



Draft Guidance on Funeral Costs: Analysis of Consultation Responses



EQUALITY AND WELFARE

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Introduction

Background

The Scottish Government published its Funeral Costs Plan, in August 2017, which set out a range of measures aimed at addressing funeral poverty in Scotland. These included delivering Funeral Expense Assistance to replace the current DWP Funeral Payment in Scotland, and producing guidance on funeral costs. The latter of these provided the focus for a public consultation which ran from 16 August to 8 November 2018, the results of which are presented here.

The development and publication of guidance on funeral costs is designed to help improve the availability and transparency of funeral charges information to help consumers understand, compare and choose the services that are right for them at the time of planning a funeral. The draft guidance sets out steps that burial authorities (cemeteries), cremation authorities (crematoriums) and funeral directors can take to improve transparency and availability of funeral pricing information. Recognising that the funeral market is complex, with both private and local authority providers offering a range of different services, a section of the draft guidance was included specifically for local authorities to cover charge setting and tackling funeral poverty.

In developing the draft guidance, the Scottish Government worked with the Convention of Scottish Local Authorities (COSLA), as well as local authorities, private crematoriums, and funeral directors to try to identify areas of consensus; but also to explore areas where transparency and consumer choice might be improved through guidance. Alongside the consultation, the Scottish Government invited interested stakeholders to engage directly via a series of meetings, to discuss the draft guidance and explore ways of ensuring that organisations and individuals would embrace and implement the finalised guidance effectively.

Learning from these meetings, alongside the consultation responses analysed and presented here, will be used by the Scottish Government to prepare a final copy of the guidance on funeral costs, which will be published under Section 98 of the Burial and Cremation (Scotland) Act 2016.

The Consultation Exercise

The consultation document included a copy of the draft guidance structured under four headings - one each for burial authorities, for cremation authorities, for funeral directors and local authorities, in turn.

A total of 22 questions were asked in relation to the draft guidance focussing on a number of cross-cutting themes, these being:

- use of language and terminology;
- display of pricing information;
- transparency of cremation charges;
- definition of a simple funeral;
- transparency of pricing at point of sale;
- burial or cremation without using the services of a funeral director;
- understanding local authority charges; and
- local authority measures to reduce funeral poverty.

The consultation also sought views on the potential business impacts of the draft guidance on the public, private and/or third sector as well as potential impacts on people with protected characteristics under the Equality Act 2010.

Contributions were encouraged from local authorities, private burial or cremation authorities, funeral directors and any other groups or individuals with a working knowledge of, or interest in, burial and cremation or the funeral industry. Views were also invited from individuals and organisations with experience of tackling poverty or providing consumer advice.

Methodology

A total of 49 substantive responses were received, most via the Scottish Government's online portal Citizen Space, but some by email. Some respondents submitted views using both the online consultation portal but also forwarded additional context/clarification documents to accompany their response. Of the 49 responses, 18 were submitted by individuals and 31 came from organisations.

A total of 10 closed and 12 open questions were included and all questions were answered by at least one respondent. All responses were read and logged into a database, and all were screened to ensure that they were appropriate/valid. None were removed for analysis purposes. Although some responses to individual questions were not appropriate/did not directly address the questions being asked, all feedback was analysed and is presented under the appropriate sections below.

Closed question responses were quantified and the number of respondents who agreed/disagreed with each proposal is reported below. Comments given at each open question were examined and, where questions elicited a positive or negative response, they were categorised as such. For most of the questions, respondents were also asked to state the reasons for their views, or to explain their answers. The main reasons presented by respondents both for and against the content included in the various sections of the draft guidance were reviewed, alongside specific examples or explanations, alternative suggestions, caveats to support and other related comments. Verbatim quotes were extracted in some cases to highlight the main themes that emerged. Only extracts where the respondent indicated that they were content for their response to be published were used - five respondents asked that their response not be published and 20 approved publication without

reference to their name/affiliation. The remaining 24 were content for their response and identity to be published, although a decision was made to anonymise all responses as part of the reporting process.

Report Presentation and Research Caveats

Findings are presented as they relate to each question contained under the core sections of the consultation document (described above). Where people provided no response, this is noted separately from cases where respondents indicated that they had no further comments or were unsure.

The tables below show the difference in views expressed by the respondent group as a whole. Given the relatively small number of responses received overall, it was decided that disaggregated analysis by respondent typology would be unreliable, however, in any cases where individual respondents offered views that differed significantly from those submitted by organisations, this is picked up narratively in the report. As a guide, where reference is made in the report to 'few' respondents, this relates to three or less respondents. The term 'several' refers to more than three, but typically less than ten.

Finally, especially given the small number of responses received overall, it is worth stressing that the views presented here should not be taken as representative of the wide range of stakeholders invited to respond to this consultation, nor should they be generalised too broadly. They simply reflect the views of those individuals and organisations who contributed.

Use of Language and Terminology

The consultation document acknowledges that some of the language used in the funeral industry is novel, can vary geographically, and can be adapted differentially when being used with service users to accommodate and respond to their individual needs at the time of dealing with a bereavement. To remove ambiguity and try to create some consistency in the way that funeral processes and costs are communicated, the draft guidance encourages the clear use of language by funeral directors and burial and cremation authorities.

Publication of a Glossary

Once finalised, it is intended that the guidance on funeral costs will be published along with a glossary of terms. As part of the consultation, respondents were specifically asked if they supported the publication of a glossary of terms and, if so, to specify what, if anything, should be included.

Q1. Do you think that the Scottish Government should publish a glossary of terms alongside the guidance on funeral costs?

	Number	Percentage
Yes	35	72%
No	5	10%
Don't know	5	10%
No response	4	8%
Total	49	100%

Over two thirds of respondents agreed that a glossary of terms should be published alongside the guidance on funeral costs with only five indicating that they did not feel this was necessary. The remainder were either undecided or did not offer a response.

Suggested Terms and Explanations

Q2. 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.

A full list of the terms that were suggested by consultation respondents, including the definitions that they offered, is included in Appendix A. The terms that were cited most often, and which were seen to be potentially confusing to those

engaging with the industry were interment, embalming, lair¹ (both burial and cremation lairs), direct burials and direct cremations and lair holder or lair owner. Several respondents also specifically cited the need to provide clear definitions around the various certificates or documents that are required to assist in the process of burial or cremation (including lair certificates and interment certificates).

The costs and fees attached to various processes also needed to be clearly defined, it was suggested (e.g. burial and cremation fees, lair costs, interment fees, mercury abatement fees, etc.) One respondent suggested that the glossary should also set out that there are often charges associated with administration and processing of forms. Indeed, central to the consultation, clarity around costs was key to enhancing public understanding and confidence in the sector, it was suggested:

“Any glossary should be focussed on terms used in the profession that relate directly to costs or assist the client to understand the financial or emotional implications of any choice they make. The glossary should also use simple language and avoid industry terms which are not easily understood by consumers.”

Although not citing any specific terms or definitions, some respondents also indicated that ‘times’ be clearly set out or described, e.g. the provision of chapel/service rooms and associated times allocated, different time allocations at crematoria, as well as additional service time uses and associated costs.

Several respondents who answered this question gave no specific suggestions for what should be included in the glossary but instead offered their support for the idea of a glossary, in principle:

“It is important not only to think about what you say, but how you say it. Everyone should be able to access and understand information easily during this traumatic period in their lives. Language that is easier to understand helps people to make better choices regardless of the circumstances. Care and consideration requires to be taken to ensure the use of non-technical, jargon free language is a priority for any guidance or communications in relation to guidance of funeral costs. The addition of a glossary of terms would support this objective.”

There seemed to be a general consensus that the language used in the industry was confusing to service users and that introducing a glossary of the kind described would help to bring about some consistency and clarity:

“Terminology in the funeral sector differs between funeral directors and can be unfamiliar to clients. A common glossary of terms across funeral directors would aid understanding and also make comparison between providers easier.”

¹ The term ‘lair’ was seen as potentially being particularly confusing to people living outside of Scotland, as it was noted to be a uniquely Scottish term.

In developing the glossary, the Scottish Government was urged to consider that some terms may have developed over time for the sake of sensitivity and, where this is the case, it was recommended that terms are defined in the glossary with great care and clarity.

Some respondents used this question to highlight terms and practices which they considered were particularly not well understood by those outside of the industry. This included, in particular, the processes of embalming and hygienic treatment. These processes were often confused, it was suggested:

“From our perspective, cleaning of the deceased is a matter of respect and dignity, whether the body is to be viewed or not. Embalming, however, is by and large, a choice. We believe that if people understood the impact of the process on the body and the environmental implications, they may be less inclined to embalm.”

Indeed, some commented that members of the public may often be ‘mis-sold’ these particular services, on the understanding that they were mandatory requirements, instead of optional (even in cases where viewing of the deceased person is desired). Indeed, one respondent indicated that, if no viewing of the deceased is to occur, customers may prefer to have minimal intervention, and this should be explained. One respondent indicated that embalming can sometimes be offered as part of a ‘Care of the Deceased’ package and, indeed, this term itself was generic and could provide a catch all for a variety of different services being offered by different practitioners. Offering clear definitions of these practices and setting out their non-mandatory nature may help consumers make more informed decisions around what services they engage, it was felt. Indeed, several respondents encouraged clear and itemised descriptions of professional services across the industry which, at present, were seen as often being “too short of detail”.

Several respondents commented that a lack of knowledge and understanding around funerals was both confusing and off-putting to people and could result in them disengaging with the planning process and being easily led by (for profit) funeral directors. This can often result in people paying more than they originally intended or more than they can afford, which exacerbates funeral poverty, they perceived. Linked to this, it was suggested by one organisation that the glossary could include a list of benefits that are available to people to help pay for the cost of funerals, including details on the qualifying criteria, as well as setting out the support available to people with low incomes to assist them in planning for a funeral.

Three organisations suggested that the final glossary be shared with those in the industry to allow further input, as required, before being finalised. This separate consultation would help to resolve any difference of opinion on what each term means and allow consideration of how the definitions presented may influence purchasers’ decision making, it was suggested:

“We would suggest an opportunity for the profession to propose the make-up of the glossary but would counsel against making it too exhaustive as it could lead to overload.”

One care and support charity also suggested that the Scottish Government could make use of the Social Security Experience Panels to help draw up the words that should be included in the glossary, for completeness.

Three organisations urged the Scottish Government to publish a ‘Plain English’ version of all finished documents, to assist adults with learning disabilities or complex needs, and/or young people, in particular. Both urged that the use of abbreviated terms be minimised wherever possible and one suggested that the glossary be tested by community engagement prior to being signed off. One organisation suggested that the finished glossary be available both online and in paper versions at a range of public locations, to maximise its accessibility and use. Another suggested that customers may benefit from having a paper copy of terminology to take away with them whilst considering their funeral planning options.

Finally, although not specifically answering the question, it is important to note that some respondents replying on behalf of the private sector expressed views that the guidance, as drafted, seemed to be more directed at those working in the industry rather than at the general public or consumer audience. This, they felt, was misleading since those in the industry were not the ones in need of additional guidance:

“Such a glossary of terms would be far better aimed at the consumer so as to improve their understanding of the various terms used and to better enable them to compare the products, services and activities offered by a funeral director, if they so choose.”

One organisation expressed particular disappointment at what they considered to be a missed opportunity to tackle the widespread misunderstanding of funeral costs and fees and suggested that, while Section 98 of the Burial and Cremation (Scotland) Act 2016 provides that Scottish Ministers may publish guidance on the costs associated with making arrangements for a funeral, this had been misdirected in the publication of guidance for the industry rather than the consumer:

“...it is clear that the audience that would most benefit from receiving guidance on funeral costs are the families and individuals who need to pay for them. We are therefore disappointed by the Scottish Government’s decision to direct this funeral costs guidance, not at consumers, who would benefit greatly from additional guidance, but at funeral directors, who are among the most knowledgeable people in existence on the subject.”

The same organisation stressed that, if a glossary was to be produced, it should not be too rigid and should still allow funeral directors some discretion to tailor it to local circumstances/communities, as appropriate.

Overall, however, there was support for producing a glossary of terms and a recognised need for such a resource, especially as the number of new and different products entering the market increases. There was also an expressed willingness among several respondents to continue to assist with its development.

Display of Pricing Information

To assist consumer choice, the draft guidance sets out a range of measures for burial and cremation authorities and funeral directors about the display, accessibility and transparency of pricing information.

Legislation is already in place which dictates that local authorities must publish their charging information for burials, (both in paper form and online via local authority websites), and legislation is due to be commenced that requires the same for local authority cremation fees. The draft guidance encourages local authorities to make information on burial and cremation charges as easily accessible as possible by displaying the information alongside other burial and cremation information on the local authority's website.

Although there is no equivalent legal requirement for funeral directors, private cemeteries and private crematoriums to publish their charging information, the draft guidance encourages the same practice as that which applies to local authorities.

These measures, alongside measures to help increase awareness of affordable options, should allow consumers to make more informed funeral decisions.

Displaying Information Online

Respondents were asked as part of the consultation to indicate their agreement with the draft guidance for private cemeteries and crematoriums and funeral directors with a website to display their pricing information online.

Q3. 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?

	Number	Percentage
Yes	45	92%
No	1	2%
No response	3	6%
Total	49	100%

All but one individual who answered this question supported the display of pricing information online. Indeed, this area of the consultation received the most support, overall. Importantly, however, some who did not give a closed response to this question, did go on to provide views against the proposal.

Q4. Please explain your answer.

Transparency and Parity

The main reasons given in support of this proposal included that it would allow consumers to compare services being offered by different providers more easily, thus allowing more informed choices, would be more transparent and be seen as fairer for consumers. It may also encourage more funeral directors and private cemeteries to be more competitive when setting prices, it was felt. Another reason put forward was the parity that this would achieve between local authorities and private providers:

“This is essential, given the mix of public and private service providers for the statutory guidance to apply equally to both public bodies such as councils, which are already subject to fees and charges scrutiny and governance checks as the normal part of Council governance. Private cemeteries and crematoriums and funeral directors also need to adhere to the guidance to provide a level playing field of consistency of information online for the public and bereaved families. This will allow people to fully understand what they are paying for and therefore to make an informed choice.”

One local authority confirmed that they already displayed all pricing information and agreed that private providers should do likewise. Importantly, one third sector advice organisation, who endorsed the proposal, noted that it would strengthen existing legislation which, they perceived, was not always adhered to (i.e. although local authorities have a legal duty to publish charges, these are not always displayed in a logical place on local authorities’ websites, it was felt). Another noted that they welcomed the draft guidance because they perceived that cemeteries and crematoriums often failed to make clear where prices could be found or failed to break down prices sufficiently to demonstrate the difference in cost, for example, an early morning slot compared to a weekend one.

Improved Consumer Experience

Three individuals who responded to this question wrote candidly about their own direct experience of bereavement and the added challenges that had been experienced in trying to understand the costs associated with arranging a funeral at a time of grief. If price information had been clearly displayed, time could have been saved in liaising with funeral directors, thus allowing more time to grieve, it was explained:

“I found it very distressing and confusing trying to decipher costs, in particular when it came to choosing the crematorium as I had a choice of locations but the costs differed greatly.”

At a time of loss, people did not want to be discussing money and costs, especially if on a low income, it was suggested. Having prices clearly displayed would negate

the need for difficult discussions. It would also remove the need to “ring around” different providers, which can be time and cost intensive and cause additional stress, it was suggested. Being able to access the information from home (i.e. online) was particularly welcomed:

“It allows people a chance to look over the information and take time to digest this. Sometimes, at a stressful time like this, people don't always listen or understand what is being said. A website would allow them to look before or after their meeting with relevant agencies.”

