

# **National Committee on Infant Cremation 2014-15 Report**

**December 2015**



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Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

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W W W . G O V . S C O T

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## **1. BACKGROUND**

The establishment of a standing National Committee on Infant Cremation was a key recommendation of the Rt Hon. Lord Bonyon's *Report of the Infant Cremation Commission*<sup>1</sup> ('Bonyon Report'; 'Bonyon Recommendations'), which was published on June 17, 2014.

On the same day, the then Minister for Public Health, Mr Michael Matheson, made a formal statement to Parliament in which he accepted all 64 Bonyon recommendations, including - as a priority - the formation of the National Committee.

The National Committee's main aims and objectives are set out in Recommendations 57 to 62 of the Bonyon Report, and can be summarised as:

- Develop, promote and annually review a Code of Practice on baby and infant cremations which reflects contemporary standards and best practice
- Ensure all recommendations from the Infant Cremation Commission are implemented, through a combination of strategic oversight, monitoring and also through direct tasks which will be undertaken by expert Working Groups set up by the National Committee.
- Promote improvements in practice, technology, policy and legislation
- Report annually to Ministers on standards and practice in baby and infant cremations

The National Committee is chaired by Scottish Government, and has more than twenty members from multiple organisations and sectors including: clinical and neonatal experts; cremator manufacturers; crematoria and funeral directors representative organisations; bereavement organisations; private and local authority cremation authorities and policy officials from England and Wales, and Northern Ireland. There have also been parent representatives on the Committee and its Sub-Groups to help ensure that those who have been most affected by issues in the past have a real say in improvements to policy, practice and law now and in the future.

The Committee recognises the emotional distress and turmoil experienced by many parents and families as a result of some previous infant cremation practices. Because of this, it welcomes the many improvements that have already been made by the organisations involved; it acknowledges that more work needs to be done; and it remains committed to its role in ensuring best practice is the norm in Scotland.

## **2. COMMITTEE WORKING PRACTICES**

### **Meetings**

The National Committee on Infant Cremation has met on four occasions to date: 9 October 2014; 26 January 2015; 11 June 2015 and 13 November 2015.

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<sup>1</sup> <http://www.gov.scot/Publications/2014/06/8342>

As well as the main Committee, there are also five separate Sub-Groups: Cremation Practice; Shared Cremations; Training and Communications; Forms and Record-Keeping and Policy and Code of Practice.

These Sub-Groups are each chaired by a member of the Committee, with membership drawn from relevant organisations and fields. These groups' dual role in maintaining oversight of- and undertaking practical work to complete - assigned Bonomy recommendations has been a critical factor in the progress made to date. In total, the Sub-Groups have met on 17 occasions over the last year, which is testament to their commitment to the tasks in hand.

## **Transparency and Communication**

At its first meeting the Committee agreed its Terms of Reference, including an agreement on communications and transparency as follows:

*'A dedicated area of the Scottish Government website will be set aside for publication of National Committee material and content. This will include:*

- *A brief summary of each Committee meeting, published shortly after the meeting has taken place*
- *Committee meeting agendas and, once approved, official meeting minutes*
- *A regularly updated overarching Work Plan*
- *Any relevant meeting papers, such as these Terms of Reference'*

These webpages are available via the following link:

<http://www.gov.scot/Topics/Health/Policy/BurialsCremation/NCIC>

Over time, the webpages have expanded to include the approved meeting minutes of the Committee's Sub-Groups and also a separate 'Resources' section, where Committee and/or related outputs are collated and available. This includes all key documents mentioned within this report.

## **Attendance and Participation**

Meeting attendance and participation levels have been high over the initial year. This is expected to continue, although meeting frequency is expected to reduce to once or (at the most) twice a year now that the majority of Lord Bonomy's Infant Cremation Commission recommendations are either completed or well underway.

Parent participation and involvement on the Committee and its Sub-Groups has been of immense value to its work over the last year. For various personal reasons however, some have required to reduce or withdraw their membership and engagement over time, including the parent representatives on the main Committee.

The Committee has decided that there is no question of putting any pressure on any parent representative to attend or participate in Committee related meetings, and also that it could be intrusive to re-establish contact with previously involved individuals who may rather wish to move on and away from these matters. For that reason, the National Committee and other Sub-Groups will not pro-actively seek

representation from affected parents, but will rather accept nominations or volunteers from amongst the group of affected parents.

### **3. PROGRESS AGAINST BONOMY RECOMMENDATIONS**

As of November 2015, the Committee, its Sub-Groups and its member organisations have fully completed 27 of the 64 recommendations, which equates to a 42% completion rate in one year.

A further 25 recommendations will be completed by the coming into force of what is currently the Burial and Cremation (Scotland) Bill, and/or its associated Regulations. Information on this Bill is contained in section 4 of this Report - i.e. 52 of the 64 recommendations, or 80% will be complete once the legislative process completes.

Of the remaining 12 recommendations, 5 are underway and/or planned for 2016, 3 are annually recurring and therefore not subject to a 'final completion' as such; 2 can only be commenced after the legislation is in place and a further 2 are expected to be progressed following the completion of the Dame Elish Investigation.

This represents substantive progress in one year, and suggests that all the Bonomy Recommendations, other than the recurring three, are likely to be fully completed within a relatively short time frame.

