

Inspector of Crematoria Annual Report

1 April 2018 – 31 March 2019

July 2019



Scottish Government
Riaghaltas na h-Alba
gov.scot

Introduction

1. This report has been compiled by Robert Swanson, Inspector of Crematoria for the purpose of providing Scottish Ministers with a resume of duties undertaken in the role during the period 1 April 2018 to 31 March 2019.
2. The Inspector was first appointed to the post (Inspector of Crematoria) in March 2015.
3. The appointment as an Independent Inspector of Crematoria for Scotland was one of 64 recommendations made in the Report of the Infant Cremation Commission, headed by Lord Bonomy which was published in June 2014.
4. The Burial and Cremation (Scotland) Act 2016 which repeals and replaces the Cremation Acts 1902 and 1952 as they apply in Scotland, was passed by the Scottish Parliament on 22nd March 2016 and received Royal Assent on 28th April 2016. The Act is primary legislation which grants Scottish Ministers powers to make regulations in secondary legislation.
5. On 4th April 2019, The Cremation (Scotland) Regulations 2019 came into force, and makes provision regarding cremations in Scotland, in particular the management and operation of crematoria, applications for cremation, the handling of ashes and cremation registers.
6. As of that date the previously entitled role of Inspector of Crematoria changed to Inspector of Cremation.
7. Whilst there remains a number of parts of the Burial and Cremation (Scotland) Act 2016 still to be implemented, commencement of the aforementioned Regulations required a number of significant changes by stakeholders, effective from 4th April 2019, some of which are summarised below:
 - Introduction of new statutory application forms for cremation.
 - Introduction of new NHS forms.
 - Crematoria to prepare a comprehensive Crematorium Management Plan.
 - Revised retention policy for records.
 - Handling (and subsequent dispersal) of ashes.
8. The Inspector provided assistance to the SG Burial and Cremation Team and crematoria staff during the various stages of preparation and implementation of these legislative changes.
9. Throughout the course of the year the Inspector maintained dialogue with major stakeholders within the funeral industry, and attended a number of local and national seminars. He also contributed to the market study by the Competition and Markets Authority (CMA).

Findings from Visits and Inspections

10. Currently there are a total of 30 crematoria in Scotland that are operational, with a new build near Stirling scheduled to be operational in May 2019.
11. Of those, 14 are owned and operated by local authorities, with the remaining 16 (soon to be 17) under private ownership.
12. There are planning applications at various stages for the building of a number of additional crematoria throughout Scotland.
13. The number of crematoria in Scotland has increased from 27 in 2015, to 30 up to 31 March 2019. From May 2019 there will be 31 crematoriums, a rate of one new build per year.
14. Since the date of the last annual report (May 2018) the Inspector has visited and carried out an inspection of all 30 crematoria.
15. Inspections are ongoing for this current inspection cycle with 12 inspections completed to date.
16. In addition there have been visits to a number of crematoria regarding meetings, and enquiries or complaints, as described elsewhere in this report.
17. The overall findings from the Inspections was very positive with noted improvement to facilities for attendees and staff at a number of crematoria.
18. The Inspector is pleased to report that there has been 100% recovery of ashes from all cremations carried out during the period of this report.
19. Collectively crematoria in Scotland are considered to be adequately staffed and equipped to deal with any seasonal increase, or significant numbers of mass fatalities from major incidents or pandemics etc.
20. There are in excess of 120 staff certificated to carry out cremations in Scotland with a number of others undergoing training, operating a combined total of 62 cremators, with over 50 baby trays in use.
21. A total of 21 of the 30 crematoria facilitate the re-cycling of metal extracts, with a number of those who still inter metal extracts giving consideration to joining a re-cycling scheme.
22. Overall performance was considered to be of a good standard with crematoria staffed, in the main, by experienced, enthusiastic, efficient and caring team members.
23. Where crematoria had been subject to any complaint or enquiry, (as referred to in the following section), these were dealt with at the time and separate to the annual inspection. They were nevertheless discussed during the

inspection with checks carried out to ensure any recommended action proposed at the time continued to be implemented.

24. It should be noted that currently most of these matters are dealt with on a voluntary basis as that part of the Act concerning enforcement by Inspectors in respect of ensuring requirements or conditions are complied with, has yet to be implemented.