“We know that many people will look to access information about pricing and will want to do some comparisons without speaking to people on the phone or being there in person. Some people can feel more comfortable looking at prices and working out costs against their budget at home and as part of online research. We believe online information will allow people to study prices in a way that meets their needs and preferences.”

Indeed, one organisation noted that accessing the information remotely and anonymously may remove the need for personal contact with service providers which can sometimes lead to clients feeling obliged to enter into agreements rather than walk away and compare the market:

“Many funeral director websites do not display any pricing at all. This means that the customer will often go into the parlour before they even have an idea of the estimated price and feel tied to going with the funeral director in question. The person will often sit through making the full funeral arrangement with the arranger (sometimes up to an hour) in which time a relationship has been built and the customer may find it hard to walk away.”

This may be particularly relevant in remote areas or close-knit communities where service providers are scarce and/or where there may be an expectation that one provider will be used, as they are already known to the family, they suggested:

“In remote communities the provision and choice of funeral services may be limited...In addition, having the opportunity to gain pricing information anonymously from websites also helps to mitigate the potential for stigmatisation in areas of poverty and deprivation where a family of the deceased may be struggling to afford burial, crematorium and the costs of funeral directors.”

Overall, it was felt that providing information online across the board would allow people to plan in advance, as well as at a time that was most suitable for them, and to be able to make truly informed funeral planning decisions.

Alternative Formats

As with the glossary of terms, calls were made for pricing information to be presented clearly and using Plain English to make it accessible to those with

impairments, disabilities or other complex needs. While several respondents noted that there was an increased reliance on the internet and websites to find information about services, (and so welcomed the online publication of fees), they felt that costs should be easily accessible off-line too, as well as in alternative formats (e.g. printed or written quotes, brochures, telephone quotes, by email, audio, etc.):

“People should be able to request pricing information in different formats, including over the phone, easy read, braille, audio, and large print. By providing pricing information in different formats it will ensure that they are accessible to all, and will enable people to make an informed decision.”

If not available online, the fees should be displayed clearly off-line in printed form in the premises of service providers, as well as in funeral homes and other public spaces where such services are offered, it was suggested.

Using non-digital/online routes to share pricing information was particularly important for demographic groups who traditionally may be less likely to have internet access, including the elderly and those in the lower socio-economic groups, it was suggested. If displayed on websites, respondents urged that pricing information be clearly signposted on ‘home’ pages and available as downloadable PDF files. Websites providing information to consumers must also be compatible with screen readers, it was suggested.

Given the large proportion of deaths that occur in institutional settings (i.e. hospitals, care homes, hospices, etc.) professionals working in such institutions were also seen as potentially influential and important gatekeepers to information on pricing and funeral provider choices. More thought on encouraging awareness among this group around competing services may be required, it was posited.

Comparing Like-for-Like

It is important to note that, while this part of the draft guidance was widely supported, some organisations (mainly representing those in the private sector) highlighted some limitations to publishing information in this way. This included perceptions that it was not possible, at present, to compare like-for-like within the industry, given a lack of shared definitions for particular service elements, as well as concerns around competitive tendering or commercial confidentiality for private providers.

Several organisations stressed that, while they supported enhanced price transparency in the funeral market and, therefore, the inclusion of measures that encourage cemeteries, crematoriums and funeral directors to display comprehensive pricing information online, they perceived this would only be meaningful if there was also consistency in the services being described. For example, given that there is no cross-industry agreement on what constitutes a

simple or standard funeral, consumers comparing prices for what they believe to be the same service, may not actually be comparing like-for-like:

“Without such agreement, funeral directors may be justifiably apprehensive about providing cost information online, as consumers might attempt to make direct comparisons with incomparable services elsewhere. An agreed cross-industry definition of a simple and standard funeral would facilitate the provision of cost information which could be effectively compared online and thus give funeral directors the confidence to display price information on websites, knowing that the services they offer vis-a-vis competitors will not be misinterpreted. In the absence of agreed definitions, while the provision of cost information online can still benefit consumers, direct comparisons between services are not easily made.”

Indeed, several respondents suggested that a more transparent approach would be to require providers to itemise different service options, i.e. displaying the costs of each component part of a funeral individually. For example, listing the cost associated with collecting the deceased or the cost associated with storing the deceased, as separate and individual services:

“Under such a system, while different funeral directors may offer funeral services with differing component parts, consumers would have access to information that would still facilitate price comparison of core services and would help consumers to identify any individual service that carry an unreasonably high cost burden within the overall funeral package.”

This would reduce the risk of consumers making misleading comparisons, it was suggested. Under this model, one organisation also urged that all providers should be encouraged to present a cost for the lowest cost bundle against which the services and prices of other bundles can be compared. This would assist comparison across providers, as well as providing a simple baseline option for comparison, they felt.

Similarly, two other organisations stressed that while they promoted online, easy to find price lists and transparent practice, they had concerns about the way in which services could be described and the ambiguity that this may introduce to comparisons:

“...as there are so many different ways in which products and services are described there is the unintended consequence of using marketing talk and opaque descriptors, so that the products and services can't be compared like for like.”

A coffin, for example, may be described as such yet cover a broad range of options from cardboard to solid oak which would, justifiably, differ in price. Without knowing what type of coffin was being provided for by each service provider in their costs, a simple comparison of the prices advertised for a coffin would not be possible. Both respondents suggested that the Scottish Government refer to the style of the US Federal Trade Commission, The Funeral Rule, which legislates for standard language and ensures a level marketing playing field. Another organisation simply noted that cost information alone was insufficient to allow consumers to make informed choices and, along with fellow funeral service providers, urged that face-to-face conversations with funeral directors to allow services to be properly described could not be replaced:

“We strongly believe that the best way for a bereaved family to be able to fully understand the various services, products and options available and their associated costs is to directly discuss these with a funeral director. Having the opportunity to discuss their needs and then allowing the funeral director to give advice and guidance on the various options available is the only way to ensure the consumer is fully informed and able to make the right decision for them.”

Third party costs may also influence the total cost that providers need to charge, it was noted. Respondents felt that there was no financial incentive for funeral directors to recommend any one crematorium over another, for example, but geographical variations in availability of different crematoriums, and their associated costs, may mean that third party costs impact on the total costs that funeral directors are able to advertise:

“Third party costs (such as crematoria and burial fees) may differ on a location by location basis. In some areas where there are multiple crematoria and burial grounds, there may be different prices between the crematoria. To the extent there is geographic variation, each client should be presented with the relevant information for them.”

For funeral directors covering more than one area, including those who provide UK wide services, there may be a need to allow consumers to give basic geographical information at the time of requesting a quote, to allow an individualised total cost to be generated, it was suggested. However, a requirement to display all possibilities online, with all variants, depending on location, may result in overly complex pricing pages and may be overwhelming for consumers. More thought was needed, it was felt, on how ‘variable’ costs could be displayed, and how publication of online information could be linked to a geographical location, to ensure all clients have access to relevant price information and avoid information overload.

Benchmarking

A small number of respondents indicated that it may be helpful to publish guidance on the 'average' cost of simple funerals, either nationally or for specific providers, to allow consumers to compare services with an average:

"There are Scotland-wide figures for the average cost of different types of burials and cremations available. We would prefer that funeral director pricing documents and websites were required to link to or refer to the average nationwide costs for a simple cremation and simple burial."

"We feel that pricing should be as clear as possible, across the board. The advertised price should always be the price that most people (or the median person) actually pay for that type of funeral with that funeral director."

While some noted the commercial sensitivities of requiring private providers to publish information openly, it was still seen as essential to allow at least baseline comparisons to take place. Giving providers an opportunity to decide against advertising fees for 'non-essential elements' may be an appropriate compromise:

"Whilst we accept that private service providers may deal with delivering services in a commercially sensitive arena, there should be an ability to effectively 'benchmark' core fees across both commercial and private providers. This would ensure that there is some evidence of transparency in the basis for fees. We would accept that the publication of other elements which relate to the commercial factors and are non-core to burial or cremation, should be at the choice of each provider."

For those who offer only the simple funeral option, and have one fixed fee, it was also seen as essential that the phrasing of the guidance did not impede on their ability to display a single, simple price.

Ownership

Two respondents raised particular concerns linked to online publication of services and fees, in that they perceived there was no oversight or monitoring of how providers described or presented their operating status online. Specifically, it was suggested that some firms who advertise and appear *prima facie* to be independent, family run businesses may actually be corporately owned and/or operated. Given research which indicates that many people may be more likely to employ a family run business rather than a corporate business, this may be strategy used by some providers to secure business, they said:

"By the manipulation of parent company names, there are now corporate funeral director firms masquerading as local family run firms...In all surveys going back many years, the public's trust in the family run local firm far more than the corporate firms, therefore it's easy to see why this practice is increasing. At present it is legal, but we do question the ethics."

Greater transparency of ownership was urged to ensure protection of public interests and this could perhaps be incorporated into this section of the guidance².

Further Consultation and Widening Dissemination

Several respondents encouraged greater consultation within the industry to refine and finalise an agreed set of terms and definitions for different funeral elements before this part of the guidance was implemented or enforced, meaning that like-for-like comparison would be more reliable.

Some third sector respondents also encouraged the wider dissemination of pricing information via support services, rather than via local authority and private sector websites alone, as this would maximise accessibility, it was suggested:

“We suggest that church ministers and other religious leaders could have this information to hand, to offer to people who come to them for help with arranging a funeral.”

Several organisations urged that, while the clear online display of information was welcomed, care was needed that people did not feel pushed to transact all funeral planning and payment online as there was still a need for people to liaise in person with funeral providers to ensure that they fully express their wishes and know exactly what they are receiving in return:

“We also suggest that businesses who do display funeral costs online are cautious with providing the option of paying for a funeral online, as there is a danger that some people may not fully understand what they have purchased without speaking directly to a service provider.”

Indeed, one organisation commented that their own research indicated that a large proportion of consumers make decisions around service provision based on recommendations from family/friends/others or based on their own previous experience, and so the display of information may do little to alter this consumer behavior. The same organisation also highlighted that costs should never be considered as the main factor driving consumer choice, and cited such things as reputation of the staff/funeral company, ability to personalise a funeral, location of the funeral director, trust and experience as all being significant contributing factors which the simple display of pricing could not accurately reflect.

On a related note, one respondent urged that the display of pricing information should also make clear to consumers that Church of Scotland ministers have no fees (although payment of expenses may be welcomed). There was concern that this service may, at present, be presented as being included in the fee, while entailing no actual cost to the funeral director. While it was noted that humanist and

² The same may also be true of some cremation authorities who do not openly advertise that they are privately owned crematoria and use the locality as a name, it was suggested.

celebrants' fees may be included here, the same level of follow-up and bereavement care may not be offered by these individuals, whereas parish ministers would ordinarily try to ensure bereavement care is provided directly or by the local congregation at no cost. Such aftercare was seen as vital for individuals experiencing bereavement and so the way that this service is presented under any cost matrix should be carefully, consistently and truthfully handled.

Other Caveats to Support

Other comments included that providing too much information may be counterproductive from a consumer perspective, and that there may be risks with partial information skewing consumer behaviour. Some customers may also want bespoke packages and this measure may be of only limited use to this group. One individual also noted that the display of pricing information, while helpful, did nothing to contribute to reducing fees, which they considered to be the main issue at hand:

“The ordinary public do not understand the disproportionate rises in funeral costs in comparison to inflation. The information may indeed be provided but this does not justify or quantify the costs, as helpful as this may be.”

The one person who stated explicitly that they did not agree with the proposal did not say why and, on the whole, respondents agreed that the guidance on funeral costs provided an invaluable opportunity for the Scottish Government to encourage greater transparency around funeral costs.

Transparency of Cremation Charges

There is currently variation among crematoriums in what is included in their charges. To help consumers understand the cost of cremation and to be able to compare the costs across different providers more easily, the draft guidance set out both a definition of what a standard cremation service should comprise, as well as guidance around additional items which would not normally be included. The definition was developed in consultation with those working in the industry.

The draft guidance also recommends that charges made for additional items, which are not included in the standard service, should be clearly displayed separately. This would help consumers differentiate between service elements that are optional and mandatory. The draft guidance also includes a measure stating that where direct cremation is offered as a lower cost option, crematoriums should clearly describe what this includes and what it does not include, so that people can consider if this option is suitable for them.

Standard Cremation Service Definition

The standard cremation service definition included a number of core components, these being:

- cremation fee;
- mercury abatement fee (where applicable);
- provision of container for ashes;
- cremation certificate;
- provision of chapel/service room; and
- administration and processing of forms.

Respondents were asked to consider the standard definition and offer suggestions for any missing elements.

Q5. Do you think that the standard cremation service definition proposed in the draft guidance captures all of the necessary elements?

	Number	Percentage
Yes	22	45%
No	15	31%
Don't know	9	18%
No response	3	6%
Total	49	100%

There was some disagreement around the definition of the standard cremation service, with less than half indicating that the current definition captured all necessary elements and almost a third suggesting that additions/edits were required. Nearly a quarter of respondents either did not answer the question or indicated that they were unsure.

Q6. If not, please provide suggestions for items that you think should be added or removed.

The main areas where greater clarification was sought were around the interment of ashes, the provision of music services at cremations, time allowed in chapels/service rooms at crematoriums as part of a standard package and extra charges for selected day services.

Flexible Elements

Specifically, some respondents commented that clarity may be required that ashes can be interred in a lair (i.e. someone can bury ashes), in addition to the maximum permitted coffins, but that there may or may not be a cost associated with this. As stated, the draft guidance does not make clear if the cremation fee covers the cost of interring ashes nor that ashes could be stored. One respondent suggested that links could be included to local government sites to allow consumers to know that ashes can be interred in local burial plots.

In relation to organists and music, it was noted that many crematoriums currently include this in their standard fee. By not including this as part of a standard cremation service, there was a risk that some crematoriums would now be able to charge extra for the provision of music, and that this would disadvantage the consumer, respondents said:

“We would also hope that where crematoriums offer services over and above those described in a standard cremation service, such as music, this does not result in consumers facing additional charges for these, at present free, services. It is also important that consumers feel that they are providing a dignified send-off for their loved one and, if this would incur additional charges to them, these are explained fully.”

The duration of time allocated to a family for the chapel/service room at the crematorium also needed to be more clearly specified, it was suggested. There is currently considerable variation in how long families may require this room (if at all), it was suggested, and clarity is needed on if/when additional charges may be incurred if the use of this facility is more than ‘standard’ or not used at all:

“The crematoria should be required to make clear how the price will be reduced where the service or chapel room are not used.”

Additionally, for those who seek a civil ceremony, the inclusion of a chapel or service room within the standard cremation package may lead some consumers to presume that an officiant is also included, it was suggested.

In relation to nominated day services, it was suggested that greater clarity was required on if this would incur an additional charge. When booking a cremation, bereaved families often have a preference for a particular day of the week or time of day, as both can impact on their ability to secure a celebrant or minister, and can affect turnout at the memorial service, it was suggested. To reflect this, crematoria should make clear where the costs associated with a standard cremation will differ, depending on the date and time of the booking, respondents noted:

“Crematoria fees often differ dependent on the day and, in some cases, the time of the service. A standard cremation service charge should make clear during which hours of operation it applies, any uplifts that apply to weekend services and what is included in the fee, for example, use of music systems.”