A worksheet setting out the status of each individual recommendation is at **Annex A**.

### **4. NEW LEGISLATION: BURIAL AND CREMATION (SCOTLAND) BILL**

#### **Background and General Information**

The existing legislative framework for burial and cremation is now very dated. The current primary legislation for burial is the Burial Grounds (Scotland) Act 1855, while for cremation it is the Cremation Act 1902. Much of the detail of the cremation process is set out in the Cremation (Scotland) Regulations 1935. This legislation struggles to meet the needs of 21<sup>st</sup> century Scotland, and does not reflect modern attitudes towards the disposal of human remains.

The Burial and Cremation (Scotland) Bill, designed to completely replace the existing legislation, was introduced in the Scottish Parliament on 8 October 2015. It is expected to complete the parliamentary process by 24 March 2016, when the current parliamentary session ends and Parliament is dissolved. The Health and Sport Committee is the lead committee with the Local Government and Regeneration Committee designated as secondary committee; each Committee will consider different aspects of the Bill.

The Bill will provide an updated, comprehensive legislative framework for burial and cremation in Scotland. It takes forward the wide-ranging recommendations made by

the Burial and Cremation Review Group in its 2007 report<sup>2</sup>, and will implement those recommendations made by Lord Bonomy which require legislative change.

In summary, the topics covered by the Bill are:

- the management of burial grounds;
- applications for burial, fees and registers;
- the duration of rights over a lair and restoration to use of lairs;
- private (home) burial;
- exhumation;
- cremation, including duties of cremation authorities, applications, fees and registers – pregnancy loss is included in each of these processes;
- who may instruct the disposal of human remains;
- inspectors and inspection, as well as the power for Scottish Ministers to introduce licensing of funeral directors;
- the suspension of burial and cremation legislation in response to public health risks (eg, pandemics);
- methods for disposing of human remains which may be introduced in the future; and
- the ability of Scottish Ministers to issue codes of practice covering various parts of the funeral industry.

## **Ashes**

A key recommendation of the Bonomy Report was to clarify in law the meaning of ‘ashes’ following cremation, in response to the different interpretations that existed. This lack of clarity had on occasion been suggested to some bereaved parents and families as a reason for non-return of their child’s ashes.

The Bill takes the Bonomy definition of ‘*all that is left in the cremator at the end of the cremation process and following the removal of any metal*’ and incorporates its meaning, intent and effect into the definition of cremation set out at Bill section 36:

### ***‘Meaning of “cremation”***

*(1) In this Act, “cremation” means the reduction to ashes of human remains by the burning of the remains and the application to the burnt human remains of grinding or other processes.*

*(2) In this section—*

*“ashes” does not include metal,*

*“coffin” includes any type of receptacle,*

*“human remains” includes, where remains are clothed, in a coffin or with any other thing, the clothing, coffin or other thing.’*

As well as defining ‘ashes’, the Bill also introduces measures that will ensure clarity about what is to be done with ashes that are recovered. A person who applies for a

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<sup>2</sup> <http://www.gov.scot/Topics/Health/Policy/BurialsCremation/BurialCremationReview>

cremation will need to specify what should be done with the ashes - this will ensure that there is no ambiguity about what will be done with ashes, and will provide a legal statement of the applicant's wishes. The Bill will also allow for a range of other Bonomy recommendations that will improve procedures for the cremation of babies and infants, and which will additionally make improvements to cremation procedures generally.

## **5. THE NEW CODE OF PRACTICE**

The Code of Practice, published in November 2015, is likely to be the most visible piece of work completed by the National Committee and its Sub-Groups. Its purpose is to draw together as many of the Bonomy recommendations as possible into a straightforward format that can be easily monitored by the Committee over time, and can also easily be incorporated into sectors', organisations' and even individuals' procedures, policies and behaviours.

Although there is a provision within the Burial and Cremation (Scotland) Bill that would allow for the Code of Practice to be made statutory, the extent of willing engagement and participation from all organisations to date in its development, suggests that this is not required at this time. Its current non-statutory nature also allows some flexibility for the Committee to refine and amend it over time, working collaboratively with organisations and others to ensure it continues to meet everyone's needs.

## **6. INSPECTOR OF CREMATORIA**

Following a recruitment exercise which attracted a high number and calibre of applicants, Robert Swanson QPM was appointed to the role of Inspector of Crematoria for Scotland in March 2015. Mr Swanson's appointment led to significant media interest and he has given a number of interviews to television, radio and newspapers on the significance of this new role.

The statutory appointment of such an Inspector was contained within Bonomy Recommendation 63. The existing legislation allowing for the appointment dates back to the Cremation Act 1902 and its subsequent Cremation (Scotland) Regulations 1935. As far as we are aware, Mr Swanson is the first such Inspector of Crematoria anywhere in the UK. In due course, the legislation governing the Inspector role will change as the current legislation is repealed to allow the new Burial and Cremation (Scotland) Bill to come into force.

The current Inspector role covers functions explicitly covered by the 1935 Regulations as well as some broader, non-statutory functions. Statutory elements of the role may further expand over time under the new legislation.

In brief, the Inspector's current role is to:

- ensure crematoria are operating in line with the principles set down by Lord Bonomy, and in line with the new Code of Practice.