Complaints / Enquiries

25. The following is a summarised resume of some of the varied enquiries or complaints reported to the Inspector during the period covered in this report, details of which have been anonymised.
26. **Family Disputes** – There have been a number of enquiries / complaints involving family disputes over the applicant's legal entitlement to make application, close family members not being told of the death or cremation until after the event, disputed authority to receive ashes, a request to bar a member of family from attending the funeral, and disputes over memorial ownership.
27. Whilst the majority of these have been resolved without the need for further action beyond the Inspector of Crematoria, several have been referred to the complainant's solicitor and Police Scotland where criminality has been suspected.
28. Those cases where close relatives of the deceased have not been informed of the death or funeral arrangements prior to the cremation have mostly been deceased who have died whilst co-habiting with another, whilst not divorced, and have children by the marriage.
29. **Mislabelling of ashes** – there was one reported case made to the Inspector whereby ashes, following two cremations, were placed into the wrong caskets, and the error was not noted by either the crematorium staff or either of the funeral directors involved who received the ashes on behalf of the respective families. The error only came to light when the casket was opened by a grieving relative and the identity label affixed to the bag containing the ashes was seen to relate to another person.
30. Working practices at the crematorium have since been changed to avoid the likelihood of a repetition.
31. **Ongoing matters directly concerning the Baby Ashes Enquiry** – one case relates to details of a bereaved mother not having been included in the original enquiry. The most likely reason for the exclusion has since been established as being due to an unrelated external incident.
32. The Cremation Authority is currently assisting the family with their requests.

33. Another enquiry relates to the alleged delay by a Local Authority to erect a memorial specifically for the babies who featured in the enquiry.
34. The Inspector is currently in dialogue with the parties involved.
35. Other related complaints concern bereaved families not being granted permission to site certain items in memory of their baby at specific locations within the Gardens of Remembrance. In all instances the Cremation Authorities have been contacted by the Inspector, and where the request cannot be granted, alternative options have been offered.
36. **Unauthorised retention of ashes** – this case concerned the retention of ashes at a crematorium for a period of nine months, when the belief of the applicants family was that (as per the supplementary form) after one month they would be dispersed in the Garden of Remembrance. During that period family relatives visited the Garden of Remembrance to pay their respects, wrongly believing the ashes had been dispersed there. The Crematorium accepted full responsibility for the incident, and have since changed working practices to minimise the risk of a recurrence.
37. **Ashes found during house clearances** – there were two instances when sets of ashes (historic) were recovered during house clearances, with enquiries failing to identify immediate relatives. Arrangements were made for these to be stored in crematoria whilst further enquiry was conducted.
38. **Identity Label found in ashes of another** – this concerned an identity label of someone other than the deceased seen to be amongst the ashes during dispersal. It transpired to be due to procedures of a funeral director in placing an identity label on the underside of the lid of the poly urn containing the ashes. The urn had thereafter been returned to the crematorium after the ashes had been dispersed, and the lid had inadvertently been placed on another poly urn. This practice (re-use) ceased immediately and the crematorium no longer uses poly urns to hold ashes which are to be collected by funeral directors or applicants.
39. **Crown Office and Procurator Fiscal Service (COPFS) Form E1** – prior to a new Form E1 being introduced on 4th April 2019 there were a number of issues reported, usually concerning the residential address of the deceased or spelling being different from those when the death was registered (Form 14). These discrepancies were always resolved before cremation. The new revised form, and improved dialogue between COPFS and crematoria staff has greatly reduced these issues.
40. **Cremation of Exhumed Body** – it was reported that the cremation of an exhumed body had taken over four hours. The cause for it taking that length of time was established as being a large quantity of clay present in the coffin. The Burial Authority concerned was informed of the unacceptable condition and arrangements made for the clay recovered after cremation to be interred at the crematorium.

41. **9 Request for joint cremation** –The Inspector received a request for approval of a joint cremation (i.e. two people placed in one coffin and cremated as one). Once it was confirmed that this could be accommodated by the funeral director and crematorium manager, and that the statutory forms for both had been completed, approval was given and the cremation was carried out.
42. Such an arrangement (Joint Cremation) is now included in the 2019 Regulations.
43. **Damaged Coffin** – it was reported that a funeral director had delivered a damaged coffin with the nameplate written by a marker pen. The unacceptable practice was reported to the Inspector of Funeral Directors. The funeral director accepted full responsibility and was given advice in a written report.
44. **Potential reputational damage**– the Inspector was contacted following concerns about potential reputational damage, and procedures to be carried out should a crematorium accept application for cremation of a high profile criminal offender (e.g. child sex offender). Many issues were discussed including consideration of media attention, residue ash being present after cremation, and dispersal of the ashes. Whilst crematoria have the legal right to accept or refuse application for cremation, both burial and cremation authorities are advised to prepare for such an eventuality, as death is a certainty.
45. **Cremation of Shared Pregnancy Loss** – as a result of a private cremation authority withdrawing its arrangement with NHS for cremation of shared pregnancy loss, arrangements were made and cremations are now carried out by a local authority cremation authority with the ashes thereafter returned to be scattered in the crematorium previously used by the NHS, and local to the bereaved families.
46. **Religious Symbols** – as a result of a complaint concerning ashes being interred within sight of a religious cross, the crematorium concerned have opened another Garden of Remembrance out with view of the cross. In addition they have made provision for alternative delivery of the coffin for those not wishing to use the catafalque for religious reasons.