One private provider also stressed that many families most welcomed time at the crematorium to grieve without interruption and that guidance on appropriate/sufficient time should be built into the standard definition:

“We would therefore suggest that the guidance could support consumers by... encouraging crematoria operators to provide clarity on the length of slot offered.”

Two other private providers endorsed this view and suggested that crematoriums should also include details of the length of time allowed for a service and any additional charges for extra time or for a ‘double-time slot’, making it clear that the allotted service time includes entering and exiting the chapel/service room and, as such, the actual length of service may be reduced accordingly.

Other Elements to Include

Other comments made by just one respondent each included that:

- in Asian tradition, the standard service should include bathing and the putting on of a new set of clothes a day or two before cremation;
- greater clarity was required around if standard services and fees include transportation of the body to the crematorium;
- no container is needed in cases where ashes are scattered at the crematorium, and thus, if a container for ashes is included in the standard cremation service charge, it should be clear how the price is reduced where no container is required³;

³ The same respondent urged that, where ashes are to be handed back to a funeral director or family, the ashes should be in a suitable container within a card and paper bag because some people found the use of plastic bags distressing.

- it should include an environmental protection fee (separate to the mercury abatement fee);
- return of ashes, where applicable, be included at no extra charge;
- ashes could be scattered or stored (for up to one month);
- if the consumer wishes to have the ashes back, the funeral director will arrange to collect them from the crematorium and make them available for collection by the family from the funeral home at an agreed time (or the family may choose to collect them directly from the crematorium if they wish);
- a means of standardising or making clear the differences in memorialisation provision prices;
- extra charges may be in place for removing pacemakers, recycling costs/gains of titanium hips, gold teeth, etc. which are 'non-standard'; and
- there should be no fee for cremations of new born deaths, as standard.

Similarly, where charged, one organisation suggested that additional fees needed to be clearly set out, including:

- any additional charge that applies in relation to an international cremation certificate;
- any additional overnight 'holding over' fees;
- if no container for ashes is provided free of charge, the price charged for a container;
- pricing information for visual tributes (this is something that is often overlooked until after a decision has been made, it was suggested. In some areas it can even be more cost effective to have the cremation at one crematorium but to scatter ashes at another); and
- any environmental levies or other unavoidable charges

While there were no other specific suggestions for inclusions/edits, some more general comments were received that the definition was too vague in the draft and that something that allowed people to see individual costs being itemised so that they could select relevant service items and aggregate them into their own 'package' would be preferable. For example, a list of services and costs for an unwitnessed cremation, and a list of services and costs for a witnessed cremation, etc. This would make even clearer what could be purchased from different providers and at what cost, and would ensure that cremation authorities justify their fees in a like-for-like fashion. Similar provisions or guidance should also be in place for burial services, it was suggested (although this was covered later in the consultation).

One organisation suggested that the guidance could specifically list those services that are **not** included, as standard:

"This would make it clear to the consumer that all other services - such as provision of music, webcasting, dispersal of ashes or the purchase of an urn - are optional costs."

The Scottish Government was also asked to encourage crematoria operators to label clearly optional services as non-compulsory, while also making it easy for consumers to add such services on to the standard package. Such a system would enable consumers to build a bespoke package, which meets their individual needs, without paying for services that they do not require, it was felt.

One organisation noted that the proposed standard cremation service definition was acceptable, subject to the various components being further explained in the glossary of terms, as appropriate. Another requested that it be reviewed regularly and in conjunction with the public and key stakeholders, including those delivering services.

Although not specifically answering the question, another commented that they had concerns more generally that the definition of 'direct cremation' needed to be revised to ensure that it was not presented as an inferior option and also that, for some, it may be a more appropriate service option, in terms of being more relaxed or personal:

"It feels important to describe direct cremation (or direct or simple committal) in a positive and non-judgmental way and to fully explain that it is still perfectly possible to hold a memorial service that might follow traditional rituals without a body present. The Church of Scotland does this. It may also be useful to explain more fully that a direct cremation can give people more time to plan a more personal celebration of life ceremony."

The key thing was to make clear that direct cremation separated the memorial service from the disposal of the body and would be attended only by funeral director staff and crematorium staff, it seems. A suggested definition was put forward, as follows:

"...this is where the disposal of the body is separate from any memorial service or ceremony organised by family or friends. No mourners are present at the crematorium for the simple committal, only the funeral director staff and crematorium staff. Some funeral directors may be able to speak some words or read a brief poem on the family's behalf if this is desirable."

Finally, one respondent indicated that they did not think that consumers cared about the detail of what was provided in practice, and that the final total bill was the main concern. It was suggested that costs were increasing year on year, disproportionately to the actual costs of providing cremation services and this was potentially damaging consumer confidence in private and public authorities. This was, however, a lone view.

Overall, respondents seemed to welcome the draft guidance in defining standard cremation services but felt that it should be subject to the above adjustments. They noted that this would assist consumers in their funeral choices, and allow for greater transparency and consistency in cremation service provision and practice.

Definition of a Simple Funeral

Recognising that there has historically been some variation in what is offered by different funeral directors as part of a 'simple funeral', the draft guidance set out a standard definition of a simple funeral which was developed with input from appropriate stakeholders. The aim of having a single shared definition is to allow consumers to make more accurate comparisons between service providers (i.e. similar to those selecting a standard cremation, discussed above).

Necessary Elements

The proposed simple funeral definition set out in the draft guidance includes:

- the funeral director's services;
- attending to the necessary arrangements, such as completion of necessary certification, taking instructions and providing guidance on registration and legally-required procedures;
- provision of the necessary staff for care of the deceased and support for the bereaved;
- provision of an appropriate and robust lined coffin suitable for burial or cremation;
- transportation of the deceased person from the place of death during normal working hours (normally within ten miles but taking into account local circumstances);
- appropriate arrangements for the uplift of the deceased and care of the deceased person prior to the funeral, in appropriate facilities;
- viewing of the deceased person, by appointment;
- provision of a hearse or other appropriate vehicle direct to the nearest crematorium or cemetery at a date and time agreed with the funeral director and clearly described to the client;
- the opportunity to hold a service at the cemetery or crematorium; and
- if burial is specified (where this is available locally) this may involve an additional charge.

The definition does not include embalming, provision of a limousine or any third party fees or disbursements payable on the client's behalf (such as lair fees, interment fees and cremation fees, etc.).

Q7. Do you think that the simple funeral service definition set out in the draft guidance captures all of the necessary elements?

	Number	Percentage
Yes	24	49%
No	20	41%
Don't know	3	6%
No response	2	4%
Total	49	100%

Just under half of all respondents said that they felt that the definition set out in the draft guidance captured all necessary elements. Almost an equal number said that it did not, and a small number were unsure. This question arguably presented the clearest split in opinion across the consultation and generated a significant volume of feedback.

Q8. If not, please provide suggestions for items that you think should be added or removed.

Among those who were not content with the definition, the main concerns were that there remained some ambiguity for service descriptions which may result in some elements still being differently interpreted by service providers, and the bereaved alike. For example, use of the terms 'necessary staff', or 'necessary arrangements'. These were subjective and so could lend themselves to different services still being delivered under the single 'simple funeral' definition, it was suggested. Terms such as 'uplift' may also need to be more clearly explained and one respondent also noted that the inclusion of additional costs for burial was unclear, as it did not specify exactly why this may incur additional costs.

Two organisations also commented that the definition may be unnecessary given that a legislated definition of a 'normal funeral' already exists in Westminster Statute, i.e. the Social Fund Maternity and Funeral Expenses (General) Regulations 1987. Others said that they operated using the definition of a 'simple funeral' set out in the National Association of Funeral Directors (NAFD) Code of Practice (although now removed), and felt that this was adequate⁴.

⁴ Importantly, one organisation stressed that this definition was no longer in use and had been removed from the NAFD Code of Practice because of various limitations, similar to those expressed in relation to the proposed definition, e.g. potential discrimination against religious and faith groups, stigma/risk of causing offence to families, problems with interpretation, etc.

Some respondents representing those in the industry also commented that, while they supported a unified simple funeral description, the definition seemed premature as the statutory code of practice was, as yet, unpublished. The code may make several of the included elements superfluous or add extra as yet unrecognised elements, it was suggested:

“We can comment that at present the proposed list, whilst honourable and acceptable may not be sustainable under the continued presence of this very guidance. The act of caring, washing, preparing, dressing and coffining a decedent has an intrinsic skill and value, to date ignored by this draft guidance. There is much more work to be completed before this element can be properly drafted and we recommend its removal until at least the statutory code of practice has been finalised.”

Consequently, there were some respondents who were unprepared to provide a response to this consultation question at present.

Transportation

Among those who provided specific comments, one area that caused particular concern was the transportation of the deceased person from the place of death during normal working hours (normally within ten miles but taking into account local circumstances). It was highlighted that, in some more rural areas, this may be problematic and more robust wording was required around the transportation of deceased in remote communities to take account of regions where the place of death routinely exceeds 10 miles. The current wording *“taking into account local circumstances”* was too vague, it was suggested.

One respondent also commented that the definition should make clear that transportation of the deceased from the place of death should be in a suitable hearse, estate car or private ambulance, which is appropriately licensed, insured and maintained (i.e. adding greater clarity to the definition proposed). Others questioned if provision of a ‘family car’ to transport family members to funeral services should also be included routinely. This would apply to a large number of people living in households without access to a vehicle, and was especially important for those living in poverty in rural areas. The definition should again stipulate that this should be appropriately licensed, insured and maintained, it was felt.

One respondent suggested that a bereaved family should not be excluded from accessing the simple funeral by virtue of the fact that their relative died outside normal working hours, and so suggested removal of that restriction. Another also indicated that the funeral package should accommodate collection of the deceased at any time of day or night, as required (and not be constrained by working hours).

Viewing of the Body, Including Timings

Some organisations commented that they specifically welcomed the inclusion of viewing of the body as part of the standard service, however, there were some concerns that non-standard viewings (out of hours) may incur additional costs and the right to charge for this must be sustained:

“While supportive of the bereaved having the option of viewing the deceased, [organisation] also notes that the costs attached to such a service - which can include additional treatment and dressing of the body, the opening of premises after hours, and staff overtime - can be higher than consumers would expect. Considering this, [organisation] believes that the cost of a viewing should be transparent to the consumer and, while the service should be part of the simple funeral package, it should remain optional to the consumer.”

Indeed, some comments were also raised in relation to any services provided outside of normal working hours, with a view that requests for ‘standard’ elements may rightfully and legitimately incur additional charges, and so be accepted as such. For example, viewing of the body as part of the standard package was acceptable, but not if viewing was requested at anti-social hours. One organisation commented that including ‘out of hours viewing’ as part of the definition of what is not included in a simple definition may help to reinforce this point.

One respondent commented specifically that viewing should always be offered and so agreed that this be included in the simple definition, but advised that funeral directors must use sensitivity and discretion to ensure that customers are always aware of what this may entail, and how the body may appear. It was important, respondents noted, that although offered as part of the simple package, the choice to view the body should always remain optional.

Celebrants and Services

There was some disagreement about whether a separate church or other service should be included within the simple funeral service definition, given that restricting services to only those at the cemetery or crematorium may reduce costs.

One organisation commented that, while they agreed that the proposed definition included *“the opportunity to hold a service at the cemetery or crematoria”*, it may also be necessary to set out explicitly that this would not include an officiant and that ‘service officiant’ be added to the list of what is not included, for the avoidance of doubt. The same organisation also suggested that, where additional items are opted for by a consumer, these should be clearly itemised and separately costed on any quote provided:

“...where consumers choose to modify or upgrade a simple funeral package, the written estimate provided to the consumer should distinguish clearly between those services that are set as part of the simple funeral package and those

services that are additional. This will help consumers understand the cost implications of any changes they wish to make.”

Support for Bereaved

Another area of perceived ambiguity within the definition was “*support for the bereaved*”. This could encompass a wide range of different service approaches and standards, it was suggested, and so needed to be more precisely defined:

“Many funeral directors take pride in the support they offer bereaved families, however, the levels of support and the methods of delivery differ from business to business. Often, funeral directors thread this support through all that they do, in their everyday interactions with families, and deliver this support in such a way that it is difficult to quantify in a service description.”

The same organisation noted that services varied greatly in this regard and while some funeral directors may offer only limited in-house support from trained staff, many others will signpost the bereaved to appropriate external counseling and support services. A better understanding of the different practices that exists in this regard may need to be captured by the Scottish Government and reflected in the guidance, to ensure some parity across the field, it was suggested.

Additional Elements

Suggestions for specific additional items which should be covered by the proposed definition, or changes to extend the current definition (each put forward by only one respondent only), included:

- bathing of the deceased (similar to the point made for standard cremations above, it was noted that the standard service should include bathing and the putting on of a new set of clothes a day or two before cremation, to accommodate the requirements set out by particular religions);
- storage of the body in climate-controlled mortuary facilities;
- the provision of an environmentally friendly option for a coffin (e.g. wicker or cardboard)⁵;
- the provision of pall bearers (unless the family wish to bear the coffin);
- that the body of the deceased person must be stored in a refrigerated area or cold room in accordance with the relevant specifications (e.g. Health & Safety Executive, Environmental Health, industry guidance);
- that religious wishes are catered for, for example, the opportunity to hold a service at the cemetery, crematorium or place of worship, including attending to the necessary arrangements, and contacting local faith groups where appropriate; and

⁵ One respondent specifically highlighted that green burials for those who do not wish traditional funerals, or who wish personal family involvement are not mentioned in the guidance and the government needed to ensure it covered the wishes and preferences of all members of the public.

- explanation of who would be liable to pay third party fees (including the purchase of ground and lair fees, interment fees and cremation fees) if the client is unable to afford it (with a specific request that it be made clear that funeral directors should not have to carry this cost).

Two respondents also suggested that that the deceased person should be dressed appropriately in a gown or shroud or clothing provided by the family and that the definition should include this.

Others suggested that ‘additional’ or ‘optional’ items should be for individual funeral directors to offer at their own discretion, and without constraint and the guidance should actively promote the wide range of products and services available.

One respondent indicated that they did not feel that clients should have to pay more for a simple burial if burial was specified, and so felt that this should be removed from the definition. Another indicated that they were unsure why an additional charge for this service element would be required.

There was also some disagreement around whether embalming should or should not be included in the definition. While one individual expressed a view that it should be included, several organisations welcomed the fact that it was not. One stressed that it is specifically prohibited in cases of infectious disease and where natural burial is proposed and so would not be appropriate as standard.

Other Comments on the Definition

On a more general note, some suggested that the definition was repetitive in places and could be better structured, to separate out services provided by the funeral director (i.e. transportation and handling of the body) and other costs (i.e. provision of a coffin, provision of a hearse, and local authority or crematorium fees, etc.):

“This would help make the actual cost more easily understood and may also align the layout and understanding to that of a social (National Assistance Funeral) interment undertaken by a local authority.”

Other organisations indicated that, while they welcomed the definition of a ‘simple funeral’ to allow consistency and comparability across the sector, they felt it was important that funeral directors should not be mandated to provide a pre-set low-cost funeral package.

On a related note, several organisations noted that cultural and religious variations may mean that a ‘simple funeral’ is not appropriate or applicable to some customers and so the optional provision of a ‘simple funeral must be at the discretion of each funeral business (with the facility to adapt or refine it to include other faith groups, as appropriate). This should be clearly stated in any guidance from the Scottish Government, it was suggested.