- report any criminal or potentially criminal activity to Police Scotland.
- visit every crematorium in Scotland at least once every year.
- deal with queries or complaints from the public.
- provide an annual report to Ministers on activities, but can also report to Ministers on specific issues or concerns if needed.

Since his appointment, the Inspector has undertaken introductory visits to all 28 crematoria in Scotland, and has met with most major stakeholders through attendance at meetings either as an invited guest or as an active member of various groups and committees (including membership of this National Committee on Infant Cremation). He will soon commence formal inspections of all 28 crematoria, a process which is expected to be complete by end March 2016.

As part of his duties, Mr Swanson has also already dealt with a number of enquiries and complaints from members of the public and other external agencies.

Following the introduction of the Burial and Cremation (Scotland) Bill into the Scottish Parliament on 9<sup>th</sup> October 2015, Mr Swanson has given evidence to the Local Government and Regeneration Committee, and has been invited to attend to provide further evidence in December 2015.

## **7. UPDATED GUIDANCE ON THE CREMATION OF PREGNANCY LOSSES**

In 2012, the Scottish Government Chief Medical Officer and Chief Nursing Officer issued revised Guidance to the NHS in Scotland, notifying them that incineration of pregnancy losses (ie losses that occurred before 24 weeks' gestation) was no longer acceptable, and that shared cremation was now the minimum standard. All fourteen territorial Health Boards confirmed in 2013 that they were meeting that new minimum standard.

The Bonomy Report commended this new Guidance and, as a result of its in-depth work, was able to identify and highlight small but significant areas where the Guidance could be improved or made more accurate. Several recommendations were made relating to this Guidance, including legislative ones which are now contained within the Burial and Cremation (Scotland) Bill.

An early piece of work for the National Committee, largely via its Shared Cremations Sub-Group, was to ensure this Guidance was updated to reflect the Bonomy recommendations. The revised version was submitted to Scotland's Chief Medical Officer and Chief Nursing Officer, and was subsequently issued to all NHS Health Boards in June 2015.

It is worth noting that one of the changes introduced, a requirement to discuss all available burial and cremation options with the individual who had experienced the loss, caused concern to some medical professionals working most closely in this area, who felt this may cause additional distress to their patients. Although the Bonomy recommendation is based on sound principles of ensuring informed consent / authorisation, and despite the option for the patient to decline all discussion, there

is a continuing view that actively discussing all options may still be a step too far in some instances, particularly in the context of very early pregnancy loss.

This issue is currently being explored and is an example of where a Bonomy recommendation, fully accepted at the time of publication, may reasonably be modified in the light of additional or more recent expert advice and information. The Committee's understanding of the requirement on them to e.g. annually review the Code of Practice to ensure it stays up-to-date, provides a clear steer that Bonomy Recommendations can be so modified, if required.

## **8. PUBLISHED CREMATION AUTHORITY POLICY STATEMENTS**

Another early piece of work for the Committee, undertaken by its Cremation Practice Sub-Group, was to develop wording for a standardised statement that each Cremation Authority – whether local authority or privately owned – would publish in its leaflets and/or on its website.

The statement - which can be tailored to an extent to include additional information and local branding – sets out for the public (and for local partner organisations such as funeral directors and hospitals) the cremation authority's key policies regarding infant cremation, including ashes recovery and record-keeping.

Its key purpose is to ensure accurate information on local cremation practice is available to those who have been bereaved (and the general public). Its secondary purpose is to make it easier for local partners, eg hospitals and funeral directors, to find this information, thus helping to improve the consistency of cremation information provided to those who have been bereaved.

As well as developing, finalising and issuing the standardised statement, the Committee (via its member the Federation of Burial and Cremation Authorities 'FBCA') then subsequently contacted every Cremation Authority to check that these statements had been published. All have now confirmed that this is the case.

Continuing to make this information available, and adhering to its wording, are matters that the Inspector will check during crematorium reviews.

## **9. RELATED ISSUES 2014-15**

### **Dame Elish Angiolini National Investigation**

The Committee notes that the Dame Elish National Investigation is still in progress. Information on this is available via its own dedicated webpages at: <http://www.gov.scot/About/Review/national-cremation-investigation>

## **Ministry of Justice Consultation**

The Committee notes that the Ministry of Justice intends to consult on infant cremation related matters, in respect of England and Wales, following reports of similar issues in England.

## **10. FORWARD LOOK**

Whilst timings and activities are flexible, the next phase for the National Committee is likely to involve the development of tailored online training available to all professionals involved in infant cremations, courtesy of the Training and Communication Sub-Group and, more directly, via NHS Education Scotland. It will also involve monitoring the progress of the relevant provisions and sections of the Burial and Cremation (Scotland) Bill, through the Forms and Record-Keeping Sub-Group. Later in 2016, a general annual exercise to check progress across the sectors will be undertaken.

