The Health and Sport Committee invites all interested parties to submit written evidence on the Bill. The Committee’s focus will be on the Bill’s general principles, as well as the provisions relating to pregnancy loss, still birth and infant loss. The Committee welcomes your views on whether or not you agree with the proposals in the Bill and whether you would recommend any changes. In particular, the Committee encourages responses on the following:

(1) General principles – the policy objective is to put in place new legislation to provide a modern and comprehensive legal framework for burial and cremation in Scotland. The Bill should provide a robust and long-lasting legislative framework to meet the needs of twenty-first century Scotland.

The City of Edinburgh Council welcomes the introduction of robust and modernised new legislation which has been developed with a multi-agency approach, and which aims to provide stakeholders and partners with a clear legal framework in operating and developing these important services.

(2) Applications for burial (Section 8) – the Bill seeks to make it a requirement to apply for a burial in a burial ground and to standardise the application forms. It prescribes that a person may not bury human remains in a burial ground unless that person has submitted an application to the burial authority and the application has been granted. The contents of the application form will be set out in regulations.

The City of Edinburgh Council welcomes the intended introduction of standardised application forms for burial in order to improve outcomes for customers across Scotland and to provide for a nationally consistent approach. The Council specifically welcomes the requirement for all burials to be registered in the burial register and to be carried out in accordance with an approved procedure.

(3) Meaning of cremation/ashes (Section 36) – the Bill seeks to define what is meant by ashes to avoid misunderstandings. It defines cremation as “the reduction to ashes of human remains and the application to the burnt human remains of grinding or other processes”. The Bill specifies that ashes do not include metal and where human remains are clothed, in a coffin or with any other thing, the remains include the clothing, coffin or other thing.

The City of Edinburgh Council would recommend that in the interests of wider clarity and understanding by all stakeholders and members of the public, as a supplement to the wording above consideration be given to including the wording of the definition made by Lord Bonomy as part of his Infant Cremation Investigation Report in June 2014, namely that ashes comprise “all remains that are left in the cremator at the end of each cremation process and following the removal of any metal”.
(4) Applications for cremation (Section 38) – the Bill seeks to create a single application form to cover all cremations. It requires a person who wishes a cremation to be carried out in a crematorium to submit an application. The contents of the application form will be set out in regulations. The policy memorandum to the Bill states that the new form will specify that in certain circumstances, particularly in the case of pregnancy loss, still births or infants, it may not be possible to recover ashes. However, it is now expected that ashes will be recovered in the vast majority of cremations. Where this does not occur, the Inspector of Crematoriums will investigate.

The City of Edinburgh Council would support proposals that seek to simplify the process for those completing the application form often in the most distressing of circumstances. The City of Edinburgh Council welcomes the development of an application form that incorporates greater clarity around specific categories of cremation, such as those of stillborn babies or pregnancy loss, which previously had not been explicitly covered. The City of Edinburgh Council fully supports these proposals and is currently contributing to the development of these forms as part of the National Committee sub-group charged with this task. The City of Edinburgh Council would also welcome consideration being given to the inclusion of information required from Funeral Directors, currently incorporated in a supplementary form, being included in the finalised application form. The City of Edinburgh Council highlights the need to ensure the understanding of those who are asked to complete an application form with respect to choice of final act of care, and the need to ensure that the authorisation of this act is appropriately approved by signature. The Council also supports the intention to provide through Regulation, a requirement for a copy of the completed form to be provided to the applicant. The Council highlights the need for plain English in developing these forms to aid the understanding of the applicant.

(5) Duty to maintain cremation register (Section 41) – the Bill seeks to create a single register for all cremations, including pregnancy losses. It puts a duty on each cremation authority to prepare and maintain for each crematorium owned by it a register containing prescribed information about cremations carried out in the crematorium.