Another organisation noted that the draft guidance for funeral directors could be modified to explain that, while funeral directors may allow modifications to the simple funeral, in doing so, they must clearly note this to the consumer and provide clear and transparent pricing in that regard, i.e. *“Any available amends should be clearly defined, including the cost implication.”*

One respondent again suggested that the term ‘simple funeral’ may be viewed by some to be derogatory and that the term ‘standard funeral’ (similar to ‘standard cremation’) may be more appropriate⁶.

Although not answering the question directly, another respondent suggested that a clear definition of a ‘direct’ funeral may also be needed within the guidance and they provided an example of what this may include and not include. Providing clarity around a direct funeral was needed, they felt, to ensure that the deceased was appropriately cared for in such cases (i.e. *“the absolute need to bring the deceased into the care of the funeral director, in appropriate facilities.”*)

Finally, although again not answering the question directly, one third sector advice organisation welcomed the acknowledgement in the consultation paper that consumer enquiries around funeral costs and what they entail is currently limited, and so welcomed a clear definition which may encourage people to attempt to get quotes from more than one funeral director, and to compare like with like when assessing which providers offer best value for money. The same organisation also commented that they were pleased to see that the costs of any additional aspects or alternations to a simple funeral be should be proportionate to the request - these should also be made clear to the consumer, it was stressed.

One individual suggested that the definition was bureaucratic and unnecessary as it did not contribute to reducing actual costs in any way. An alternative would be to present advice on the legal minimum cost to process a funeral, it was suggested:

“Many people either in grief, a lack of confidence, poverty or understanding of the legal requirements may be agreeing to funeral plans based on misinformation or an assumption that certain costs must be applied to funerals when in fact there is a process which can accommodate a less costly process which people are not fully informed of at point of contact with public servants or private companies.”

Presenting the basic legal costs would, perhaps, remove or reduce some perceptions among the wider public that private and statutory providers were focused only on profit, it was suggested. Again, this was a lone view.

Overall, there was a mix in responses to this question, but a shared sense that greater clarity was required and that the current definition was not ready to be operationalised.

⁶ One organisation suggested that the definition would be better located in the glossary of terms, rather than in the main guidance.

Transparency of Pricing at the Point of Sale

At the heart of the funeral costs draft guidance is ensuring that consumers are aware of the full array of cost options when arranging a funeral, to ensure that decisions are as informed as possible.

Key to this is ensuring that people are made aware of lower-cost options, where these are available, to negate the need for people to have to proactively ask about lower-cost options. Highlighting the availability of lower-cost options could help to reduce the stigma or guilt that some people arranging a funeral may feel about asking for lower-cost funeral options where they may have limited money available to pay for the funeral.

The draft guidance includes a measure suggesting that funeral directors should ensure that, where appropriate, the full range of price options available is presented for each purchasing decision, as well as confirming, in writing, what is included in each element of the funeral. Specifically, the draft guidance encourages funeral directors to provide written confirmation of costs in the form of both a written estimate and in a detailed itemised final account (including a breakdown of fees received directly by the funeral director and those paid onwardly to a third party, on the client's behalf).

Care of the Deceased

As part of achieving transparency in the costs of funerals, the consultation specifically sought views on whether funeral directors should describe their processes for 'care of the deceased' i.e. the way in which bodies are cared for by funeral directors in the period between uplift of the body and the burial or cremation taking place.

Q9. 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?

	Number	Percentage
Yes	39	80%
No	5	10%
Don't know	1	2%
No response	4	8%
Total	49	100%

The majority of respondents who answered this question agreed with the proposed measure. Only five did not agree and one respondent was undecided. The remainder did not answer the question.

Q10. Please explain your answer.

Transparency and Sensitivity

Several respondents supported this measure on the basis that it would allow families to make more informed decisions as well as negating the need for families to proactively ask what the process entailed (which could be emotionally challenging):

“Consumers should be given the opportunity to understand the service they are paying for and, while they may not always understand all the technical details, provision of this information will increase transparency for consumers.”

It was generally perceived that this measure would also break down some of the barriers that may exist for consumers who are unsure about what they should/should not ask of service providers (i.e. being “afraid to ask”):

“Arranging a funeral is a very infrequent task for most members of the public, and therefore their understanding of the process can be strengthened through provision of such guidance. People might not want to ask undertakers as they would be unsure and also in a very emotional state and would not be able to understand the discussions taking place. With this additional help, people could choose which type of care they would like and could afford.”

This also aligned with earlier views that a full breakdown of professional fees should be available to everyone to ensure transparency, ensure that care of the deceased is not compromised and standards are maintained and are clear to users. Explaining why each service may be deemed necessary was also encouraged to empower families in making their choices and ensure that they were not exclusively focused on price, it was felt:

“Consumers cannot currently make a meaningful comparison of services as they are not able to effectively assess non-price factors, such as care of the deceased.”

Again, it was considered important that the language used by funeral directors to convey this information was clear, sensitive and appropriate. This measure was seen as a simple continuation of the transparency of language used, as discussed earlier in the consultation:

“It is important that consumers have the option of being informed regarding the care of the deceased. This should be done in a language which is both

understandable and sensitive. This provides reassurance that their loved one is being treated with dignity and respect.”

Importantly, transparency should not compromise sensitivity, it was suggested, and the Scottish Government could consider guidance around how information is conveyed:

“...while funeral directors should always inform consumers that a full description of care processes is available, the Scottish Government should consider carefully the terminology used in the descriptions and the methods of administering such information.”

Individuals commented, based on personal experience of arranging funerals, that they had found understanding of what was involved in care of the deceased, and how this varied between providers to be very confusing. Another individual also commented that they had found this complex and had not understood that some services that they paid for could have been offered free of charge by the local authority. One local authority echoed that a lack of awareness often resulted in secondary distress for families and could be avoided by this measure:

“Good quality information and advice are essential to enable people to access services and make informed decisions. The need for a better understanding of associated costs by the public would be a benefit to both funeral directors and consumers in clarifying the processes of care being provided. Experience from front line advisers supporting clients highlight a lack of understanding of some associated costs for services offered by funeral directors, in some instances an absence of awareness of where to get help and support and people being mis-informed by friends and family.”

On a more general note of support, one organisation welcomed the guidance in the absence of any current regulations around care of the deceased. An increase in competition in the market, and competition between funeral directors had, they perceived, led to an inconsistent quality of care for the deceased across the country:

“The level of care provided by a funeral director is important to clients. However, differing care and quality standards are often not clear to clients who take at face value the quality of service and standard of care in a trusted profession. We therefore welcome measures which provide greater transparency on the standards of care of the deceased.”

Strengthening the Measure

Some suggestions were put forward to strengthen the measure even more, including funeral directors specifying daily rates for keeping/caring for a body, clearly specifying refrigeration practices/capacity, and setting out how regularly bodies were checked (with daily checking being considered by one respondent to

be the appropriate level of care⁷). As with earlier comments in the consultation, clarity around embalming and hygienic cleaning was emphasised, to make these particular processes more understandable to consumers.

One organisation suggested that the introduction of a 'quality ranking' for funeral directors specifically linked to care of the deceased may assist consumers further in comparing what different providers may offer (e.g. similar to Ofsted rankings for schools):

"In general, quality ratings are more likely to be effective in assisting clients' decision making where there is a variance in the results. Therefore, we recommend that funeral directors are assessed against stringent, meaningful requirements, and are rated accordingly. Such a rating will assist clients in choosing high quality services, and will therefore encourage greater competition over quality of service."

On a related note, one funeral service provider commented that there is often a misconception that *"the cheaper the funeral the worse the standard of care"*. This was something that they challenged and suggested that direct funerals or cremations can often provide a more suitable solution for some families. One organisation that supported proposals for funeral directors to provide consumers with a description of their processes for care of the deceased also recommended that this could include a description of the support offered to the bereaved:

"...the quality of care offered by the funeral director, the time funeral director spends with the bereaved, the ease with which the service is assembled, the funeral director's ability to meet specific religious, cultural or geographical requirements, and the care that is taken to honour the memory of the deceased will contribute to consumer satisfaction, above and beyond costs."

Reasons for Lack of Support

Among those who did not agree, the reasons given were that this may be too much information for a family to take on board at what is already a difficult or challenging time. Three separate respondents proposed that information could be offered to individuals only if they wanted it, i.e. on an optional basis⁸:

"...I think that this detailed information should be optional - you could give families the choice as to whether they want more detailed information or whether they are happy with a broad overview. Some people may not feel psychologically

⁷ The same organisation noted that they believed this provision was also likely to be part of the new statutory code of practice, when published.

⁸ This was a minority view, with most considering the mandatory provision of information as standard to be a welcomed measure.

strong enough to deal with the processes of a preparation of a body etc. at that time.”

“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.”

Another disagreed on the basis that essential care should always be included in the standard funeral. Only where the family opt for a direct cremation or a family centred funeral would care of the deceased possibly differ. In encouraging funeral directors to describe their processes of care in more detail, there may be a risk of them selling additional unnecessary higher standards of care, it was suggested. Indeed, one not-for profit organisation expressed shock that the consultation mentioned that some funeral directors had expressed concern that a focus on making funerals more affordable could lead to less investment in mortuary/refrigeration facilities, and stressed that this topic should not be avoided:

“Of course, a dignified and careful approach should be taken in raising the options of cheaper funerals; however, any suggestion that this topic should be avoided completely in fear of offending is simply a reflection of funeral directors without sufficient experience broaching such discussions carefully, and who would personally profit from people opting into higher cost funerals. Their views should not be given high weighting in light of these vested interests they hold.”

One respondent noted that they considered it incumbent on funeral directors to always fully explain what the consumer is paying for and that this was a basic consumer right.

Some private providers disagreed on the basis that the minimum standard for the care of the deceased was to be included in the forthcoming Code of Practice. Given that this will be subject to inspection and scrutiny by the Inspector of Funerals, reference to this minimum standard in the code should be sufficient, they suggested (and one commented specifically that it should therefore be removed from the guidance).

Finally, one respondent echoed comments from earlier in the consultation that ‘low cost’ options should not be labelled as such, as this was stigmatising and may put some people off choosing such services as they feel they are “scrimping” on their loved ones. The costs of care of the deceased, whether included as part of the standard (essential) or additional (optional) service, should be clearly set out and explained.

Overall, the proactive nature of this measure was welcomed, and was seen as alleviating uncertainty and associated stress for families, by most respondents.

Not Using the Services of a Funeral Director

There is no legal requirement for people to use a funeral director to arrange a funeral and, therefore, bereaved people will sometimes choose to arrange a funeral themselves, without using the services of an independent provider. This means that many of the actions usually carried out by the funeral director will need to be undertaken directly by the family, or another delegated person (including, for example, liaising with burial and cremation authorities, preparing the body for cremation or burial, suitable transport, handling and storage of the body, etc.).

Reasonable Efforts to Accommodate Wishes

To reduce barriers to families arranging a funeral themselves, and to maximise consumer choice, the draft guidance recommends that if someone wishes to arrange a cremation or burial without using the services of a funeral director, then burial and cremation authorities should make reasonable efforts to accommodate the person's wishes.

Q11. 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?

	Number	Percentage
Yes	42	86%
No	5	10%
No response	2	4%
Total	49	100%

The majority of those who answered this question agreed that this provision should be included in the guidance and only five did not.

Q12. Please explain your answer.

Widening Choice and a Personal Approach

Among the individuals who supported the proposal, the main sentiments were that this would allow people to opt for a burial or cremation that was more relaxed and less formal, would allow people to plan funerals in a way that best suits their needs and wishes, would be particularly helpful for those living in poverty and that it would allow people to choose from the fullest range of different options possible:

“As the arrangement of a funeral can form an important element of the relationship the bereaved have with the deceased, the choice of ‘disposal’ must reflect the bereaved wishes. This must include the capacity and assistance to arrange the service without using the services of a funeral director.”

Some individuals commented that they wished they had been aware of this option before employing a funeral director. They considered that their own experience had been costlier than expected and that this may have been avoided had they been aware of this option (indeed, several respondents highlighted that there may be a public assumption that use of a funeral director was mandatory). Other individuals and organisations suggested that they welcomed this guidance because a family run funeral was more personal, they felt, and making it clear to people that their friends, family, colleagues, etc. could take responsibility instead of a funeral director may provide some with additional comfort:

“This is the best thing that a family can do for one of their own. Mortuaries should be encouraged to help families prepare the body and place it into a coffin or shroud ready for onward transportation to a place of rest or cremation. By doing so they make the seemingly impossible very achievable and the cost benefits and reward that the family achieves at each stage they fulfil is immensely salutary.”

Several supported the proposal on the basis that they had direct experience of advising families on how to proceed with a funeral without using the services of a funeral director, with no negative consequences. Alerting people to this option, was therefore seen as being non-problematic:

“We have experienced several families who have arranged their own funerals, both in the cemeteries and at the crematorium. They were done successfully, respectfully and at a much reduced cost. However, it is widely acknowledged that many families will not want to take on this responsibility, but information and advice should be widely available.”

Indeed, local authorities who responded commented that they were happy to do this and felt well equipped to do so, as well as viewing it as an important public service (where required):

“The purpose of any funeral provision should be to ensure the deceased receives a dignified burial. Those responsible for organising a funeral and who require additional financial support to meet the costs of a funeral due to low income need to know that there is a reliable and effective system available as and when required regardless if a funeral director is used or not.”

One local authority confirmed that they already actively advertised this service offering, both online and in their premises. One individual also commented that such funerals should be recommended as hands on and as ‘alternative’ options

rather than 'cheap' options. The promotional language was fundamental, they stressed.

Seeking Partial and Wider Support

One organisation suggested it would be desirable if families could employ only very limited services of a funeral director, to assist with the practical elements of care of the deceased, especially storage of the body prior to a funeral or cremation taking place, which is often the most challenging area of arranging funerals without a funeral director. Indeed, one private provider noted that this is already provided by some:

“There are already organisations that can support people to keep the body at home (or have it returned home) for several days after death, prior to calling a funeral director. This allows people to have their own rituals, and tending of the deceased in this way can be an important part of people’s grieving process. While once commonplace, it is now less so, and indeed there can be something of a disconnect and detachment if one follows the traditional funeral route.”

Making available a list of funeral directors or other organisations who could assist with this part of the service provision (without requiring any additional purchase of services) would enable families to carry out the bulk of the funeral service without any further assistance, it was suggested, and widen the choice even further.

Others suggested that strengthening of existing supports or the creation of a network of support organisations (religious and non-religious) who could assist families with organising a funeral without a funeral director would also be welcomed and would strengthen this provision:

“Families can be dissuaded from opting to organise the funeral themselves - if there was a support network or advice available relating to what is involved then this could make it easier for families to pursue.”

In particular, places of worship were suggested by one organisation as being in a position to provide support in this area, and to signpost people to relevant organisations who may be able to offer help and advice with planning a funeral without the use of a funeral director. Including such organisations in the guidance would complement what was being proposed for cremation and burial authorities, it was felt.

Similarly, one private provider who supported the proposal indicated that they would also be willing to assist cremation authorities struggling to enable direct use of their facilities. This collegiate approach was in the best interests of all, it was suggested.