ANNEX A

Rec No	Recommendation	RGA Status	Estimated Completion Date	Status / Progress Notes
1	In legislating, devising policy, drafting information and guidance documents, and making arrangements for and conducting baby cremations, the baby and the interests of the family should be the central focus of attention. Parents and families should be given time and space to reach the correct decision for them. Arrangements should be in place at each hospital for on-going contact with parents, particularly mothers, where that contact is necessary. <b>(11.34)</b>		Completed	Completed
2	The FBCA in the course of their "critical friend" visits to crematoria and the ICCM in their self-assessment questionnaire should address specifically the conduct of baby cremations and recovery of ashes. <b>(5.6)</b>		Completed	Completed
3	The "ashes" which the Cremation Authority is obliged to give into the charge of the person who applied for the cremation if he so desires should be defined in legislation as "all that is left in the cremator at the end of the cremation process and following the removal of any metal". That should not preclude the applicant from consenting in advance to the removal of metals, such as coffin nails and artificial joints, and their separate disposal, including as part of a metal recycling scheme.		Nov 2015  Act - Mar 2016.	Reflected across all Code of Practice Documents  <b>Act:</b> The wording in the introduced Bill is different in construction, but its meaning and effect are the same.
4	Cremation Authorities should review their practices immediately to ensure that, in dealing with the "ashes" following cremation, they proceed on the basis that the "ashes" are as defined in the foregoing recommendation. <b>(7.21)</b>		Completed	Completed
5	The Scottish Government should inform their counterparts in England and Wales and Northern Ireland about the changes in legislation in Scotland to enable them to consider clarification of the definition of "ashes" in identical terms. <b>(7.23)</b>		Completed	Completed

6	<p>All Cremation Authorities at whose crematoria ashes are not always recovered should liaise with a crematorium or crematoria where ashes are recovered more regularly to share their experiences and information about their respective practices in order to identify changes in practice that should be introduced immediately with a view to increasing the prospects of recovering ashes. <b>(8.13)</b></p>		Completed	Completed
7	<p>The Cremation Authorities which have rejected the use of trays for baby cremations on health and safety grounds should urgently consider, in light of the experience of others, the introduction of a local protocol to allow trays to be used in a way that will expose no one to undue risk. <b>(8.14)</b></p>		Completed	Completed
8	<p>As an urgent interim measure, the ICCM and the Federation of Burial and Cremation Authorities (FBCA) should form a joint working group, which should also include two lay persons nominated by the Scottish Government and a representative of Facultatieve Industries Ltd, to consider the various practices and techniques currently employed in baby and infant cremation in full-scale cremators with a view to identifying those practices which best promote the prospect of recovery of ashes inclusive of baby remains and compiling guidance for cremator operators. The working group should identify aspects of the cremation process which could conceivably be changed or improved and into which research ought to be commissioned by the Scottish Government. The working group's endeavours may be assisted by the fact that the majority of cremators in use in Scotland are produced by the same manufacturer, Facultatieve Technologies Ltd. <b>(8.36)</b></p>		Completed	Completed

9	<p>Following completion of its work in <b>8</b> above, that working group should also consider the operating systems and other features of the cremators in use in Scotland and the practices currently employed with a view to identifying those aspects of the cremation process which could conceivably be changed or improved and into which research ought to be commissioned by the Scottish Government. That should include the practice of cremating babies at the end of the working day and overnight with the cremator operating and monitoring equipment switched off in a way that will cause no material environmental damage and satisfies SEPA that it should be permitted, with a view to increasing the prospects of recovering ashes. <b>(8.36 and 8.39)</b></p>		Completed	Completed
10	<p>That working group should consider and advise whether, in light of experience in England and Ireland, and having regard to their efficiency in recovering ashes and the costs of installation and operation, the Scottish Government should commission research into the design and development of small-scale cremators. <b>(8.40)</b></p>		Completed	Completed
11	<p>Each Cremation Authority should publish a policy statement, which should include a commitment to the sensitive treatment of the baby throughout and to respecting the wishes and needs of parents and families, and also set out the Authority's policy on ashes. To ensure clarity and consistency the ICCM and the FBCA should form a joint working group to develop a model policy statement reflecting best practice and allowing for local variation as appropriate. <b>(8.44)</b></p>		Completed	<p>Policy Statement developed and issued to all Cremation Authorities. FBCA have checked and ensured that all have published it.</p>
12	<p>Funeral Directors and healthcare staff should include appropriate extracts from the Cremation Authority policy in information and guidance material given to families. <b>(8.45)</b></p>		Completed	<p>This is included within the Level 2 CoP documents.</p> <p>*After that, it will be for each sector / org / institution to implement. National Committee can check this annually if required</p>

13	The cremation of non-viable babies should be the subject of legislative regulation. <b>(9.4)</b>		Act - Mar 2016 Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Act &amp; Regs:</b> The Act will contain a provision to this effect, although Regs will set out the detail.
14	Appropriate forms of application for cremation should be prescribed for each of three categories of cremation of babies and infants: (a) stillborn baby; (b) shared cremation of non-viable babies; and (c) individual cremation of a non-viable baby. <b>(9.7, 9.23, 9.40, 9.42 and 9.44)</b>		Act - Mar 2016 Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Act &amp; Regs:</b> The Act will contain a provision to this effect, although regs will set out the detail.
15	On each form of application for cremation there should be a clear warning, in terms appropriate to that form, that ashes may not be recovered, with provision for the applicant to acknowledge having read that warning. In the case of (b) shared cremations the warning should also state that any ashes recovered will either be scattered or interred, and specify which, at the crematorium. <b>(9.10, 9.24, 9.40, 9.44)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs.
16	In the context of their introduction of a new death certification process, the Scottish Government should review the currently prescribed content of cremation application Form A to ensure that only essential questions are incorporated into the new prescribed forms for (a) and (c). <b>(9.18, 9.24 and 9.44)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs.
17	All forms of application prescribed should be designed by the Scottish Government with simplicity and clarity in mind, and all Cremation Authorities, Health Boards and other healthcare providers should be required to use the forms so prescribed and designed. <b>(9.14 and 9.16)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs
18	The forms prescribed for (a) and (c) should contain a question requiring the applicant to specify how the ashes should be dealt with following the cremation. The options available should include retention for a defined period pending a final decision and also later extending the period of retention. <b>(9.10, 9.24 and 9.44)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs

19	There should be provision in forms for (a) and (c), or on a separate form, for the applicant to authorise a representative, such as the Funeral Director, to collect the ashes. Where the Funeral Director is the person authorised, the form should also provide for the consent of the applicant to the Funeral Director returning the ashes to the crematorium in the event that the applicant does not collect them from the Funeral Director or give the Funeral Director instructions as to their disposal within a defined period. <b>(9.11)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs
20	There should be a specific legislative provision that the cremation should not be authorised to proceed if the application does not contain a clear direction as to how the ashes should be dealt with. <b>(9.12)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs
21	Where ashes are left in the care of the crematorium on the basis that they will be collected, or to await further instructions within a defined period, the Cremation Authority may not scatter or inter them unless 14 days' notice of their intention to do has been given to the applicant. <b>(9.13)</b>		Completed  Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	Covered in Level 2 CoP  <b>Regs:</b> Content of forms will be set out in Regs
22	The forms prescribed for (a) and (c) should be completed and signed by the applicant personally, and the applicant's signature should be witnessed by a person who is not a member of the applicant's family and has no part in the arrangements for the cremation. <b>(9.9, 9.10, 9.21 and 9.44)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Regs:</b> Content of forms will be set out in Regs.  *Issue of uninvolved witness may not be possible*.
23	It should be provided in legislation that those entitled to apply for cremation are: (i) in the case of (a) and (c) the nearest relative as defined by section 50 of the Human Tissue (Scotland) Act 2006; and (ii) in the case of (b) a person authorised by the Medical Director of a Health Board or other healthcare provider, and that an application presented by a different person should be accepted only on cause shown, which should be recorded in the register referred to below. <b>(9.19, 9.20 and 9.42)</b>		Act - Mar 2016.	

24	Senior Cremation Authority staff should be responsible for the scrutiny of all cremation application forms to satisfy themselves that the applicant is entitled to make the application as mother, nearest relative or on cause shown. There should be legislative provision that, if the Cremation Authority is not satisfied of the applicant's entitlement to apply, then authority for the cremation to proceed may be refused. <b>(9.20)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	
25	Legislative provisions similar to those in Regulation 20 of the 2008 Regulations (England and Wales) should be introduced requiring appropriate certification of a stillbirth. <b>(9.22)</b>		Act - Mar 2016  Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<b>Act &amp; Regs:</b> The Act will contain a provision to this effect, although regs will set out the detail.
26	The duty of Cremation Authorities as to the handling of ashes set out in Regulation 17 of the 1935 Regulations should be extended to apply to stillborn and non-viable babies. <b>(9.25)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	
27	The provisions of Regulations 13 and 15A of the 1935 Regulations should be amended to apply to stillborn children. <b>(9.26)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	
28	NHS Scotland should review the provision of the facility of hospital-arranged cremation throughout Scotland with a view to making consistent provision in all Health Boards. <b>(9.32)</b>		Nov 2015.	Review conducted summer 2015. Provision is still unclear / uncertain. Although rec is technically completed, this will be followed up as formal CMO / CNO exercise alongside audit of implementation of Pregnancy Loss Guidance, autumn 2016.
29	The Scottish Government should establish a working group comprising representatives of Health Boards, Funeral Directors, Cremation Authorities and miscarriage and child bereavement support organisations to consider evolving practices in the arrangement and conduct of shared cremations and to draw up a code of practice setting down minimum standards for shared cremations. <b>(9.35)</b>		Completed	WG established and the tasks mentioned are set out in other recommendations.
30	The 2012 CMO and CNO Guidance on sensitive disposal should be reviewed and consideration should be given to		Completed	Completed

