provide faith-specific facilities, if the religious leaders refuse permission for exhumation, this view must be respected.

33. Please share any views you have on the proposed fast-tracked exhumation procedures?

This will not be relevant to Jewish burial authorities, and should not be relevant in the case of faith-specific areas in commercial or council managed cemeteries if the relevant religious leaders refuse permission for exhumation.

34. Thinking about the proposed feasibility report factors set out above, which do you think should be included in a feasibility study for exhumation?

- A check of the condition of the coffin to determine feasibility to exhume**
- Health and Safety Risk Assessment**
- Archaeological assessment (by local authority archaeologist or HES)**
- Consultation with the CWGC**
- Other**
- None of the above**

Please provide any views on anything else you think should or should not be included in a feasibility report.

In the extremely rare cases in which exhumation may be requested of a Jewish burial authority, feasibility, and health and safety checks should be sufficient.

35. Do you think there should be a time limit for carrying out an exhumation once authorisation has been given?

- Yes**
- No**
- Not sure**

36. If you answered yes to the previous question, what do you think the time-limit should be?

- 3 months**
- 6 months**
- 1 year**
- 2 years**
- Other**

Please give a reason for your answer and provide any other comments.

The condition of the coffin, and thus health and safety assessments, will change over time, so authorisation should not be open-ended.

37. Should requests for exhumation of known burials on private land be made to an Inspector of Burial, Cremation and Funeral Directors?

- Yes**
- No**
- Not sure**

Please give reasons for your answer and provide any further comment.

We do not wish to comment on this question.

38. Where the person applying for exhumation from private land is not related to the deceased (e.g. a new landowner) what arrangements should be made for the exhumed remains?

We do not wish to comment on this question.

39. Please share any views you have on exhumation of discovered human remains from outside a burial ground.

We do not wish to comment on this question.

40. What is your view on the proposed information to be collected by each burial authority in the Register of Exhumation relating to the exhumation of human remains carried out in a burial ground for which it is the burial authority?

- It looks right
- It does not look right
- Some of this is unnecessary information
- There is some information missing

Please give a reason for your answer.

We agree with the proposals for information to be included in the register of exhumation.

41. What is your view on the proposed information to be collected by each local authority in the Register of Exhumation relating to the exhumation of human remains authorised for private burial by that local authority?

- It looks right
- It does not look right
- Some of this is unnecessary information
- There is some information missing

Please give a reason for your answer.

We do not wish to comment on this question.

42. Do you think that no less than 6 months from the date the notice is issued is an appropriate length of time for the lair right-holder to consent or object to the restoration of a lair?

- Yes
- No – too long
- No – too short
- Not sure
- Other

If you answered 'no', please suggest a minimum time period.

This question presupposes agreement with 'restoration', i.e. re-use, of lairs. Sections 32-44 of the 2016 Act provides burial authorities with certain rights that it

“may” use to restore a lair to use either, a) if there has not been any burial in the lair, and b) if there has been a burial that took place more than a century before.

As Jewish religious law mandates that burials must not be disturbed *ad infinitum*, Jewish burial authorities will never choose to move to re-use an occupied lair, not matter how long ago the burial took place, and whether or not the current lair right-holder is known.

All lairs in Jewish cemeteries are for a single grave only – there are no multi-use lairs. However, the cemeteries do permit spouses to reserve a grave adjacent to their deceased partner. The legislation permits a burial authority to take action to restore unused lairs 50 years after the right to the lair was sold, but it is quite feasible that a spouse may survive his or her partner for more than 50 years.

If, however, a reserved lair has not been used, and the person for whom it is reserved will definitely no longer require it – they are, for example buried elsewhere, or have cancelled membership of the relevant burial society and joined another – then we agree that the burial authority should have the right to reallocate it. It should, however, be noted that restoring an unused lair in this way does not necessarily make it readily available, particularly if it lies between other graves with headstones as there may be considerable costs involved in removing and reinstating such headstones to enable a burial in the reallocated lair.

Commercial and council burial authorities that manage cemeteries with a dedicated faith-specific area should defer to relevant religious leaders in the case that they are considering restoration of lairs. Having undertaken to provide faith-specific facilities, if the religious leaders refuse permission for restoration, this view must be respected.

43. Do you think that no longer than 12 months from the date the notice is issued is an appropriate length of time for the lair right-holder to consent or object to the restoration of a lair?

- Yes
- No – too long
- No – too short
- Not sure

If you answered ‘no’, please suggest a maximum time period.

Notification of restoration is not relevant to Jewish burial authorities in the case of occupied lairs, and this position must also be respected by commercial and council burial authorities that manage a cemetery with a dedicated area for Jewish burials.

Small volunteer-run burial authorities do not have sufficient resources to notify lair right-holders that they wish to reallocate an unused lair that will definitely not be required by the original right-holder. In such cases, a notice in an annual circular or newsletter at least 12 months before any action is taken should be acceptable.