Caveats to Support

Several organisations supported the draft guidance in principle, but caveated their support. One suggested that, while they agreed that the draft guidance would empower local authorities to provide impartial information to persons who do not want to use the services of a funeral director, they would not support provisions that proactively encourage local authorities to duplicate the services of funeral directors. The same organisation warned that there may be some public misunderstanding, specifically around body decomposition after death, which would need to be carefully managed by authorities in offering guidance to families wishing to proceed without a funeral director:

“...where a person indicates that they wish to care for the deceased themselves, the local authority should provide them with the information, both on the legal obligations that must be followed and on the process of body decomposition after death, to prepare them, both practically and emotionally, for the task ahead.”

Failure to adequately prepare families for what to expect if they opt not to employ a funeral director could lead to additional distress, it was highlighted.

Similarly, comments were made that, while they supported this proposal, authorities would need to ensure that they were adequately prepared to offer the support being proposed, including, for example, ensuring that they had adequate stock of coffins (of different standards, including eco coffins), suitable vehicles for transporting bodies, and suitable containers where a body arrives at a cemetery or crematorium stored in a deficient container. Indeed, one authority that supported the position to broaden consumer choice, in general, commented that burial or cremation authorities may not always be in a position to accommodate direct services:

“We cannot, for example, supply coffins or vehicles for the transfer of the deceased. Funeral directors are experienced in making funeral arrangements and navigating the complex paperwork and arrangements necessary to make a funeral run smoothly. We would, however, make reasonable effort to support the wishes of a person who did not want to use a funeral director, where they have demonstrated their ability to make the necessary arrangements independently.”

To ensure that such basic provisions were in place, local authorities may wish to come to a standing arrangement with a local funeral director to provide such services, in matters of last resort, it was suggested, and so careful thought would be required to how procurement arrangements might be administered. Specifically, in such a scenario, one organisation urged that the Scottish Government ensure that local, independent funeral directors have equal opportunity to bid for such contracts alongside national brands.

Also linked to financial concerns, one authority responded that they supported the proposal subject to such services being paid for either by the family of the deceased or by the Scottish Government. Indeed, one organisation responding on

behalf of local authorities stressed that they should not face additional burdens that cannot be accommodated within existing resources, and another suggested that there may, instead, be scope for a national agency which provides this type of advice remotely, as an alternative (although it was recognised that this type of non-funeral director service was unlikely to be taken up by a significant number of families).

If government funded, then the uptake of this service needed to be means tested, it was suggested, to take into account individual circumstances and the estate of the deceased including property, savings or other fund sources which are relevant to the deceased person. This would ensure protection of the most vulnerable and marginalised individuals, it was suggested, whilst still offering a choice where financial barriers were not the main concern.

One organisation also highlighted concerns that, if families were encouraged to make private arrangements, support may also be needed to assist them in completing the relevant paperwork and administration required:

“These are services that are quite correctly provided by funeral directors and, if cremation authorities were to spend time and resource providing them instead, the cost of doing so would inevitably be passed on to the public in the form of increased cremation fees.”

Others noted that burial and cremation authorities needed to be afforded discretion to guide families to contact a funeral director for assistance, if they felt that the individual was not in a position to care for the deceased in line with legal and regulatory requirements:

“Where an authority is in any doubt that an individual making arrangements themselves is either not capable of doing so or is doing so only to reduce costs and will not have a satisfactory experience, then they should require an adviser or funeral director supports the individual. This reflects that while we are in favour of self-arranged funerals and the limited use of direct cremations we are keenly aware that no-one should use these routes purely for economic reasons where this does not fit their values.”

One final caveat presented by one organisation was that, while they agreed that authorities should be supported to assist families requesting to carry out their own funerals, it may be important for them to try and establish if the wishes of the family to care for the deceased themselves was aligned to and reflected the wishes of the deceased.

Reasons for Lack of Support

Among those who did not agree, the main reasons were that there was too much potential for individuals to make mistakes without guidance from a funeral director (including not treating/preparing the body hygienically), that employing a funeral

director gives people the time needed to grieve (and this would be missing if they took on the work directly) and a suggestion that local councils should adopt responsibility in cases where families opted not to employ a funeral director (i.e. making it a public service). This latter view was expressed by only one respondent and, in the main, objections focused on a belief that care of the deceased would be too difficult for most individuals to handle.

Two organisations objected on the basis that there could be inherent risks if private arrangements became more common, since they perceived it would be impossible to monitor compliance with health and safety standards required (even if appropriate guidance were issued by authorities). For example, the construction of coffins may not be compliant or people may unintentionally cause hazard risks through such things as placing explosive items in coffins for cremation. Private arrangements may inadvertently present safety risks for both public and staff working at crematoriums, it was suggested. While these organisations believed intrinsically in the choice of the client, they suggested that before any guidance on the promotion of non-professionally arranged and delivered funerals are discussed, the unintended consequences of such issues required greater consideration.

Finally, a key suggestion for strengthening the draft guidance further was that a clearer, operational definition of 'reasonable efforts' be provided. This was mentioned by several respondents.

Understanding Local Authority Charges

Local authorities are a key partner for the Scottish Government in making affordable funeral options available and trying to tackle funeral poverty.

Historically, it has been noted that local authority burial and cremation charges vary between areas and the Funeral Costs Plan includes a commitment by COSLA to work with the Scottish Government to understand the reasons for variation in charges and look at whether the way this information is presented can be made more consistent. To bolster this, the draft guidance sets out specific recommendations for local authorities in four areas, namely:

- transparency of the charge setting process;
- desirability of ensuring that charges are affordable;
- publication of information about income and expenditure; and
- sharing of best practice.

Transparency of Charge Setting

In relation to transparency, the draft guidance specifically sets out that local authorities should consult the public when developing charging proposals as well as explaining the reasons for any proposed changes to charges in order to help the public understand the drivers behind the cost of these elements of a funeral.

Q13. Do you think these measures will help improve the transparency of, and public engagement with, the local authority charge setting process?

	Number	Percentage
Yes	33	68%
No	6	12%
Don't know	7	14%
No response	3	6%
Total	49	100%

Over two thirds of respondents agreed with this measure and only six said that they did not. Seven respondents said that they were unsure and just three did not answer the question.

Q14. Please explain your answer.

Increased Public Confidence

Almost all who supported the proposal did so on the basis that it was relevant to all and was necessary to maintain and increase public confidence, building on good practice already in the field. Indeed, it was noted that many local authorities already engage with the public on many areas of charge setting and that this was an accepted inherent part of their budget planning:

“Customer feedback is a powerful tool, not only for understanding customers’ experiences and satisfaction, but also for developing strategies to improve and re-shape those services. Councils already engage with the public as part of the annual budget setting process.”

Councils and others also noted that their processes for such engagement are already publicly available for scrutiny but that ensuring a consistency of approach across councils in this regard was welcomed (although may be difficult in practice).

Third sector advice and support organisations in particular welcomed this proposal on the basis that it was something their users had long requested, and that it would increase the overall level of transparency around funeral costs, if done correctly:

“Transparency is key when developing charging proposals, and local authorities should ensure that their consultation with the public goes beyond a tick box exercise, and strives to embody the principles of co-production when producing, or changing, the charge setting process.”

One funeral director noted that, although information is routinely made available on local authority websites around charges, this is not always accessible or comparable between areas and there remained some ambiguity for consumers:

“In our experience, we have found that local authorities have not actively notified the public about changes to their charging, only publishing the changes on their website which, as we have raised above, may not be accessible to all consumers. We sometimes become aware of the revised charges through word of mouth and communicate the charges to consumers as and when they come to arrange a funeral.”

While welcomed, therefore, the measure would work best in practice if it resulted in comparable outputs between areas, it was felt. Another respondent noted that clarification may also be needed around how the implications arising from the proposed guidance would link to the existing core statutory legislative instrument, and its fees sections.

One faith organisation suggested that, in addition to improving the transparency of, and public engagement with the local authority charge setting process, this proposal may also encourage more active dialogue around funerals in general, which they welcomed:

“Consulting with the public will also provide an opportunity for people to have direct conversations about paying for a funeral, and could go some way towards challenging the taboo our current culture has with discussing funeral costs. This will improve funeral literacy, and will go some way towards encouraging people to think about their own funeral plans.”

One third sector advice organisation suggested that specific organised groups (e.g. local groups, faith and belief groups, community councils and bereavement support charities) also be included in any consultation on charge setting, i.e. widening the consultation beyond the public alone. One funeral service provider similarly commented that, in addition to consulting with the public on developing charging proposals, local authorities should also consult with:

- industry bodies such as the National Association of Funeral Directors (NAFD) and the National Society of Allied Independent Funeral Directors (SAIF);
- Inspector of Funerals;
- consumer bodies such as Citizens Advice;
- local funeral directors;
- clergy; and
- care homes.

One private funeral provider also commented that the benefit to consumers from this proposal would be dependent on the reach and range of the public consultation undertaken (although others urged that local discretion should always be afforded on the consultation format adopted):

“In this process of consultation, local authorities should consider a range of ways to engage with the public, such as public meetings, and provide the opportunity for members of the public to provide a written response. Ideally, consultation with people with direct experience of poverty and disadvantage would be a central part of any consultation programme. This may require proactive outreach as part of the consultation process.”

A small number of individuals commented based on their own experience, that this additional transparency would be welcomed and may have assisted them in understanding costs that they had incurred⁹:

⁹ One individual specifically commented that differentiating charges to be applied in relation to children compared to adults would be particularly welcomed.

“I think that any charges need to be transparent so the bereaved know what they are paying for...I was told it was more expensive to bury my father on a Friday, but wasn't told why.”

One respondent indicated that the measure could be strengthened by encouraging local authorities to display information on average fees across Scotland alongside their own fees, with a justification given for any differences. Another suggested that it may also be necessary for local authorities to explain how they cover their costs in terms of income against expenditure. Two commented that, if local authorities require to subsidise cemeteries and crematoria, in particular, then this should be identified in any consultation and published charges.

One private funeral organisation also commented that the proposal could be strengthened by the Scottish Government, Audit Scotland, and the Association of Public Sector Excellence (APSE) putting in place protections to avoid local authorities falsely benchmarking their service fees against other providers.

Caveated Support

Among those who did not agree or who caveated their support (and who were responding mainly on behalf of local authorities) one suggested that, as long as local authorities could explain how they reach their charges, that should be sufficient while others noted that any additional public consultation measures may represent an unnecessary use of time and resources. Others still suggested that their consultation processes for charge setting were already robust, and so this was unnecessary (i.e. local authorities were already committed to this practice):

“It is vital that council's explain to stakeholders the basis of how budgets are set and the context in how decisions are taken, and seek feedback for consideration by elected members ahead of setting and agreeing council budgets, including any charging for services.”

Another indicated that information could already be made available, on request, and so the measure was not necessary. Two industry organisations commented more generally that, while they supported the idea in principle, the measure may be contestable:

“Local authorities are under pressure from all sides. Whether they need to consult more about these fees is moot. Some run at a loss. Some break even and many make a profit which is subsequently distributed elsewhere within budgets. All of these are political decisions which are completely outwith the remit of a trade association. However, we would say that greater transparency with an explanation why a local authority makes those choices is no bad thing.”

Both of these organisations also suggested that, if local authorities did decide to engage in a practice of a for profit service then those profits should be spent within the burial grounds or crematorium firstly, to preserve standards where possible:

“The long term and serious lack of investment in facilities and staffing for the maintenance and upkeep within many local authority burial grounds is an unspoken embarrassment for Scotland.”

One organisation suggested that this was simply too much information, and two individuals also commented that they perceived a commitment to undertake this type of activity was unlikely to result in any tangible outcomes. One of these respondents hinted that there was an inevitability that funeral costs were likely to continue to rise irrespective of public consultation and another noted that, although it may improve transparency, it was unlikely to change engagement:

“Fundamentally I think that people do not like to think about funerals unless they may have to plan one imminently. My view is that this is a cultural issue and that death is not something that is openly discussed enough - there are organisations working to change this but this will be a slow process.”

This view was also echoed by one organisation who noted that the public may not engage particularly fully, being scarred by past experiences of being consulted about their views which then may be disregarded. The same respondent suggested that it may require a campaign to alert people to the consultation, if launched. One other organisation suggested that people may not engage unless they considered the consultation directly relevant at the time:

“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 (i.e. when seeking to arrange a funeral), but otherwise may not be aware of how proposed changes would be likely to impact on them.”

Increased Public Understanding

The draft guidance for local authorities suggests that local authorities should publish information from their Local Financial Returns (LFRs) annually on their websites, showing income generated and expenditure incurred through the provision of burial and cremation services. Respondents were asked if this proposal was likely to help increase public understanding of the costs associated with local authorities' provision of these services.

Q15. Do you think that this would help increase public understanding of the costs associated with local authorities' provision of these services?

	Number	Percentage
Yes	31	63%
No	7	14%
Don't know	9	19%
No response	2	4%
Total	49	100%

While almost two thirds of respondents indicated that they felt the measure would increase public understanding, most of the remainder either did not agree or were unsure. Only two did not respond.

Q16. Please explain your answer.

The main reasons for agreement were, again, that any improvement to publicly available information would inevitably improve funeral cost understanding, especially around exactly what authorities must do to ensure that funerals and cremations are executed appropriately (and the costs incurred). It may also reduce any scepticism, resentment or misunderstanding of the local authority position:

“It should be in the public domain and be clear and easy to understand. Secrecy and lack of transparency merely serve to create distrust and confusion between the authorities and the public.”

Again, several respondents highlighted that, as this information was already available in most areas, the measure may not offer much additionality, but was welcomed as guidance for best practice nonetheless. Any measure which would enhance the information that was already available, or would make it more consistent, was particularly welcomed:

“Having this information readily available will allow communities to hold their local authorities accountable. This will also provide an opportunity for consistency between local authorities when it comes to charging proposals...Providing access to information on income generated through burial and cremation will ensure that this huge variation is challenged by local people, and will hopefully bring about more equity in this area.”

Consistency could be achieved by encouraging local authorities to publish contextual information to explain how figures had been calculated, it was suggested.

One respondent indicated that having the information monitored and published by a national organisation may make it more accessible:

“We believe that income generated and expenditure incurred through the provision of burial and cremation services should be monitored centrally and published. We believe that this would identify local authorities who are using burial and cremation services to fund shortfalls in local authority budgets, under pressure from reduced public funding.”

Reasons for Lack of Support

Those who did not agree, again, did so on the basis that the measure was bureaucratic, and not impactful in real terms. Some specifically felt that the LFRs alone were not the appropriate means for disseminating this information, and would not allow all of the costs incurred by local authorities to be displayed, as set out in the consultation paper itself (e.g. it would not include capital development and maintenance of grounds and buildings costs to be reflected).

A further perceived problem with relying on LFRs was that they were not comparable across authorities and may also be inconsistent across financial years, due to one-off expenditure, etc. This may make them confusing and unreliable for members of the public using them as a comparative tool, it was suggested:

“More transparency is a good thing. Local authorities explaining to their citizens about the real cost of service provision can only help educate the public. However, the accountancy reporting is also very varied and impossible to compare. Some profitable services are ‘lost’ within another loss-making budget which has a disingenuous feel to it, although it could simply be historical practice.”

“There are a large number of factors that will impact upon the income generated and expenditure for burial and cremation services, for example, size of authority, number of burials/cremations, different operating models, urban or rural authority, proximity to other authorities, whether grounds maintenance services are provided in-house or by another service or independent contractor, etc. Likewise, differing methods of financial accounting mean that the figures reported will not always be consistent. Therefore, while publishing financial information will increase public awareness of the costs associated with the services, it is unlikely to increase understanding due to the lack of comparability of information between authorities.”

