Sands (Stillbirth and Neonatal Death Society)

Burial and Cremation (Scotland) Bill

About Sands:

Sands is the stillbirth and neonatal death charity. We operate throughout the UK, supporting anyone affected by the death of a baby, working to improve the care bereaved parents receive, and promoting research to reduce the loss of babies’ lives.

Introduction

Sands welcomes the Health and Sport Committee’s invitation to provide written evidence on the Burial and Cremation (Scotland) Bill. The Committee’s focus on the sections relating to stillbirth, pregnancy loss and infant death are particularly pertinent to the charity, and we provide comments on the key issues which you highlighted as being of particular interest below:

1) General Principles

Sands welcomes the focus on the key principles driving the Burial and Cremation (Scotland) Bill. The charity is particularly pleased to see such positive legislative moves to create a clear, modern framework for the sensitive handling of the remains of babies who have died during pregnancy, are stillborn or who die soon after birth in Scotland.

The proposals contained within the Bill for the most part will ensure that parents are treated with greater sensitivity; offered true choice and involvement in the handling of their baby’s remains; simplify the process for bereaved parents and healthcare professionals alike; and ensure improved accountability across the sector. These principles, focused as they are on the needs and wishes of bereaved parents and their families, are to be welcomed.

2) Applications for burial

Sands agrees that standardised application forms for burial will help to ensure more consistent practice in this area, whilst also providing greater clarity for bereaved parents. We also hope that standardised forms will help to make sure that all relevant options have been discussed with bereaved parents and their families.

3) Meaning of cremation/ashes

The definition of ashes within the Bill as human remains including clothing, the coffin or other things (minus any metals) where a cremation has taken place is in line with the recommendations made in the Bonomy report.

This is very significant for bereaved parents, as it matches the definition many parents have of what ashes are. It also increases the likelihood of parents
being able to receive ashes following the cremation of a baby, which is very often of great importance to them. The definition, and provision of, ashes following cremation has been one of the greatest causes of concern for bereaved parents following the death of their baby, and Sands welcomes the clarity this definition provides for both parents and professionals involved in making arrangements for the sensitive disposal of remains.

4) Applications for cremation

Sands disagrees with the proposal in the Bill to create a single application form to cover all cremations, both for adults, children and babies who die before, during or shortly after birth.

Whilst the charity understands that having a single form can help to provide greater clarity in the application process, we feel that the variety in needs and circumstances of parents whose babies have died at different stages of gestation requires the use of separate forms. Using separate forms for the cremation of stillborn babies, pregnancy losses before 24 weeks and infants can make these forms much more applicable to their particular demands and circumstances. This would make them easier for bereaved parents to understand, whilst avoiding the need to go through unnecessary and potentially further upsetting details.

Separate forms would not only benefit bereaved parents, but also the professionals and other organisations who may work with them. Using forms that are more specific to the circumstances bereaved parents may have experienced could aid professionals in highlighting information that needs to be discussed so that parents can make informed choices. The use of separate forms could also aid crematoria to plan their workload to ensure that as many ashes as possible are obtained when cremating a baby (such as by arranging to cremate all babies/fetal remains early or late in the day, when the cremator is cooler, for example).

Whilst it is important to manage parents’ expectations around the cremation process, it is a source of possible concern that highlighting on the application form that it may not be possible to recover ashes does not provide adequate impetus to ensure that all efforts are made to collect ashes. However, we expect that the requirement for cases where ashes have not been obtained to be investigated by the Investigator of Crematoriums will provide an appropriate safeguard for bereaved parents. The process for how such investigations would be instigated and processed should be published as soon as possible.

5) Duty to maintain cremation register

Sands supports the duty included in the Bill for a single register for all cremations, including pregnancy losses. Introducing a duty for all cremation authorities to prepare and maintain a register containing prescribed information about cremations carried out in each crematorium it owns would ensure improved information collection and accountability. This would also provide greater clarity for all parties involved.
6) Relatives’ decision on disposal of remains

Sands agrees with the proposed list of nearest relatives outlined in the Bill, and welcomes the increased clarity of placing this within a statutory framework. The charity also agrees that all of the closest relatives should be treated equally with regard to decisions on the disposal of remains.

7) Disposing of remains from pregnancy loss at or before the twenty-fourth week

Sands welcomes the proposed specification that the right to make the decision about pregnancy loss rests first with the mother who has experienced the loss. Specifying this in legislation will help to secure the autonomy and choice of the mother.

The ability for the mother to authorise either another adult over the age of 16 or the appropriate health authority also protects those who are unable or do not wish to make the arrangements at that point in time. The provision of a procedure for the mother to request a change to the arrangements that have been requested within a certain time period also provides an important method in which a bereaved parent may exercise an informed choice in what is most often an incredibly emotional and difficult period.

8) Disposal of remains by health authorities

Sands believes the duties placed on health authorities to make arrangements where no arrangements have been made or requested are appropriate. It is important however that authorities should try to change arrangements where possible and practical if requested by the mother at any point during this process, to ensure that their wishes are respected. Authorities should also attempt to inform the mother of their plans in time for her to request any changes, should she wish to.

9) Register of disposal of remains

The proposed 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 is both necessary and significant. It would protect the rights of bereaved parents to have information about how the remains of their child were disposed. This is particularly important for bereaved parents who may not have wanted or been able to make arrangements in the immediate aftermath of their baby’s loss, but who subsequently feel that they would like to know more details.

A legislative duty to create and maintain such a register would help to prevent unnecessary uncertainty and heartache for bereaved parents, whilst also offering improved clarity and accountability within public services. The charity also believes that information in the cremation register should also include details about where ashes are interred or scattered by crematoria.
10) Other comments

The information contained in this Bill, and the language in which it is phrased, by necessity has to examine the issues around the disposal of fetal remains in a detailed and dispassionate manner. The Committee should be aware however that this could be considerably distressing for any bereaved parents who may read the Bill, or the subsequent Act if and when it becomes law.

Sands believes that wherever the Bill or subsequent Act is published, it would be beneficial for it to include a short paragraph or introduction explaining that the terminology used could be distressing or upsetting for bereaved parents. This would enable those who feel they would be likely to have an adverse reaction to the material to avoid it if they so wish.

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