



Law Society  
of Scotland

# Consultation Response

## Draft Statutory Guidance on Funeral Costs

November 2018



## Introduction

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The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The Society's Consumer Law Sub-committee welcomes the opportunity to consider and respond to the Scottish Government's consultation on *Draft Statutory Guidance on Funeral Costs*.<sup>1</sup> The Sub-committee has the following comments to put forward for consideration.

## General remarks

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We support the objective of improving the availability and transparency of funeral charges information in order to facilitate consumers choosing funeral services.

In this regard we note the work of the Competition and Markets Authority which is also focusing on funeral directors and cremation services. We also understand that they are considering price comparison tools which may be of relevance to the current consultation. We also note the UK Government's (HM Treasury's) call for evidence earlier this year on pre-paid funeral plans. We welcome the Scottish Government's engagement with both these initiatives.

<sup>1</sup>[https://consult.gov.scot/social-security/statutory-guidance-on-funeral-costs/user\\_uploads/sct071801075201.pdf](https://consult.gov.scot/social-security/statutory-guidance-on-funeral-costs/user_uploads/sct071801075201.pdf)

## Response to questions

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**Question 1: Do you think that the Scottish Government should publish a glossary of terms alongside the guidance on funeral costs? Y/N/DK**

This may be helpful.

**Question 2: If you answered “yes”, please list any particular terms that you think this glossary should include, along with a rough definition of what you understand the term to mean.**

We have no comment on this question.

**Question 3: Do you think that the guidance should include measures which encourage private cemeteries and crematoriums and funeral directors with a website to display their pricing information online? Y/N/DK**

Yes.

**Question 4: Please explain your answer.**

We consider that making pricing information available online will facilitate comparison by consumers who are seeking to use these services.

**Question 5: In order for crematoriums to display their prices in a consistent manner, the Scottish Government proposes that all crematoriums should base their standard cremation service charge on a common set of components.**

These are:

- Cremation fee
- Mercury abatement fee (where applicable)
- Provision of container for ashes
- Cremation certificate
- Provision of chapel / service room
- Administration and processing of forms

**Do you think that the standard cremation service definition proposed in the draft guidance captures all of the necessary elements? Y/N/DK**

We have no comment on this question.

**Question 6: If you answered “no”, please provide suggestions for items that you think should be added or removed.**

N/A

**Question 7: To help consumers make comparisons between funeral directors, we have proposed a standard definition for a simple funeral. This is set out in paragraph 9 of the**

**draft guidance for funeral directors and also in paragraph 50 of this consultation document. Do you think that the simple funeral service definition set out in the draft guidance captures all of the necessary elements? Y/N/DK**

We have no comment on this question.

**Question 8: If you answered “no”, please provide suggestions for items that you think should be added or removed.**

N/A

**Question 9: Do you think that the guidance for funeral directors should include a measure suggesting that funeral directors should describe their processes for care of the deceased to help consumers understand costs associated with this?**

We consider that it may be helpful for consumers to be able to access this information if desired.

**Question 10: Please explain your answer.**

We consider that the desire to access this information or otherwise may depend very much on the individual in question. While some may benefit from a detailed breakdown, others could find such details upsetting or overwhelming. We therefore consider that it would be helpful if funeral directors could make such information available upon request.

**Question 11: Do you think the guidance should include a provision encouraging burial and cremation authorities to make reasonable efforts to accommodate the wishes of a person that does not want to use a funeral director?**

Yes.

**Question 12: Please explain your answer.**

We consider that if a person does not wish to use a funeral director, they should be free to make this choice. The burial and cremation authorities should therefore make reasonable efforts to accommodate those wishes.

**Question 13: Paragraphs 3 and 4 of the draft guidance for local authorities suggest that local authorities should consult the public when developing charging proposals and explain the reasons for any proposed changes to charges. Do you think these measures will help improve the transparency of, and public engagement with, the local authority charge setting process? Y/N/DK**

Don't know.

**Question 14: Please explain your answer.**

We support asking local authorities to consult as a matter of good practice. These measures may help improve the transparency of the local authority charging process. It is not clear whether this would improve public engagement. In particular, this is the kind of issue which individuals are likely to engage with in specific circumstances (ie when seeking to arrange a funeral), but otherwise may not be aware of how proposed changes would be likely to impact upon them.

**Question 15: Paragraph 5 of the draft guidance for local authorities suggests that local authorities should publish information from their Local Financial Returns annually on their websites, showing income generated and expenditure incurred through the provision of burial and cremation services. Do you think that this would help increase public understanding of the costs associated with local authorities' provision of these services? Y/N/DK**

Yes.

**Question 16: Please explain your answer.**

We consider that publishing such information annually could increase public understanding, particularly if broken down into the relevant components as set out at question 5 above.

**Question 17: Do you think the guidance should encourage local authorities to link burial and cremation charge setting to broader strategies and duties aimed at reducing poverty? Y/N/DK**

Yes.

**Question 18: Please explain your answer.**

We consider that it is usually helpful to set individual policies within the context of broader strategies to ensure a consistent and coordinated approach.

**Question 19: Do you think that local authorities should be encouraged to take actions to support individuals who are struggling with the costs of a funeral? Y/N/DK**

No.

**Question 20: Please explain your answer.**

We understand that in terms of financial support, those needs are intended to be met by the new Scottish Government administered Funeral Expense Assistance benefit. This should address actual funeral and cremation/burial costs. However, assistance could be offered in terms of supporting those who are struggling with costs in terms of giving them information and directing them to sources of funding.

**Question 21: Please tell us about any potential impacts, either positive or negative, that you consider the proposals in this consultation may have on people who may be differently affected in relation to the protected characteristics.**

We have no comment on this question.

**Question 22: Please tell us about any potential business or regulatory impacts, either positive or negative, costs and burdens that you think may arise as a result of the proposals within this consultation.**

We have no comment on this question.

**For further information, please contact:**

Carolyn Thurston Smith

Policy Team

Law Society of Scotland

DD: 0131 476 8205

[carolynthurstonsmith@lawscot.org.uk](mailto:carolynthurstonsmith@lawscot.org.uk)