Further consultation was needed on this proposal with both local authorities and with COSLA, it was suggested, including around whether LFRs should be more prescriptive and less open to interpretation.

Others again highlighted that this proposal added nothing to the existing situation and was likely to be superfluous, given that they perceived the main public requirement was for transparency of pricing only:

“Council Accounts are already published and customers also have the right to request via FOI for such information. It is unclear from the guidance as to what the aims and benefits would actually be from publishing such specific information especially as, to date, there has been very little interest in obtaining such specific information. The key information sought from customers is transparency of pricing only.”

Others echoed the view that this type of information was unlikely to be read by members of the public and would also not assist in providing clarity. One individual indicated that the public would be mainly interested in knowing that any profits made could be recovered, and another noted that profits would be the main area of interests for most (as well as knowing how these were redistributed):

“While some local authorities may operate their burial and cremation services at a loss or on a break-even basis, other authorities may generate a profit. Where local authorities generate profit, some may re-invest this profit in cemeteries and crematoria infrastructure, while others may use the profit generated to subsidise other local authority budgets. However, without mandatory publication of income generated and expenditure incurred by local authority burial and cremation services, it is not possible for members of the public to access such information. By mandating the publication of financial returns for local authority burial and cremation services, the Scottish Government would enhance transparency and promote better public scrutiny of how local authorities operate these vital public services.”

The same private sector respondent also urged that, where income generated has been used to fund other services, this information be included within the burial and cremation services local financial return.

One respondent questioned the equity of the proposal, given that private sector providers did not have to do the same. Another individual questioned the need for this given that some local authorities contained remote communities where choice in services would always necessarily be restricted and freedom around charges, fees and profitability would always inevitably be constrained. This view was echoed by a national funeral service provider:

“It is important for there to be transparency on income generated and expenditure incurred through the provision of burial and cremation services. However, we believe that such information may be of limited benefit to

consumers. This is because there are some areas of Scotland (and across the UK) that have limited access to crematoria (for example, the Highlands). This results in some very significant drive times (impacting on price) and capacity constraints, and means that for some areas, there is no real choice between crematoria and burial providers. As such, information on cost and income may be of little interest to consumers who have no real choice.”

Other more general comments included that this information should be made available in non-digitised formats, if possible, rather than “*digital by default*”, ensuring accessibility for all. Similarly, linking the information to other burials and cremations information on websites would make the information more visible, it was suggested.

Overall, it seems that, while some perceived this may be a measure that could help to increase public understanding of the costs associated with local authorities’ provision of these services, it could not be relied upon as the only method of increasing understanding.

Measures to Reduce Funeral Poverty

The Scottish Government's Funeral Costs Plan sets out 10 actions for tackling funeral poverty in Scotland, and includes local authorities as key partners in the process.

Recognising that funeral poverty cannot be tackled in isolation from wider social issues, the draft guidance includes measures to link burial and cremation charge setting to broader strategies and duties aimed at reducing poverty and inequality, such as the Child Poverty (Scotland) Act 2017 and, where appropriate, the new Fairer Scotland Duty as set out in Part 1 of the Equality Act 2010.

Charge Setting

The penultimate section of the consultation sought views on whether the guidance should encourage local authorities to link their burial and cremation charge setting to broader strategies and duties, in order to help tackle funeral poverty.

Q17. 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?

	Number	Percentage
Yes	31	63%
No	8	17%
Don't know	7	14%
No response	3	6%
Total	49	100%

Although the majority of respondents agreed with this proposal, just under a third said that they either did not or were undecided.

Q18. Please explain your answer.

Strengthening Existing Practice

Several respondents, when asked to explain their answer, simply noted that they welcomed the draft guidance in principle, as they viewed it essential that every effort be made possible to try and alleviate funeral poverty. The vulnerability of those living in poverty (especially young people) when faced with funeral costs was noted by many and support for this group, in any guise, was welcomed. Others commented more generally along the lines that all local authority strategies and

processes relating to poverty reduction should be integrated and managed to support communities and individuals wherever possible. A consistent and coordinated approach should also be encouraged, it was felt.

Some respondents pointed out that local authorities were already proactively engaged in introducing various different strategies and schemes to help alleviate funeral poverty and the guidance would simply strengthen action already underway:

“...we are already very involved in these strategic objectives focused on reducing poverty and are mindful of these objectives when setting our fees and charges.”

One already had specific anti-poverty strategies which included actions to reduce out-going costs and the poverty premium on low income households, and which were linked to national policy. Another covered this under their Equality and Poverty Impact Assessment procedures. Two respondents questioned if this guidance may, therefore, be redundant, especially given that the Fairer Scotland Duty already requires local authorities to give due regard to the needs of disadvantaged communities in resourcing and strategy decisions.

One organisation responding on behalf of local authorities stressed that they welcomed that the wording of this draft guidance was to ‘encourage’ rather than ‘direct’ local authorities to make links, i.e. was not overly prescriptive:

“...although addressing funeral poverty may not yet be a central element of many local authority and partnership poverty strategies, the need to advise and support low income bereaved families to help them manage their costs, identify and assess lower cost options is recognised as important. The guidance helpfully encourages rather than directs poverty related support.”

One charity again welcomed this draft guidance on the basis that there is disparity in funeral costs for burials and cremations across the country, with some people facing financial hardship on the basis of where they live. Following on from the Scottish Government’s action on funeral poverty, it was right for councils to also recognise this as an issue which they could help to address in their local community, it was suggested.

Some individuals with experience of arranging funerals also commented that this would be welcomed, as they had experienced financial challenges themselves in trying to make necessary funeral arrangements. They felt that better links between local authority guidance options may have been beneficial.

Other Comments

Although several reasons were put forward for not supporting this proposal, most seemed to be linked to wider issues around public authority support for funerals, rather than directly answering the question about linking broader strategies and duties. Indeed, several provided answers here which were perhaps more in line

with the subsequent consultation question and so their responses are presented in the section below.

In general, those responding on behalf of local authorities commented that making such links may place an undue administrative burden on local authorities and may place them in the difficult position of trying to reduce costs at the expense of reducing service standards, and this was something that they would not wish to see:

“We agree that funeral costs should be considered as part of local authorities’ broader strategies and duties aimed at reducing poverty, however, directly linking burial and cremation charge setting to these would be extremely difficult to manage. Most authorities will review burial and cremation charges within the context of annual budgeting and... increasing charges is often seen as preferable to reducing service standards.”

One local authority commented that linking commercial cremation charges and funeral costs to anti-poverty policies and strategies may be difficult *per se*.

One respondent noted that they did not fully understand this question, but suggested that they would prefer to see a national strategy in place to address this point, rather than local arrangements, as this may mean that support was available consistently across the country, i.e. *“no matter where you reside there would be support available”*.

One final respondent noted that, although they agreed with the proposal, they had little confidence that linked policies and practices would be implemented, in actuality.

Supporting Individuals

Again, recognising that the cost of funerals can be a significant burden for some families, the draft guidance also suggests that local authority strategies for poverty reduction should, where possible, include measures aimed at addressing funeral poverty. The draft guidance also encourages local authorities to put in place measures to assist those who may be struggling to pay for a funeral as well as to provide more general direct support, such as provision of advice to the public, or working with funeral directors to provide support to people who would struggle to pay for a funeral. The draft guidance in this respect is deliberately not overly prescriptive and allows room for local authorities to adapt or tailor their support practices to meet local circumstances and needs.

Q19. Do you think that local authorities should be encouraged to take actions to support individuals who are struggling with the costs of a funeral?

	Number	Percentage
Yes	40	82%
No	5	10%
Don't know	3	6%
No response	1	2%
Total	49	100%

The majority of respondents agreed with this proposed measure, and only five specifically said that they did not.

Q20. Please explain your answer.

As with other measures set out in the draft guidance, there were views that support was already offered by most local authorities, but that this guidance would help to strengthen and reinforce the need for this provision:

“Local authorities already provide support to low income families through direct services or through other providers. Principal areas of advice and support more specifically on funeral response would include signposting on making claims for funeral assistance grants, information on lower cost funeral options, but also on affordable and trust worthy credit options. Beyond this more needs to be done nationally and locally to help families plan for bereavement and funeral costs.”

It was pointed out that local authorities were already delivering significantly more public health or National Assistance Act funerals (which one respondent perceived was traditionally in cases where no next of kin could be identified but was also increasingly in cases where family/next of kin was unwilling or unable to pay). The forthcoming Funeral Expense Assistance would also reach a larger number of individuals living in poverty, and local authorities had already agreed to waive all fees for the burial and cremation of children aged 17 and under, it was noted. The actions within the current guidance would increase transparency and fairness of pricing and increase the visibility of lower cost funeral options to consumers to further contribute to increased affordability, it was felt. Despite this, it was acknowledged by some, that not enough was done at present to promote or encourage uptake and so the draft guidance was welcomed as a reminder for local authorities to be proactive in this regard.

In addition to offering general support in the form of advice, and practical support through Funeral Expense Assistance, some suggestions for other practical (including non-financial) ways in which local authorities could support those in need included:

- providing easily identifiable points of contact within the authority to receive requests for support (including helplines, etc.);
- producing written guidance around funeral costs locally;
- promoting and raising awareness of all relevant grants/available financial assistance (including displaying leaflets and information about available assistance in public spaces, such as local authority waiting rooms);
- offering repayment plans, payment of charges by installments, loans and direction to credit unions;
- setting a cap for an assisted funeral and allowing families a say in how they would spend it, e.g. shorter service and more flowers, no service at the crematorium but informal gathering elsewhere, etc.;
- continued provision of simple and direct funeral and cremation options;
- careful forward planning with the burial and cremation charge setting process;
- offering part payment for memorials; and
- sign-posting to wider care, support and advice organisations.

“Local Authorities and Social Security Scotland’s FEA Advisors also have an invaluable opportunity to act as a point for further support, and should be able to signpost people to services such as bereavement charities, and information and advice services...”

These forms of support were seen as particularly important for those who may not qualify for Funeral Expense Assistance¹⁰, but may still be experiencing financial and other challenges.

Another suggestion put forward by a few respondents was for local authorities to take a lead in encouraging individuals to better plan for funerals, to help avoid funeral poverty:

“We think that education and planning are one of the key solutions to funeral poverty. Breaking the taboo and talking about death enables consumers to plan their funeral, how they will pay for it and take the strain from their families. We believe that local authorities should also encourage the public to think about the death and their funeral wishes. Local authorities should provide information on options for paying for funerals. This may include credit unions, government support and, where planning in advance, funeral plans.”

¹⁰ One organisation disagreed with the proposal specifically on the basis that the FEA benefit should address this need, however, they agreed that local authorities could still play a valuable role in terms of offering information and directing people to sources of funding.

Long-term, cultural change towards better funeral planning was seen as an effective strategy in tackling funeral poverty.

Indeed, this approach was also promoted by one faith group who recommended that local authorities work with partners in the community (including those who have experienced funeral poverty) to help improve funeral literacy:

“This will include working together with community groups, schools and faith groups to conduct informative discussions on ways to pay for a funeral. This will ensure that fewer people end up with unexpected payments in future, and that they will perhaps be able to put some savings aside to ensure that their funeral is paid for.”

Breaking down barriers and challenging misconceptions was also seen as important, e.g. inaccurate beliefs that people needed to be a member of a church to qualify for a funeral service.

Caveats and Reasons for Lack of Support

The main perceived limitation with the proposed guidance was the lack of mention of additional resources being available to assist authorities working with bereaved families. Most agreed that one of the most impactful ways to support struggling families with the cost of funeral care was by alleviating financial pressure, as this helped them to maintain choice, so far as possible. As one funeral provider summarised:

“By providing financial support, public bodies can empower struggling families to have a choice over funeral arrangements in a way that reflects the wishes of the deceased and those closest to the deceased. This contrasts with public health funerals, where local government support often strips families of choice and may add to the sense that the bereaved have lost control...financial support is the best method of empowering families experiencing poverty and maximising their control over their own life.”

Despite this, most also acknowledged that funding was finite and that any public money used to assist bereaved families must be carefully monitored and fairly distributed:

“Whilst the aim of this is understood, the implications for resourcing both the systems for checking, administration and any subsidies would need to be identified and secured.”

“...unless funding is forthcoming from the Scottish Government, then such are the financial settlements for local authorities any financial assistance/cost absorption by local authorities is simply cost prohibitive.”

Some comments were also made that financial support should always be provided at a national rather than local level (i.e. the Scottish Government should assist

people of low incomes bury/cremate their loved ones, in the same way that they would support people who die with no family or finances), should be means tested and that government financial support should reflect real-terms uplift to both flat payments and other expenses, to ensure that it remains appropriate. Caution was also urged that local authorities needed to be mindful of the minority who may abuse the support system or wrongly exploit low cost options (e.g. *“families ask funeral directors for two invoices - one for a basic social fund funeral and a second separate, hidden invoice for the extras, which can often be lavish”*).

There was also some suggestion that the draft guidance in this regard was too vague and may duplicate existing legislation:

“Local Authorities already have a duty under the National Assistance Act to provide funerals to those who have no means to pay and/or have no-one who adopts responsibility for them. It is also the Scottish Government’s responsibility to take action and provide support at a national level so that everyone in Scotland is given the same support and treated equally. The ‘Draft additional guidance for Local Authorities’ does not provide any detailed guidance on exactly what support Local Authorities should provide. This advice and support requires to be specific and detailed to ensure there is an equal provision to all. If it is not, this may result in dubiety and complaints that the advice and support is not enough.”

Others also commented that they felt a collaborative, partnership approach was more suitable for providing support to those living in poverty and that it was not appropriate to place this duty solely on the shoulders of local authorities:

“Whilst support for individuals who are struggling with funeral costs is important, it could be addressed through a combination of nationally determined benefits, local authority and voluntary sector advice and information, and credit unions, rather than being left to local authorities.”

Again, respondents urged that it was important that national bodies, private sector providers, third sector organisations and communities (including faith groups) also be involved in providing support to ensure a holistic approach to eradicating funeral poverty. One stressed that this did not necessarily require ‘developing new solutions’, but rather re-thinking and re-energising support systems that are already in place.

One respondent suggested that the proposal was not proportionate and that the requirement should be only to provide support for the minority i.e. those most vulnerable to funeral poverty. Intervention needed to be more targeted, it was suggested. Similarly, although not directly answering the question, one respondent indicated that any support provided should be means tested. Others agreed that means testing more widely was essential in decisions around when financial support should be offered:

“The cost to the authority of providing the service must be the starting point in determining the charge for the service. Any means of reducing cost impacts on those in poverty needs to be clearly linked to the ability to assess the means of the deceased and their families, as funeral poverty is not an issue for a large sector of the population.”

A more individualised approach would also better reflect that poverty is not only incurred by funeral costs and that funeral poverty will have a greater profile in some areas than in others, it was posited.

Several who did not agree or who caveated their support for both local authority linking of strategies/duties and local authority action to support individuals objected on the basis that the proposals potentially muddled and complicated the financial picture, opening up the possibility of private companies being undercut by public sector subsidies:

“It’s important that any solutions that are developed do not distort the market, or limit competition by encouraging consumers to choose a particular type of funeral or provider.”