	revising it to take account of the comments made in Section 9. <b>(9.36 to 9.39)</b>			
31	Annex C to the CMO and CNO Guidance should be revised to: (i) set out specifically the options for disposal explained to the mother above the space for her signature; (ii) state that ashes may not be recovered following cremation, and that any which are recovered will be scattered or buried at the crematorium; and (iii) state specifically that the standard procedure to be followed where the mother declines to discuss disposal is cremation along with others. <b>(9.40 and 9.41)</b>		Completed	Completed
32	The form of application for (b) should state that each mother has authorised the hospital to arrange a shared cremation, and that such authorisation is held in hospital records. <b>(9.40)</b>		Completed <b>Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.</b>	Set out in CMO & CNO Guidance annexes <b>Regs: Content of forms will be set out in Regs</b>
33	Each application for cremation of a non-viable baby should be accompanied by a medical certificate that the pregnancy loss occurred before 24 weeks and showed no signs of life. <b>(9.42)</b>		<b>Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.</b>	<b>Regs: Content of forms will be set out in Regs</b>
34	Cremation Authorities, Funeral Directors and Health Boards should review the contractual arrangements in place for shared cremations in light of ICCM guidance contained in Section 6 to satisfy themselves that the respective responsibilities of the parties are so defined as to ensure that such cremations are carried out in a dignified and sensitive manner. <b>(9.48)</b>		Completed	This is set out within NHS Level 2 CoP and template Contract, which will be signed up to by Funeral Directors and crematoria ie NHS contracts will drive adherence from fds and crematoria.
35	Each Cremation Authority should be required by legislation to record the cremation of each deceased baby, stillborn baby and non-viable baby carried out by the Cremation Authority in a register or registers comprising prescribed columns, every one of which must be completed, including in particular, if the ashes were scattered or buried, the date and their location and, if collected, the date and by whom. <b>(10.4 and 10.5)</b>		<b>Act - Mar 2016</b> <b>Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.</b>	<b>Act &amp; Regs: The Act will contain a provision to this effect, although regs will set out the detail.</b>

36	The Cremation Register should be a public document and the Scottish Government should make legislative provision to that effect, subject to any restrictions necessary in the interest of privacy and to comply with data protection requirements. <b>(10.6)</b>		Act - Mar 2016.	
37	Each Health Board and other healthcare providers should maintain a register of authorisations in which the crematorium at which the baby was cremated is recorded in a way that will ensure traceability of the link between the baby and the ashes. <b>(10.8)</b>		Nov 2015 Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	Reflected in NHS Level 2 Code of Practice document
38	Since responsibility for preserving important records relating to hospital-arranged cremations lies with the hospital or other healthcare provider, a working group comprising Health Board representatives and a representative from the private healthcare sector, chaired by a Scottish Government official, should be appointed by the Scottish Government to review hospital record-keeping practice in all hospitals and other healthcare providers in relation to documents relevant to baby and infant cremations with a view to identifying best practice to be applied across Scotland. <b>(10.9)</b>		Nov-16	This particular review of record-keeping practice might best be undertaken after the following have occurred (in order): a) completion of CoP documents (projected Nov 15); b) formation / identification of Rec 52 NHS network (assigned to T&C WG, projected completion date Apr 2016).  Then review could be delegated to that NHS network.
39	The registers kept by Cremation Authorities, Health Boards and other healthcare providers should be preserved indefinitely. All forms of application, certificates and other official documents relating to a cremation should be preserved for a minimum of 50 years. The original should be preserved for 2 years and copies, which may be in electronic form, for the remainder of the 50 years. <b>(10.10 and 10.11)</b>		Act - Mar 2016.	

40	<p>The Scottish Government should form a working group drawn from Cremation Authorities and providers of software to crematoria to review the available facilities for electronic processing and storage of cremation documents and records, to consider and recommend appropriate improvements to achieve the objects of the recommendations of this Commission, and to consider what additional features and facilities the software manufacturers should be invited to develop, all with a view to ensuring that the systems in use by Cremation Authorities are as efficient and secure as possible. The working group should also consider and advise on the appropriate requirements for back-up systems. Having regard to the importance of keeping records secure, the working group should also consider and advise whether additional security measures are necessary and what back-up storage systems should be provided. <b>(10.12)</b></p>		Date uncertain	As this is linked to 'achieving the objects of the recommendations of this Commission' it will be require to be commenced after other documentation and legislation is in place or finalised.
41	<p>In the case of deceased and stillborn babies, on completion of the entry by recording the ashes location or collection and the date thereof, the Cremation Authority Registrar should be required to send a notice to the applicant confirming which occurred and, if scattered or interred, where that was, along with an extract of the full register entry. In the case of the individual cremation of a non-viable baby the Registrar should issue such a notice and extract on request and the form of application should provide for such a request to be made. <b>(10.13)</b></p>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	
42	<p>The ICCM and FBCA should review their respective technical training programmes in accordance with the requirements identified in Section 11. <b>(11.12 to 11.16)</b></p>		Completed	Completed
43	<p>The FBCA should review all published guidance documents to provide clear and fully informed guidance on the prospects of ashes being recovered based on</p>		Completed	Completed

	knowledge of skeletal maturity rather than gestational age alone. <b>(11.14)</b>			
44	The ICCM and FBCA should each introduce into their respective technical training programmes provision requiring the trainee technician and his mentor to attend and undertake, in the course of the training period and at a crematorium identified by the Institute or the Association as excelling in the conduct of baby and infant cremations, a full day of training in the conduct of baby and infant cremation on two separate occasions. The trainee should be required to satisfy the examiner of his knowledge and understanding of the methods and techniques of the conduct of baby and infant cremations that enhance the prospects of recovering ashes. <b>(11.16)</b>		Completed	Completed
45	The ICCM should revise their management training scheme to include an element dealing with baby and infant cremation and to make that a compulsory part of study for the certificate in cremation management. <b>(11.18)</b>		Completed	Revised crematorium management unit of the ICCM Diploma introduced December 2014. Edexcel accreditation received. An upgrade is also available for those with an old qualification.
46	The person with direct management responsibility for the operation of a crematorium should hold either a qualification in crematorium management or the FBCA certificate of competence to operate cremators or the ICCM intermediate certificate for crematorium technical operations. <b>(11.19)</b>		Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.	<i>* May not be directly possible in legislation*</i>  <i>Included instead in CoP / Guidance instead (although broader than infant cremation)</i>

