

Scottish Government submission of 1 July 2022

PE1841/A - Stop the destruction of headstones within community cemeteries

Thank you for your correspondence of 30 May 2022 to Marie Ferguson, the Committee liaison officer, seeking views on Petition PE1941. I am responding as Deputy Director for the Health Protection Division, with responsibility for the legislation and overarching policy governing the [Burial and Cremation \(Scotland\) Act 2016](#) ('the 2016 Act').

Ensuring that people who have died are treated with the utmost dignity and respect at all times is of importance to the Scottish Government.

In Scotland, responsibility for the management, safety and maintenance of each burial ground lies with relevant burial authority. Therefore, the Scottish Government is unable to intervene in operational matters affecting burial grounds, such as the making safe of memorials.

It is likewise the duty of an employer to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all its employees and visitors. This includes keeping the burial ground safe for staff and the public attending the burial ground. These statutory obligations are primarily completed under both the Health and Safety at Work etc. Act 1974 (as amended) (HSWA1974) and the Occupier's Liability (Scotland) Act 1960. The methods by which burial authorities choose to make safe memorials is a matter for each to determine as they deem appropriate.

To assist local authorities in meeting their statutory obligations, the Scottish Government published the [Burial ground memorial safety: local authority guidance](#) in June 2019.

The Scottish Government is also currently in the process of implementing various parts of the 2016 Act, which includes provisions granting Scottish Ministers the power to prepare regulations for burial grounds and burial authorities in Scotland, including relating to the maintenance and management of burial grounds.

To support this work, the Burial Regulations Working Group resumed meeting in December 2021 to discuss the regulation of burial in

Scotland, following a halt to its work due to the COVID-19 pandemic. You can observe the progress of the Working Group on the [Burial Regulations Working Group](#) webpage.

Alongside these regulations, the Scottish Government will also prepare a statutory Code of Practice for burial authorities and associated Guidance for the burial regulations, which will be informed by the Working Group and with engagement with the wider funeral sector.

Another part of the 2016 Act which is being implemented concerns regulations for inspection of the funeral sector. The Scottish Government has already appointed Inspectors of Burial, Cremation and Funeral Directors, who are intended to inspect the funeral sector against the relevant regulations, codes of practice and guidance once prepared and in law. It is planned that more inspectors will be recruited in the future who can support the regular inspection of the burial sector to improve performance, encourage best practice and ensure compliance with any requirements placed on burial authorities.

In summary, in Scotland it is currently the responsibility of the relevant burial authority to ensure the health and safety of all staff and visitors and to make determination of any steps deemed appropriate to ensure the safety of their burial grounds. The Scottish Government is in the process of implementing the 2016 Act, including as it relates to regulating burial, and is working closely with the sector to ensure that these are appropriate, proportionate and have at their heart the dignity and respect of the deceased, the bereaved and of burial grounds themselves.