Specifically, respondents representing funeral directors commented that, whilst any improvement in the funeral affordability gap should be applauded, they perceived that the draft guidance was not treating public and private service providers equally. The option of lower cost, direct funerals or cremations should be offered as just one choice available to consumers, it was suggested, rather than being promoted by local authorities as the best option to avoid higher fees:

“Direct cremation should be a choice for an individual not a magic bullet to save money for the Local or State Governments.”

Respondents also noted that the guidance may inadvertently encourage local authorities to get involved in delivering a service that some may not be adept at or keen on providing.

National Assistance Act / Public Health Funerals

Where there is no next of kin or no funeral arrangements are being made, the National Assistance Act 1948 puts responsibility on the local authority to arrange the burial or cremation. A number of responses to this consultation discussed National Assistance Act funerals (also referred to in some consultation responses as public health funerals or social funerals).

Direct funding to support those living in poverty to pay for the funeral that was most appropriate to the family/circumstances was seen as a better alternative to encouraging public health funerals, as standard.

Others commented that there was currently inconsistency across local authorities with regard to what was included in a public health funeral e.g. some believe they

are entitled to have a service but are not entitled to receive the ashes back, some authorities may use unmarked, shared graves, etc.). Clarity and awareness raising around what consumers could rightfully expect from a public health funeral was needed, it was suggested.

On a related note, several respondents commented here, and throughout the consultation, that the notion of public health funerals being “paupers funerals” needed to be challenged. There was, they felt, a stigma attached to public health funerals at present which could cause some secondary distress to families in poverty who have no choice other than to pursue this route:

“Public funerals can be a help to a family who have no savings or money, but there is a stigma attached to what is still referred to as a ‘paupers funeral’. Again, there is often that pressure to do the ‘very best’ for the deceased.”

It is important to note that some funeral services provided information elsewhere in the consultation about ‘good practice’ which they felt could be applied across the industry. This included sensitivity to funeral poverty and ways of engaging with customers to ensure that funeral poverty could be avoided, where possible:

“We have recently carried out a full training programme for our client-facing colleagues with an emphasis on price sensitivity and ways of identifying and handling client issues around money, such as key flags that a client is in financial distress regarding the funeral. We know funeral affordability is a live issue for many clients in our communities so want to ensure that our funeral directors are delivering the best client care. It is important that our colleagues are fully briefed on ways to both spot and mitigate financial issues for our clients.”

Overall, respondents agreed that funerals are extremely difficult for families to handle, both emotionally and financially. Ensuring that appropriate support mechanisms are in place to allow the bereaved to fulfil a funeral which respects the dignity of the deceased was seen as key.

Impact Assessments

Equality Impacts

The consultation document highlighted the legal duty placed on public bodies (via the Equality Act 2010) to have due regard to the need to: eliminate discrimination; advance equality of opportunity; and, foster good community relations in relation to the relevant protected characteristics¹¹ with the exception of marriage and civil partnership. Equality of opportunity is also identified in the document as a founding principle of the Scottish Parliament. As such, the consultation document asked respondents to identify any potential impacts the current proposals may have on those with protected characteristics.

Q21. 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.

Overall, most respondents failed to identify any potential impacts, either positive or negative, on people with protected characteristics. Indeed, around half either did not respond to the question or indicated that there were no potential equality impacts. Several respondents again simply acknowledged that any guidance which sought to improve access to affordable funerals was universally positive, and welcomed any proposals which may reduce stresses (financial or otherwise) for people at a time of dealing with the loss of a loved one:

“There is a potentially positive impact as the proposals would create a system without barriers, with the same options for funeral services available to all citizens...”

Some who provided comments, while not related specifically to protected characteristics, suggested that the proposals would assist those struggling financially/on low incomes, while others felt that the guidance would bring benefits to the whole population by providing transparency and greater clarity, thus empowering people to understand and compare costs. One respondent, however, suggested that the development of wider understanding of the funeral industry may be required in order to avoid greater confusion over costs:

“Providing the public with figures without background knowledge or understanding of the bigger picture, for example health and safety regulations which may lead to purchasing new equipment or long-term sick leave incurring additional overtime charges, may lead to further confusion.”

¹¹ The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

A few commented that it was too early to provide an informed assessment of impacts, and others noted that they did not feel sufficiently knowledgeable to comment in this regard.

Only a few respondents identified any possible impacts of the proposals on people with protected characteristics. The main such comments focused on faith groups and religion. One respondent noted that some faith groups may require urgent burials and so families may have less time to consider any information presented to them by burial or cremation authorities or funeral directors. This reinforced earlier comments that any information should, therefore, be as accessible as possible. However, another noted that the increased flexibility in relation to permitting disposals without funeral director intervention may also be of benefit to some faith groups who have non-standard requirements (i.e. a positive impact of the proposals).

Several respondents also highlighted that certain rituals, ceremonies, and spiritual practices associated with death were important to take into account, and as a consequence it is likely that some inevitable additional costs would be accrued by people from certain religions/beliefs/faith groups (including, as noted above, that the simple funeral may not accommodate specific cultural or religious needs):

“The definition [of a simple funeral] proposed by the Scottish Government, which is very similar to the NAFD’s previous definition, risks indirectly discriminating against certain religious and cultural groups - and also restricting the choices and ability of families to arrange a funeral in line with the wishes of the deceased person... Encouraging funeral directors to offer a standardised service that fails to meet the basic requirements of all of the United Kingdom’s major religious and cultural groups would send out a negative message to these communities and risks placing them at an unfair disadvantage in terms of finding affordable funeral options.”

One organisation suggested that specific guidance or advice for faith groups may be helpful/required.

One organisation also commented that women, more than men, may be responsible for organising funerals, given that female life expectancy is higher across the UK. This may mean that they are affected more by the proposals in general.

It was also suggested by one respondent that the elderly and those with lower socio-economic means may find it more difficult to access the required information, particularly information provided online:

“There are also certain groups of people who may not have internet access such as elderly consumers and those in lower socio-economic groups... even if the information is made available online, consumers may not avail themselves of the information or be able to access it.”

Further, another respondent felt that those with protected characteristics could be poorly informed due to social norms around the lack of discussions about death and dying:

“People don't talk about death and dying... so people with protected characteristics will be doubly poorly informed.”

There were suggestions from two respondents that the guidance should provide greater information and encouragement for ‘green funerals’ and one respondent urged that consideration be given to the funeral poverty experienced by migrants and traveller communities, especially with regard to their limited eligibility under the proposed Funeral Expense Assistance. A further two respondents felt that the draft guidance was fundamentally flawed as it relied on advice from funeral directors who were not seen as impartial, but rather as having a financial interest in the development of the industry.

Business and Regulatory Impact Assessments (BRIAs)

The consultation document also outlined that Business and Regulatory Impact Assessments (BRIAs) are conducted to assess the likely costs, benefits and risks of any proposed primary or secondary legislation, voluntary regulation, codes of practice, or guidance that may have an impact on the public, private or third sector. The Scottish Government’s initial assessment of the proposals was that they would not directly impose any new regulatory burdens on the public, private or third sector as they were intended as guidance only. However, the consultation document sought views regarding any potential business or regulatory impacts which may arise.

Q22. 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.

Again, in relation to business or regulatory impacts many respondents failed to identify any potential impacts, either positive or negative, or costs and burdens that may arise from the proposals presented. Nearly two thirds of respondents either did not answer the question or indicated that the proposals would have no significant business impacts.

A few respondents indicated potential benefits of the proposals. These included the view that providing transparency to the public was commendable, and that the provision of clearer information on costs from the outset may assist in reducing the prevalence of ‘bad debt’. The proposals may also lessen the impact on National Assistance burials, it was suggested.

The main comments linked to business impacts, however, focused on additional burdens and potential for increased costs. For local authorities, these were linked mainly to costs being incurred due to the need to consult on price changes, and/or

to provide an advice and support service to those clients that are struggling to pay, thus requiring additional staff time and resources. One respondent noted that there may also be potential additional resource implications for both local authorities and undertakers in explaining costs and supporting and accommodating specific family wishes.

Some respondents also highlighted potential impacts related to the proposal that *“local authorities should be encouraged to take actions to support individuals who are struggling with the costs of a funeral”*. Again, for many this was linked to the cost implications for local authorities absorbing this responsibility, with one respondent calling for any new costs to be fully funded by the Scottish Government, and another suggesting that current budget constraints would not allow local authorities to provide any additional financial support.

One respondent was concerned that subsidising local authority burial and cremation services could lead to a reduction in investment and a decline in infrastructure. Another was concerned that any extension of the scope of local authority responsibility beyond support with costs, i.e. to provide funeral services directly, would have a significant detrimental effect on the viability of local funeral service businesses and their suppliers. One respondent, however, felt that local authorities should perhaps offer a basic state-run service, with the option to sub-contract when necessary.

One respondent also discussed concerns that smaller funeral directors may find it difficult to reduce their costs in the way large firms/franchises might. They worried that this may affect small local businesses who have more personal relationships within their communities.

Other respondents identified specific areas of confusion or potential impacts, including:

- terminology used in the guidance not matching existing contracts;
- new standardised services not matching existing pre-paid packages;
- the need to itemise each aspect of the service could lead to clients changing their minds regarding which options to include/exclude. It was felt that the timing of such change requests could be problematic for providing optimal results and thus detracting from perceptions of the professionalism and ability of the firm;
- itemised costs would need to be flexible enough to allow further disaggregation of specific costs, e.g. where a sub-contractor provides a service and an admin fee is charged and different rates of VAT are added to each;
- the requirement to display price lists at offices was seen as unnecessary when administrative offices are located separately from burial grounds/crematoriums;

- in relation to burial and cremation, one respondent questioned if it would be appropriate to consider multiple interments in communal areas as a way of helping with the reduction of land available for burials;
- public health risks and damage to cremation chambers were also cited as risks associated with ‘DIY funerals’;
- there were concerns that the variety and complexity of requirements were not fully understood and that many other parts of the required legislation were still in their infancy, therefore meaning that it was impossible to offer guidance on costs at this time;
- concerns were raised over the development of inappropriate business models developing ahead of the proposed changes to the legislation. It was felt these services often offered “*no gravitas or dignity from the outside and no over watch*”; and
- questions were raised over the legality of the proposed guidance.

Finally, one respondent felt that, while making information about costs available was generally a good thing, the geographical make up of Scotland may ultimately mean that people will not have much choice regarding who/where they go to arrange a funeral.

Other Comments

A small number of comments were received in response to various questions throughout the consultation which were either cross-cutting or did not answer any particular question asked. Other comments were provided by some organisations in support of their formal response, and these are summarised here.

As set out above, some funeral provider organisations commented that they perceived the provision in the Burial and Cremation (Scotland) Act 2016 for Scottish Ministers to publish guidance on the costs associated with making arrangements for a funeral, had not been achieved by the current exercise. Specifically, the draft guidance appeared to be more for the profession than for the public, which they deemed was not appropriate:

“De facto the draft guidance being consulted on is potentially inappropriate and out with the remit of the Act. Therefore [organisation] would ask for an immediate clarification to this vital issue.”

These respondents understood that the guidance was not statutory, but indicated that, as the guidance will be laid before parliament, it would receive the gravitas of such legal documents, and could, therefore, be a miss- or re-interpretation of the primary legislation, forcing price control onto the profession. Further clarification by government legal counsel was requested around this issue. Two suggested that it may risk the unintended consequence of increasing the cost of funerals, as a result (and be seen as inadvertent market interference):

“...many funeral directors may feel obliged to comply with all of the recommendations in the guidance which may in turn, increase funeral costs. This is especially applicable around the ‘simple funeral’ in its current form, as defined in this consultation paper, as the proposed ability to upgrade and add additional services may be seen to imply that the ‘simple funeral’ should be the entry level standard funeral and not a restricted service funeral package offered at a discounted charge. If that interpretation was to be adopted by funeral directors generally, the cost of a ‘simple funeral’ would undoubtedly increase to accommodate the proposed definition and conditions suggested in this draft guidance paper.”

One organisation responding on behalf of the private sector noted that, although the draft guidance had been developed for those in the industry, there may be merit in developing a form of the guidance specifically aimed at a consumer audience, potentially in partnership with consumer groups.

While several other respondents noted that they generally welcomed the opportunity to respond to the consultation, and the invitation that had been extended by the Scottish Government to engage during the production of the draft guidance, some commented that gaps remained. Specifically, one respondent noted that there had been no opportunity in the consultation to comment on burial costs and, specifically, there had been no recognition of:

- ongoing capital costs linked to replacement for cremators/ abatement system;
- ongoing costs linked to cemetery capacity and the need to continually extend existing or build new cemeteries;
- ongoing investment required for cemetery infrastructure (paths, roads and walls); and
- ongoing costs associated with headstone inspection programmes and repairs where lair holders cannot be traced.

Each of these are currently funded through bereavement charges and this required some form of explanation, it was suggested.

Another commented that the links between cost and quality had not perhaps been explored in sufficient detail in the draft guidance or consultation, and that concentrating on cost alone may mean that service standards could fall as an unintended consequence.

The importance of ensuring that the guidance did not constrain product innovation was also highlighted.

Linking the guidance to other ongoing and recently completed guidance, research, consultation or legislation in the area may also be useful, it was suggested, e.g. exploring overlaps with the Funeral Expense Assistance legislation, the ICCM Charter for the Bereaved - Guiding Principles for Burial and Cremation, giving regard to the work of the Competition and Markets Authority around funeral price comparisons and the UK Government's (HM Treasury's) call for evidence on pre-paid funeral plans. It was important that the guidance did not repeat, duplicate or contradict other guidance, it was stressed, especially not the forthcoming statutory Code of Practice being developed by the Scottish Government:

“We are also concerned that parts of the draft costs guidance for funeral directors, which imply a certain required level of standards, risk overlapping, and potentially contradicting, the statutory code of practice that is being developed by the Scottish Government.”

One national organisation also suggested that there may be scope for the Scottish Government to support the sharing of best practice between local authorities and others in the funeral industry. This may be something to comment on further in the guidance.

One final respondent communicated their more general concerns that families, friends and loved ones should not be picking up the costs a funeral system which they perceived *“neither has to justify its costs, price increases or moral ethos of celebrating the life in death of those departed.”* The consultation would do nothing to challenge this wider concern, they suggested.

Discussion

The consultation generated a wide range of responses from individuals and organisations representing the public, private and third sectors, ensuring that a diverse mix in views and experiences were captured. Detailed feedback was provided for all sections of the consultation and many respondents also provided additional comments to support the onward development of the guidance. The consultation was successful in engaging a full range of partners, therefore, in discussing all of the areas covered by the draft guidance.

Main Findings

Despite some difference in opinion across the consultation, some clear themes emerged for each of the separate sections of the draft guidance, as follows:

Use of language and terminology: Most respondents supported the need for a clear glossary of terms and welcomed its publication to improve understanding among the general public, and to encourage consistency in communications within the industry. There was agreement that any guidance produced must be accessible and available in a wide range of formats to maximise its use and also calls for further engagement and consultation with those in the industry, as well as with communities, before any glossary is finalised.

Display of pricing information: There was near absolute support for proposals for private cemeteries and crematoriums and funeral directors with a website to display their pricing information online. This would increase transparency and parity in the market and improve the consumer experience, it was felt. No views were asserted directly against this proposal, although some caution was warned that consumers may be more likely to make decisions based on cost alone if they looked only at pricing information, and this may result in some not purchasing what they intended or required. Publication of information online should not be considered a substitute for face-to-face and personal communication, it was suggested, although giving some families time and space to consider costs remotely, and without the need to visit providers directly was welcomed. To strengthen the measure, and ensure that like-for-like comparisons could be made between providers, it was suggested that some form of benchmarking may be required. Calls were also made for off-line equivalent information to be routinely made available.

