Cheryl Buchanan

Burial and Cremation (Scotland) Bill

My name is Cheryl Buchanan, I am a bereaved parent who, at the beginning of 2013, found out about my daughter's involvement in the media labelled “Baby Ashes Scandal”. I discovered via local news that bereaved parents who had used Mortonhall Crematorium in Edinburgh for their baby's cremation had been routinely misinformed of the existence and whereabouts of their baby's ashes. They had been led to believe by crematoria staff that their baby's cremations yielded no remains, when in fact there had been but they were withheld from parents and interred in a field at Mortonhall, something that had occurred routinely for over 30 years.

My daughter died at 23 weeks gestation of pregnancy in 2004. Her cremation was organised by my local maternity hospital (the Princess Royal in Glasgow) and the Co-Operative Funeral Care. At that time I was not given the option of burial, either via the hospital or privately. Minutes after her death I was handed cremation forms to sign, I had been sedated shortly beforehand for a procedure related to the pregnancy, was not shown the forms and they were not explained to me, and this was two days prior to my daughter's actual birth. At no point were the forms explained to me, up until 2013 I was sure I had never signed any cremation forms so it came as a shock to me to see my signature on them. Even if they had been explained to me I was in no fit state to sign legal documents and was still sedated so would not have been able to give my informed consent. After corresponding with the hospital on this matter and getting nowhere with regard to a proper explanation I decided to make a complaint to the SPSO at the end of 2013. The ombudsman investigated my complaint and in November 2014 made several recommendations to NHS Greater Glasgow and Clyde. The issues I complained about were - failed to explain my right to request a private burial or cremation. Failed to show, or explain, the cremation forms prior to asking me to sign them. Asked me to sign the cremation forms when I was sedated and prior to the delivery and failed to provide an accurate explanation, when responding to my complaint, for the inconsistencies in the dates on the cremation forms. The recommendations made by the SPSO included - ensure that staff attending patients after a fetal loss follow the guidance notes, report back to the Ombudsman on how they will ensure that the options for disposal of remains will be published to parents, so that they are aware of the choices that are available to them. Report back to the Ombudsman on steps they intend to take to ensure that any form to be completed by a patient after a fetal loss is fully explained to the patient, at a time when they are fully able to understand any explanation given. Report back to the Ombudsman on steps they intend to take to ensure that patients, following a fetal loss, are not being asked to give consent while they lack the capacity to fully understand and recall what they are signing and formally apologise for the inconsistencies provided in relation to the dates on the cremation form. I checked that these
recommendations had been followed through and was sent guidance which goes some way to show they were.

When my daughter was cremated I was told by the funeral director that there would be “ashes” after the cremation and if I wish I could call the following day to collect them. When I contacted Daldowie crematorium I was told there were no remains. I was very upset, it took a long time for me to come to terms with the fact I would have no physical reminder of my daughter. Over the past three years I have worked alongside other affected parents to ensure that no one in the future has to suffer as we have. We participated with Lord Bonomys Infant Cremation Commission, The National Investigation by Dame Angiolini and I was also a parent representative on the National Infant Cremation Commission. Due to these investigations, and through our own research, we have realised that one of the reasons parents did not have their baby’s ashes returned to them was down to the fact there was no definition in legislation of the word ashes. Crematoria and Funeral Directors followed the advice of the regulatory bodies. Until 2013 cremated remains were only classed “ashes” if they contained visible bone fragments. An expert who contributed to the Mortonhall report stated that it was possible to distinguish bone fragments in a cremation of a fetus as young as 16 weeks gestation. One of the issues regarding this is that the operators performing the cremation may not have been suitably trained to distinguish ashes, they might not have put in enough care or effort to try and retrieve ashes due to the way the cremation was performed, it could have been done at a lower temperature or a shorter period of time. Myself and another parent went to visit the Daldowie and had a tour, we were shown the machines and the procedure of cremation from start to finish. Some of the things we were told about the cremation of babies shocked us. We hope now with the recommendations having changed that this is no longer occurring. If the definition of ashes was as it is now, to include “all that remains in the chamber after the last flame has ceased” (as stated by Lord Bonomy in his report) I am sure that I would have some physical remnant of my daughter to treasure. As it is this has been taken from me, I do not know happened to the “coffin ash” that would have been produced during her cremation, my deepest fear is that it was disposed of along with may other babies ashes that may not have been regarded as “ashes”.

In current legislation fetal remains of a baby less that 24 weeks have no legal status, while the Human Tissue Act and the Sensitive Disposal of Fetal Remains attempts to cover the pre 24 week period they do not contain great detail on cremation or burial from the perspective of the woman who has suffered that loss. Regardless of whether or not that fetus is classed as “human remains” in the eyes of the law to many women that pregnancy was a child. The Bill specifies that the woman who has experienced the loss has the right to decide what happens, this is essential as the issue of informed consent is paramount, and the experiences a woman has during the time of the loss and the events afterwards will no doubt stay with her for the rest of her life. Revision of the forms relating to a pregnancy loss, still birth or infant
loss with greater clarity and safeguards put in place to ensure the person arranging the burial or cremation is fully informed. Explanations by staff of all forms, guidance by way of leaflets tailored to each specific type of loss and the options available, time to think about making arrangements if they so desire, or if they wish to decline involvement in making arrangements they should feel that they can fully trust the healthcare or funeral care professionals involved in their care. These are all things that should have happened in the past, but we can only make changes for the future and hope that the Bill, and policy and procedure changes which have already been implemented are enough to ensure no parent in the future has to suffer as we have. To experience the death of your child is difficult enough to live with but to then have the last remnant of them taken from you in disregard, and discover that it wasn’t only you, but hundreds of other parents were also denied their baby’s ashes, that very difficult to live with and I can only hope somehow that putting my own experiences forward, and fighting on not only my own child’s behalf but for all of the affected babies, that it will help prevent it happening to anyone else.

Cheryl Buchanan