It is very important that any additional duties on small volunteer-led burial authorities should only be minor. There are already considerable difficulties in recruiting volunteers, and we are concerned that any significant extra commitment may discourage people from volunteering in Jewish burial authorities to the extent that they may be forced to cease operations. The ‘solution’ to employ a commercial

provider to undertake such duties is unfeasible, as that would very quickly deplete the burial authorities' reserves and result in massively increased subscriptions which would also soon force them to cease operations.

We have been advised in writing by the Scottish Government that "Funeral regulation is primarily concerned with care of the deceased and ensuring the wishes of the bereaved are followed." If, however, volunteers cannot be found to take on additional duties – and potentially legal liability for inadvertent non-compliance – care of the deceased according to Jewish religious law would no longer be possible in Scotland, and the wishes of the bereaved could not be complied with. This would cause severe difficulty for the Scottish Jewish community, and, in particular, very great distress for elderly and sick people who might fear they would not be buried according to Jewish religious law, and for the bereaved who may be distraught at their inability to bury their loved ones according to Jewish religious law.

44. Where the burial authority cannot identify the lair right-holder, please provide your views on how a burial authority may publicise the intention to restore the lair.

Since used lairs in Jewish community cemeteries may not be restored, and reserved lairs are only available to active members of associated Jewish burial societies, this will not be an issue for Jewish burial authorities.

Commercial or council burial authorities that are unable to identify the lair right-holder of an unused lair in a faith-specific area or their cemetery should publicise information in local and national media specific to the relevant faith community. Local religious leaders and appropriate organisations in that faith community should also be notified as they may have knowledge of families concerned.

If relevant religious leaders have advised a commercial or council burial authority that an occupied lair should not be restored even if the burial took place more than 100 years ago, no steps should be taken with regard to initiating restoration.

45. What is your view on the proposed information to be collected in the Register of Restored Lairs?

- It looks right**
- It does not look right**
- Some of this is unnecessary information**
- There is some information missing**
- Not sure**

Please give a reason for your answer.

We agree with the proposals for information to be included in the register of or restored lairs.

46. If the lair is to be used for a further burial and it is not possible to return a headstone to its original position do you have any views on how it should be preserved or retained?

The use of a lair for a further burial is not relevant to the Jewish community, and we do not, therefore, wish to comment on this question.

47. Please provide any additional views or comments you may have on any aspect of the proposed burial regulations.

We do not wish to make any additional comments.

48. Do you have any views on the potential impacts of the proposals in this consultation on human rights?

and

49. Do you have any views on the potential impacts of the proposals in this consultation on equalities and the protected characteristics set out above?

We are very concerned that these regulations could impact disproportionately on small volunteer burial authorities such as those in the Jewish community. There are already considerable difficulties in recruiting volunteers, and it is all too likely that many current and potential volunteers will decide that the new regime will take up too much of their time, and impose additional responsibilities that they are unwilling to accept, and, in consequence, will decide not to volunteer to the extent that the burial authorities may be forced to cease operations. The 'solution' to employ a commercial provider to undertake such duties is unfeasible, as that would very quickly deplete the burial authorities' reserves and result in massively increased subscriptions which would also soon force them to cease operations.

We have been advised in writing by the Scottish Government that "Funeral regulation is primarily concerned with care of the deceased and ensuring the wishes of the bereaved are followed." If, however, volunteers cannot be found to take on additional duties – and potentially legal liability for inadvertent non-compliance – care of the deceased according to Jewish religious law would no longer be possible in Scotland, and the wishes of the bereaved could not be complied with. That would have a very negative impact on the human rights of Jewish people in Scotland, who would no longer be able to be buried, or to bury their loved ones in accordance with Jewish religious law. In turn, that would impact the wider – aging and already shrinking – Jewish community, as Jewish people may probably choose to move away from Scotland in order to retain their access to Jewish burial. In addition, Scotland would become a less attractive proposition for Jewish people seeking to relocate.

50. Do you have any views on the potential impacts of the proposals in this consultation on children and young people as set out in the UN Convention on the Rights of the Child?

We do not wish to comment on this question.

51. Do you have any views on the potential impacts of the proposals in this consultation on socio-economic inequality?

We do not wish to comment on this question.

52. Do you have any views on potential impacts of the proposals in this consultation on communities on the Scottish islands?

We do not wish to comment on this question.

53. Do you have any views on the potential impacts of the proposals in this consultation on privacy and data protection?

We do not wish to comment on this question.

54. Do you have any views on the potential impacts of the proposals in this consultation on businesses and the third sector?

Burial authorities in the Jewish community are, as we have already stated, all very small third sector, volunteer-run and largely volunteer-operated organisations, and it is very important that any additional duties on such authorities should only be minor otherwise we are concerned that the extra commitment may discourage people from volunteering to the extent that they may be forced to cease operations. This would result in severe difficulty for the Scottish Jewish community, and, in particular, very great distress for elderly and sick people who might fear they would not be buried according to Jewish religious law, and for the bereaved who may be distraught at their inability to bury their loved ones according to Jewish religious law.

We do not wish to comment in relation to businesses.

55. Do you have any views on the potential impacts of the proposals in this consultation on the environment?

We do not wish to comment on this question.