Conclusion

47. The Inspector of Crematoria has now been in post for 4 years, having been appointed (March 2015) at a time shortly after the Report of the Infant Cremation Commission headed by Lord Bonomy had been published.
48. At that time the National Cremation Investigation headed by the Rt Hon Dame Elish Angiolini was ongoing, and remained so until the findings were made public in June 2016.

49. The recommendations from both these reports were accepted by Scottish Ministers, and managed by the then newly formed National Committee on Burial and Cremation, and whilst most related to issues associated with the cremation of infants and pregnancy loss, as time has moved on the remit of the National Committee now extends to all cremations.
50. The impact of the findings from these reports undoubtedly had a negative effect on public confidence in the funeral industry throughout Scotland, particularly as regards working practices at many of the crematoria.
51. With the full co-operation of all cremation authorities the Inspector is pleased to report that the issues highlighted have all been addressed in a positive way and public confidence appears to have been restored.
52. That is not to say, that there have not been individual actions which have resulted in causing further distress to bereaved, however, as will have been seen in the complaints and enquiries section of this report, the extent of these has diminished over the past 4 years.
53. One error in the handling of ashes is one too many, with no justifiable explanation acceptable.
54. The fact that all crematoria in Scotland has maintained a 100% recovery rate of ashes over the past 4 years demonstrates that the changes implemented since the findings of the two reports has been effective, however, having recovered ashes there is a need to ensure 100% accuracy in all aspects of their handling. That unfortunately has not been the case.
55. Whenever a complaint or incident relating to ashes is reported to the Inspector an enquiry is conducted to identify the cause of the issue and what can be done to prevent a recurrence. This information is thereafter disseminated anonymously to all crematoria in order that all can learn from the mistakes of others.
56. There is no standard practice as regards what type of casket is used by crematoria for holding ashes, or of the number of identification labels used in their preparation.
57. As will have been noted the biggest number of complaints over the past year relate to family disputes.
58. The examples provided earlier, highlight the difficult position funeral directors and crematorium staff find themselves in, when questions, which be it for Data Protection or other reasons they cannot answer.
59. For children or the still married partner of the deceased, not to be told of the death or funeral arrangements until after burial or cremation, if at all, is the most common cause for complaint.

60. Prior to 4th April 2019, the application form for cremation did ask the question whether or not relatives had been informed, however there was no way of knowing at the time of the cremation whether or not the answer provided was true, and in a number of cases it would not be known by the applicant who or where the relatives resided. To prove that the information provided on the application was intentionally false was very difficult, and it was sometimes said that the deceased did not wish certain members informed of the death.
61. The new forms (from 4th April 2019) do not ask that question, but list the statutory order of persons who can apply for the cremation, with partner (not married) being given priority after a period of six months.
62. The form, being a statutory document, requires the applicant to provide a signed declaration that to the best of their knowledge the information provided is true and accurate.
63. Whilst these changes may assist as regards who has a right to make the application, it will not resolve some of the other issues highlighted.
64. There is no easy solution to the issue of ensuring nearest surviving relatives, particularly children of the deceased are aware, as there is no legal obligation on an applicant to inform a particular person of the death.
65. Even to have such an instruction in a will would not solve the issue, as often the existence of the will is not known until after the funeral.
66. Moving forward, it is the intention of the Inspector to continue with annual inspections, share good working practice and eradicate poor practice, continue to ensure that ashes are recovered in 100% of all cremations, address all complaints as and when they are made, encourage crematoria to re-cycle metal extract rather than inter within the Garden of Remembrance (subject to approval of the applicant), encourage all to have a defibrillator on-site with staff trained in its use, to address any public concerns about any aspect of the cremation process, and continue to liaise closely with stakeholders.
67. On 28th March 2019 the Competition and Markets Authority commenced an 18 month full market investigation into whether there are aspects of the services of funeral directors and crematoria that adversely affect competition.
68. The Inspector awaits with interest the outcome of that investigation.
69. In closing the Inspector wishes to record his appreciation for the assistance and co-operation afforded to him by the cremation authorities, crematoria staff, and other stakeholders during the period of this report.

Respectfully Submitted

Robert Swanson QPM
Inspector of Cremation
2nd May 2019



© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

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

ISBN: 978-1-83960-027-2 (web only)

Published by The Scottish Government, July 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS611210 (07/19)

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