47	The FBCA should develop and introduce a training programme for continuing professional development. <b>(11.20)</b>		Completed	In CoP documents.  FBCA issued an updated "TEST" Training Programme in October 2014 and specific Scottish "TEST" Training Notes in January 2015.  The FBCA also satisfies this recommendation by use of general update newsletters to its member organisations via its "Letterbox" system, publishes a quarterly journal "RESURGAM" and provides for information updates at its conferences.
48	Mothers of non-viable babies and families of stillborn babies and very young deceased babies considering cremation should be advised where there is a possibility that ashes will not be recovered and reminded of the availability of the option of burial. <b>(11.24 and 11.34)</b>		Completed	Completed. In all applicable CoP documents.
49	All providers of training programmes for Funeral Directors should review them in the light of any legislative changes affecting the cremation of non-viable and stillborn babies and associated administrative procedures. <b>(11.26)</b>		Date Uncertain.	Unable to progress at this time. This will be dependent not only on new Act, but on later implementation of eg statutory Forms through Regs.
50	All providers of training programmes for Funeral Directors should devise modules designed to give Funeral Directors an understanding of the cremation process, the effect it has and the prospects of recovering ashes in baby and infant cremations. <b>(11.26)</b>		Completed	NAFD training programmes reviewed ahead of legislative changes and training now revised. NAFD have also introduced an additional one day module 'Sensitive Conversations' with defined objectives around infant funerals.

51	<p>Each Health Board, as part of continuously improving the quality of the service, should identify staff who will have responsibility for communicating with families about arrangements for disposal and liaising with Funeral Directors and crematoria and, as part of their continuous professional development, arrange for their further education and training in the necessary skills, including developing their communication skills, improving their understanding of the roles and responsibilities of colleagues, and providing an appreciation of the capabilities of modern cremation equipment and contemporary cremation practice and the effect of cremation on babies and infants. <b>(11.35)</b></p>		Apr-17	<p>Bonomy recs have been circulated to all Health Board maternity service leads.</p> <p>NES has developed and launched a new open access online learning module on Maternity Bereavement for all maternity care professionals <a href="http://www.knowledge.scot.nhs.uk/maternalhealth">www.knowledge.scot.nhs.uk/maternalhealth</a> in May 2015. This module has been widely marketed among all relevant health professional networks and includes key learning on developing high quality communication skills with families at the time of bereavement and when discussing choices. It includes the revised definition of 'ashes' and the advised approach for discussing options with parents around burial, cremation and funerals.</p> <p>The final part of this recommendation will be further supplemented through the development of the infant cremation training materials to be developed by NES 2016-17.</p>
52	<p>Health Boards should support staff in initiating the formation of local multi-disciplinary working groups comprising all with a role in dealing with the fate of the baby from hospital to crematorium to exchange information, knowledge, understanding, practice and experience, as well as promoting joint training programmes, with the aim of ensuring that all involved are familiar with the facilities available and practices followed locally. <b>(11.36)</b></p>		Apr-16	<p>The T&amp;Csub group is currently developing guidance for all health board areas on setting up these multi-disciplinary groups. Some health boards have already established such groups, but some are yet to do this. The guidance will include best practice vignettes and guidance on who to invite along with key contact information. A further survey of health boards' practice in this area is planned for April 2016 to identify that these groups have now been established in all areas.</p>

53	Health Boards, organisations providing advice, support and guidance to grieving families such as SANDS UK and the Miscarriage Association, Funeral Directors, the ICCM and FBCA, and any other body providing advice, support and guidance to grieving parents and families should review all publications dealing with cremation that are likely to be distributed to, or seen by, the public to ensure that they include accurate information that is expressed clearly and consistently, including in particular information about the prospects of recovering ashes, and that they contain a reminder of the availability of the option of burial. <b>(11.37)</b>		Apr-16	SubGroup review undertaken in spring 2015. Sands are in the process of updating their information leaflets for parents. These leaflets are widely used by health boards in Scotland.  Some leaflets etc still show inaccuracies or inconsistencies, therefore further work to provide eg standardised text on key topics to eg NHS is underway.
54	The Scottish Government should establish a working group comprising a representative from each Health Board and chaired by a Scottish Government official to review all guidance documents and information leaflets in use over all Health Boards and private healthcare providers, including those compiled by, or in conjunction with, bodies such as SANDS and the Miscarriage Association, relating to management of pregnancy loss and infant bereavement and arranging disposal, with a view to ensuring consistency in that guidance and information, and endeavoring to reduce the proliferation of different documents in use. <b>(11.38)</b>		Apr-17	Whilst largely covered in response above, there may be a need for further checks following initial work for end Apr 16, hence later end date
55	Where invited to do so by affected parents, local councils / authorities should facilitate discussion for plans for local memorials. <b>(12.7)</b>		Date Uncertain	To be progressed following completion of Dame Elish Investigation.
56	The Scottish Government should form a working group, to include representatives of affected parents and bereavement support groups to consider whether there should be a national memorial dedicated to the babies whose ashes were mishandled or mismanaged and, if so, the form that it should take. <b>(12.8)</b>		Date Uncertain	To be progressed following completion of Dame Elish Investigation.
57	The Scottish Government should establish a National Committee with responsibility for baby and		Completed	Completed