The City of Edinburgh Council has a robust record keeping process in place and therefore would fully support these proposals across Scotland. The Council will continue to contribute to the development of the proposed statutory form through participation in the National Committee, and will continue stakeholder dialogue with relevant software providers to ensure the resilience of electronic record keeping.

(6) Relatives’ decision on disposal of remains (Section 47) – in practice, it is normally the nearest relative who arranges for the disposal of remains but currently this is not set out in legislation. The Bill seeks to make clear which relatives should be allowed to arrange for the disposal of remains in the event of a child’s death or still-birth. It creates a list of the nearest relatives who may do so and specifies that each nearest relative ranks equally if more than one nearest relative exists.
The City of Edinburgh Council would fully support these proposals, and recognises that the practical application of which is a similar process in place for adult cremations.

(7) Disposing of remains from pregnancy loss at or before twenty-fourth week (Sections 50-53) – the Bill specifies that in the first instance the right to make the decision about pregnancy loss lies with the woman who has experienced the loss. She may also give permission for an individual over 16 years, or the appropriate health authority, to make this decision. The Bill provides a procedure for a woman to make a change to the arrangements for disposing of remains in certain circumstances. Where an authorised individual over 16 years has been designated to deal with the remains, the Bill also enables that person to authorise the appropriate health authority to arrange for disposal of remains. Where a health authority has been appointed to dispose of remains, it must do so within 7 days.

The Council would support and requests that a clear and straightforward process be described for the authorisation of the final act of care, taking account the need to make this decision in circumstances of loss and grief. The City of Edinburgh Council would note that existing description of the opportunity to review and consider this decision is fairly complex and could therefore lead to an inconsistent application of timescale within key agencies. It is suggested therefore that this process could be simplified or the legal requirements provide further clarity by way of description in regulation.

(8) Disposal of remains by Health Authorities (Section 54) – the Bill seeks to address what happens if no arrangements are made for the disposal of remains of pregnancy loss at or before the twenty-fourth week within the relevant period contained in sections 51 and 52. It provides a duty on the appropriate health authority to dispose of the remains.

The City of Edinburgh Council would fully support these proposals in principle, however would recognise that the views of those parties affected by circumstances of this nature and health authorities are of paramount importance here.

(9) Register of disposal of remains (Section 55) – the Bill provides a duty on each health authority to maintain a register recording the disposal of remains when pregnancy loss occurs at or before the twenty-fourth week. In the policy memorandum to the Bill, it states that the way in which information is recorded on the cremation register will not identify a woman who has experienced pregnancy loss. Instead a unique identifying number will be used.

The City of Edinburgh Council would fully support these proposals across Scotland, and confirms that that this practice is already in place within this authority.

Please feel free to comment on any other provision in the Bill, or a provision which you consider should be contained within the Bill.
The City of Edinburgh Council welcomes the introduction of agreed Codes of Cremation Practice that have been developed by the National Committee on Infant Cremation in the course of the past year, as a way of ensuring industry-wide consistency of practice. The City of Edinburgh Council recognises that this in turn will provide the bereaved with reassurance that the final act of care for their loved ones will be carried out according to agreed practice and with due care and consideration.

The City of Edinburgh Council supports the introduction of a consistent definition of ashes across Scotland, for the benefit of those customers and citizens who access the services of funeral directors, cremation or burial authorities and who are patients of the NHS.

The City of Edinburgh Council welcomes the introduction of an Inspector of Crematoria, with powers to ensure compliance with agreed legislative process and Codes of Practice, including the right to suspend operation in light of constant or significant poor practice.

The City of Edinburgh Council also welcome positive steps towards assessing the need to introduce licensing element for Funeral Directors, as it is felt that this would potentially be of great benefit for the bereaved in ensuring standardisation and quality of service.

The City of Edinburgh Council recognises the significant impact on bereaved families made by rising funeral costs, and would welcome the Bill’s proposals that these costs be regularly reviewed by each local authority.

City of Edinburgh Council