Transparency of cremation charges: There was some disagreement around the definition of the standard cremation service, with less than half indicating that the definition set out in the draft guidance captured all necessary elements and almost a third suggesting that additions/edits were required. The main areas where greater clarification may be required were around the treatment of ashes, the provision of music services at cremations and time allowed in chapels/service rooms at crematoriums, as well as time allowed at crematoriums, in general.

Definition of a simple funeral: This area of the consultation attracted a large volume of feedback with a clear split in opinion. Among those who were not content with the definition, the main concerns were that there remained some ambiguity for service descriptions which may result in some elements still being differently interpreted by service providers, and the bereaved alike. There was particular concern about whether the definition needed to more clearly define the provision of different transport options, specify when viewing of the deceased may occur, make clear what level of memorial or religious service was included and what level of support for the bereaved should be offered. There were also comments that the definition may be redundant in light of other existing guidance, and concerns that it may constrain what funeral directors are able to offer, to the detriment of private competition and consumer choice.

Transparency of pricing at point of sale: The majority of respondents welcomed measures to improve transparency at the point of sale, including around care of the deceased. This was an area that was not well understood by consumers at present, and an increased understanding would allow people to make more informed choices. Many respondents noted that discussions around care of the deceased and associated costs would need to be sensitively handled and there were views that information in this regard should be offered on an 'opt in' basis, perhaps, rather than being routinely provided (as some individuals may find the information overwhelming).

Burial or cremation without using the services of a funeral director: Most respondents supported that 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. The main caveats to support were that local authorities should not be liable for any associated costs of doing this, as well as care being taken not to proactively encourage business away from the private sector or duplicate their offer. Authorities would also need to ensure that they were adequately prepared to provide the support which would inevitably be required in such cases, and there may also be scope for a wider role to be played by religious and community groups to support this function. Provided that measures were in place to minimise public health risks, this proposal was welcomed on the basis that it would widen consumer choice even further and allow some families to take a more personal (and potentially more satisfying) approach to funeral arrangements.

Understanding local authority charges: Over two thirds of respondents agreed that consultation with the public would help to improve the transparency of, and public engagement with, the local authority charge setting process. Several respondents commented that local authorities were already reasonably clear in their charge setting, although further guidance may lead to more consistency across the country. While the information being suggested was already publicly available, it was not always readily accessible, it was felt. Similarly, almost two thirds of respondents indicated that the annual, online publication of information from local authority LFRs may help to increase public understanding of the costs associated

with provision of services. While some aspects of the local authority guidance were perceived as potentially being redundant, most welcomed that any efforts by local authorities to increase transparency further would improve public confidence and understanding. Ensuring that the information published was comparable by area, and easily accessible (including being presented in a clear format), was seen as key.

Local authority measures to reduce funeral poverty: Almost two thirds of respondents agreed that the guidance should encourage local authorities to link burial and cremation charge setting to broader strategies and duties aimed at reducing poverty. Similarly, the majority of respondents agreed that local authorities should be encouraged to take actions to support individuals who are struggling with the costs of a funeral. Respondents mainly expressed that local authorities already have many systems in place to support those experiencing funeral poverty. National measures, such as the introduction of Funeral Expense Assistance by the Scottish Government were also seen to be a step in the right direction to strengthen measures delivered at the local authority level. Financial assistance alone, however, is not sufficient to tackle funeral poverty, it was noted. Although broadly welcomed, there was a sense that a partnership approach, which involves national and local government, as well as private and third sector organisations (including faith groups) may be a more appropriate way of providing the breadth and depth of support that is required for those most in need. The financial implications of these measures, as well as impacts on business, were the main area that may require further consideration, it was suggested.

More general comments received across the consultation highlighted that some religious and cultural groups may be discriminated against unless the guidance is redrafted to introduce more flexibility to meet a diverse range of preferences and needs (especially in relation to the definition of a simple funeral and the speed with which services can be delivered). The draft guidance was seen, in most other respects, to have no equalities impacts. In relation to business impacts, there were concerns that the draft guidance may restrict or limit innovation and competition in the market and some were concerned that it was biased against private providers. Although most respondents welcomed that the draft guidance was non-directive, several commented that it may place unnecessary pressures on some providers which could inadvertently increase the costs of funerals, rather than reduce them. Concerns were also expressed that the guidance, as drafted, was more directed at those in the industry rather than at consumers and this may not be the most appropriate audience.

Next Steps

The findings from the consultation, presented above, will be considered by the Scottish Government before a final draft of the funeral costs guidance is produced. It is expected that the finalised guidance will be published alongside a document that will include additional context and information about the issues that the guidance addresses. The guidance forms part of a wider range of activities currently being undertaken by the Scottish Government to tackle funeral poverty, and learning from this exercise will feed into wider action planning, alongside continued engagement with relevant stakeholders.

Conclusion

The consultation shows that there is much interest across different sectors in achieving transparency around funeral costs and trying to alleviate some of the pressures experienced by those who face the need to arrange funerals. The responses received across the board show a desire to provide financial as well as emotional and wider support for those who need it most, and for consumers to be made aware of the full range of funeral options available to them, in order to make the most informed choice possible.

While there were underlying concerns about who the draft guidance was targeted at, and whether it had been appropriately tailored, there was support for most of the measures presented, and very little split in opinion that was measurable at the quantitative level. Defining what constitutes core service provision for cremation and a simple funeral is the main challenge that remains, it seems. What does seem clear, however, is that stakeholders are keen to continue to engage with the Scottish Government to ensure that the final guidance is fit for purpose, achieves parity across the industry and is accessible to all.

Appendix A - Glossary Suggestions

Respondents were asked to list any particular terms that they thought a glossary for the guidance on funeral costs should include, and to provide a rough definition of what they understood the term to mean. A full list of the terms that were suggested by consultation respondents, including the definitions that they offered, is presented below. In some cases, multiple definitions are listed, because different respondents provided different suggested definitions for the same term.

Terms	Suggested Definitions
Applicant	Nearest relative who has the right to apply for cremation.
Bathing of deceased before cremation	Tradition used by Sikhs and Hindus.
Burial	A ceremony where the deceased is buried in the ground.
Burial and Cremation Act (Scotland) 2016	No definition suggested.
Burial Authority	A person who has responsibility for the management of a burial ground (in line with the Burial and Cremation (Scotland) Act 2016 definition). Clarity on who that is or normally is.
Burial fees	Grave digging charges plus administration fees chargeable at the time of burial.
Burial Ground/Cemetery/ Churchyard	Area of ground used for the purposes of interring human remains.
Burial Lair	The final resting place of a deceased person. A lair for either a coffin or ashes burial. A lair suitable for a combination of coffin and ashes burial. The number of coffin and ashes burials will vary dependent on ground conditions and will be advised by the relevant burial authority.
CAB	Citizens Advice Bureau. Including who they are and what services they can provide.
Casket	A container of cremation ashes which may be buried, either within a lair or in an area of ground set aside for the purpose within a burial ground.
Certificate of Indemnity	Confirms, in lieu of the lair certificate being produced, that the person requesting the opening of a lair is the legal lair holder and has given permission for this lair to be opened.
Civil Celebrant	Will offer a ceremony which may or may not include reference to faith or spirituality.

Container for Ashes	Including guidance on what is and is not suitable, i.e. plastic urn, cardboard box, etc.
Crematorium	A building that is fitted with equipment for the carrying out of cremations, and includes land (other than a burial ground) pertaining to such a building (in line with Burial and Cremation (Scotland) Act 2016 definition).
Cremation	The burning of human remains, including the grinding of burnt remains (in line with Burial and Cremation (Scotland) Act 2016 definition).
Cremation Authority	Including clarity on who that is or normally is.
Cremation Certificate	Including clarity on what this entails/includes.
Cremation Fee	Including what this covers and what it does not.
Cremation Lair	A lair for the burial of ashes. A lair suitable for the burial of ashes only.
Cremated Remains/Ashes	The material to which human remains are reduced by cremation.
Direct Burial	When the deceased is buried without a ceremony such as a funeral, and no one is present at the burial. An unattended burial at a time and date to suit the burial authority.
Direct Committal	An alternate term around Direct Cremation. The act of committing a body at the crematorium via the lowering of the catafalque, with no mourners present except the crematorium and funeral director staff who may say some words during the committal.
Direct Cremation	This is when the deceased is cremated without a ceremony such as a funeral, and no one is present at the crematorium. When a person who has died is cremated and the ashes later returned to the family without any ceremony at the time. It is important to include in a definition that the deceased person is typically carried into crematorium chapel and committed on the same catafalque as any other cremation ceremony. In a Direct Cremation there is no service or ceremony at the crematorium. However, it is important that the definition does not suggest that there is no memorial ceremony/service/wake (which would take place away from the crematorium), this would tend to be arranged separately or additionally to the Direct Cremation itself. It is also important that there is reference to there being crematorium and funeral director staff present who perform the committal and who may say a few words.
Disbursements	Costs paid by the funeral director on your behalf to

	third parties, such as burial or crematorium fees, flowers and venue hire.
Dropped Lair	Ground that has sunk due to soil settlement within a lair.
Embalming	<p>The preservation of a body by treating them with chemicals.</p> <p>A non-essential technique using chemicals to preserve the body. Also called 'hygienic treatment'. An optional technique for preservation of the body used before a cremation or burial which may be requested as part of the funeral director's services. The most common call for embalming is when the body is to be viewed. In some instances, regardless of the bereaved's request, embalming may be a public health requirement for which the funeral director must take responsibility (for example unavoidable delays such as crematorium closures). The definition of embalming could also include a description of the process e.g. the blood is drained from the body through the veins and replaced with formaldehyde-based chemicals. An incision is made in the lower part of the abdomen and a sharp surgical instrument is inserted into the body cavity to puncture the organs in the chest cavity and the abdomen. They are also drained of gas and fluid contents and formaldehyde-based chemicals are injected.</p>
Excavation	Preparation of grave opening.
Exclusive Rights of Burial	<p>The right to open the grave for burial, not purchase of the land itself.</p> <p>The right to be interred in the grave, may also allow others to be interred in the grave (space permitting), has the right to apply for permission to erect a memorial, does not own the land itself, the ownership of the cemetery land remains within the council.</p>
First Offices	Cleaning of the body, packing of orifices, dressing of the deceased in preparation for committal, removal of any pacemaker, closing of eyes, placing of eye-caps under eye-lids, and stitching closed of the mouth.
Form 14	The document people receive from the Registrar after registering a death. This document is required to accompany any application to cremate or bury someone. It is not the same as the death certificate.
Foundation	Solid concrete base or strip to allow safe erection of a headstone.
Foundation Fee	Charge for the installation of a new headstone foundation.
Funeral Director	A service which provides practical support and

	guidance to help organise a funeral, often liaising with third parties.
Funeral Industry	A listing of those bodies or the types of bodies within the industry.
Funeral Plan/Bond/ DWP Funeral Payment	Specifying what is included and what is not.
Funeral Poverty	No definition suggested.
Gone to Review	An audit carried out on the circumstances surrounding the death or the documentation process surrounding the death.
Green Burial	No definition suggested.
Hearse	A vehicle designed to transport the deceased. Note: One respondent suggested that the phrase “uplift of the deceased” was anachronistic and that “transport of the body or deceased” was more appropriate.
Humanist Celebrant	Will offer a secular ceremony only.
Hygienic Treatment	Another word for embalming.
Interment	Burial of a person. Burial. Burial of a person in a container approved for the purpose, coffin or casket. Refers to burial in the ground. Burial of deceased or ashes/cremated remains.
Interment Fees	Fees in relation to opening the lair and the burial. Fees relating to the actual opening of the lair and the burial. The cost to prepare a grave for burial, such as opening the space, laying any foundations required and relaying the grave once the burial has taken place.
Lair	Area of ground for the interment. Allocated space for coffin/casket burial. Grave. A lair or burial plot is the piece of land in which a person is buried. Area of ground provided for an interment within an approved burial ground. Said lair remains in the ownership of the burial authority, usually the Local Authority. Individual lairs are allocated to a person who receive a certificate of sale of right to interment (normally a family member of the deceased) and are then the Lair Holder. A burial plot.
Lair Certificate	The certificate that grants rights of burial. The certificate that grants rights of burial over a lair. Certificate issued with lair details and lair holder’s details.

Lair Holder or Lair Owner	The person who has the right of burial in the grave and can pass on this right to their family. Person who has the certificate of sale of right to interment, giving the right to be interred within the allocated lair. The original purchaser of the Exclusive Right of Burial or heirs thereof. The person who has the exclusive right of burial in lair.
Lair Purchase	A reservation of a particular plot.
Lair Transfer	Right of ownership being passed to appropriate person for use of the lair for burial.
Levelling Lair	Add soil to level the lair and re-turf or re-seed.
MCCD	The medical certificate for the cause of death. This needs to be completed by a doctor and is submitted when registering the death.
Memorial	Headstone. Marker of varying shades and sizes placed onto a grave in order to memorialise those interred at that location. Generally, a headstone.
Memorial permit	Application for permission granted by the council to place a memorial onto a grave.
Memorial registration fee	Monumental mason registration fee.
Memorial Service or Memorial Ceremony	A service or ceremony to honour the life of the deceased at which the body is not present, although cremated remains may be present in an urn.
Mercury Abatement	Controlling the dispersal of mercury from crematoria. Controlling the dispersal of mercury from crematoria into the environment, especially from dental amalgam.
Mercury Abatement Fee	Fee associated with crematoriums efforts to eliminate mercury emissions in order to have a zero emissions rate.
Minimal Intervention	Cleaning, packing if necessary (to prevent further purging from the body) and dressing if requested. It would not include invasive suturing of the mouth (via the nose).
Next of Kin	Including what is succession, who can claim, etc.
Non-Resident Charge	The additional charge that is sometimes made to cover the cost of a funeral of a person who does not reside in the local authority area.
Open Casket	No definition suggested.
Ownership of Burial Plots	No definition suggested.
Perpetuity	For an indefinite period, i.e. forever.

Procurator Fiscal	Scottish equivalent of coroner.
Re-Opener	Additional interment within an existing lair.
Residency versus place of death	No suggestions for definition.
Right of Burial	The purchase of a right to be buried.
Scattering/Strewn	Disposal of remains.
Shared Cremation	The practice of cremating a number of foetal remains together when cremation is arranged by the hospital rather than by the family.
Single Use Lair	Lairs suitable for a single coffin only.
Simple Funeral ¹²	A funeral that relates to the basics that require to be covered.
Social Burial	National assistance funeral organised and paid for by the burial authority.
Social Innovation Fund	Including details of who is entitled to claim.
Taking a cord	No definition suggested.
Third Party Costs	Costs of third party fees paid by the funeral director on the client's behalf. For example, officiant's and crematorium fees.
Title Deeds	Documents defining ownership of the lair. Right of burial only and not ownership of lair.
Transfer of Lair Ownership	Transferring exclusive right of burial to another.
Verification Form	Booking information form for the deceased generally provided via the Funeral Director to request the opening of a new or existing lair.
Wood Effect Coffin	No definition suggested.

¹² One respondent stressed that the term 'simple funeral' was derogatory and that, if a differentiation is necessary, the term 'standard' funeral may be more appropriate, representing the start level of services. The word 'basic' must be avoided, it was suggested.



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