	infant cremations. <b>(13.4)</b>			
58	The National Committee should be chaired by a senior Scottish Government official. Its membership should be drawn from authorities, organisations, professions and other bodies with a role in baby and infant cremation, and should include representation from groups or organisations representing affected parents and providing bereavement support. <b>(13.5)</b>		Completed	Completed
59	The National Committee should have power to establish working groups of its membership, with co-opted members where appropriate, to consider specific recommendations from this report. Each of the working groups recommended above would be sub-groups of the National Committee. It would be open to the National Committee to assign to one working groups the tasks assigned in more than one recommendation, for example recommendations relating to technical matters and cremation technology could be dealt with by a professional sub-group reporting back to the full Committee. The National Committee should also have the power to establish working groups to consider other issues identified by the National Committee and to report back to the National Committee. <b>(13.6)</b>		Completed	Completed
60	The National Committee should report to Scottish Ministers annually on progress against the recommendations made by this Commission. That annual report should be published on the Scottish Government website. <b>(13.7)</b>		Ongoing	Ongoing
61	The National Committee should, as a priority, develop a national Code of Practice for baby and infant cremation. Such a Code, which should be informed by the recommendations of this Commission, should set down the minimum requirements for organisations to adhere to when supporting bereaved parents and families through the baby and infant cremation process, and		Completed	Completed . November publication pending.

	seek to identify best practice to be followed by all bodies involved in baby and infant cremation. The Code of Practice should include general principles and guidance as well as specific technical and operational guidance for Cremation Authorities, Health Boards and Funeral Directors, with a view to achieving consistently high standards of practice among all with a role in baby and infant cremation. <b>(13.8)</b>			
62	The Code of Practice should be a live document that is not only responsive to developments, but also instrumental in promoting improvements, in practice, technology, policy and legislation. The National Committee should therefore continue to monitor developments in all aspects of activity related to baby and infant cremation and review the Code annually to ensure that it reflects contemporary standards and best practice. <b>(13.9)</b>		Ongoing	Ongoing
63	Scottish Ministers should appoint an independent Inspector to monitor working practices and standards at crematoria, provide feedback to Cremation Authorities on how they are performing and to report to the Scottish Ministers as required. The independent Inspector should have authority to investigate complaints from the public about working practices and standards at crematoria, to adjudicate upon these complaints and report findings to the Scottish Ministers. The role of the Inspector should be extended to the funeral industry in respect of which there is no current provision for inspection. <b>(13.10 and 13.11)</b>		Completed  <b>Act - Mar 2016</b>  <b>Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.</b>	Inspector appointed and in post April 2015.  <b>Act &amp; Regs:</b> The Act will contain a provision to extend Inspector role to funeral industry, although regs will set out the detail.
64	The Scottish Ministers should keep the cremation and funeral industries under review and should consider, in light of the reports of the National Committee and the independent Inspector, whether further regulation of either is required. <b>(13.13)</b>		<b>Regulations - Date uncertain; perhaps 12 to 18 months after Act is in force.</b>	<b>*Once in Regs, this will be an ongoing role for Scottish Ministers.*</b>

## NCIC MEMBERSHIP

<b>Representative Sector</b>	<b>Organisation</b>	<b>Member Name</b>
Chair	Head of Health Protection, Scottish Government	Gareth Brown
Inspector of Crematoria		Robert Swanson QPM
Cremation Representative Organisations	Institute of Cemetery and Crematorium Management (ICCM)	Bill Stanley
	Federation of Burial and Cremation Authorities	Rick Powell
Manufacturers	Facultatieve Technologies (FT)	Jim Nicholl
Funeral Directors	National Association of Funeral Directors (NAFD)	Paul Cuthell
	Society of Allied Independent Funeral Directors (SAIF)	Jim Brodie
Local Authority Cremation Authorities	Glasgow City Council	Brian Devlin
	Edinburgh City Council	Natalie McKail
Private Cremation Authorities	Dignity Ltd	David Baxter
	Edinburgh Crematorium Ltd	Jim Nickerson
Bereavement Organisations	Simpsons Memory Box Appeal (SiMBA)	Sara Fitzsimmons
	SANDS Scotland	Ann McMurray
	The Miscarriage Association	Helena McLaren
NHS	Heads of Midwifery	Susan Stewart
	NHS Education for Scotland	Mary Ross-Davie
Neonatologists	Consultant Obstetrician	Dr Dawn Kernaghan
	Consultant Neonatologist	Dr Edile Murdoch
Parent Representatives	By arrangement x 2	
UK Administrations	Ministry of Justice, England & Wales	Judith Bernstein
	Department of the Environment, Northern Ireland	Julie Broadway
Scottish Government	Senior Medical Officer	Dr Mini Mishra
	Bill Team Leader (observer)	Simon Cuthbert-Kerr
	Supporting Official	Sarah Dillon





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Any enquiries regarding this publication should be sent to us at  
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