

Scottish Government submission of 5 June 2023

PE1941/AA: Stop the destruction of headstones within community cemeteries

Thank you for your letter of 4 May 2023 to the Chair of the Burial Regulations Working Group, seeking views on Petition PE1941. The Working Group meetings have concluded and the minutes of meetings are [published](#) on the Scottish Government website. I am responding as Deputy Director for the Public Health Capabilities Division, with responsibility for the overarching policy governing the Burial and Cremation (Scotland) Act 2016 ('the 2016 Act'). Officials in the Burial & Cremation, Anatomy and Death Certification Team are taking forward the development of the draft burial regulations.

I note that there have been two previous responses to the Committee on Petition PE1941 (27 June and 19 October 2022) and you are now seeking additional information about:

- The status of the Scottish Government: Burial Ground Memorial Safety Guidance;
- The legal responsibility for safety of visitors to burial grounds; and
- The status of the consultation on draft regulations under the 2016 Act.

The [Burial Ground Memorial Safety Guidance for Scotland's Local Authorities](#) was developed with representatives from burial authorities and other interested parties in response to recommendations by the sheriff following a fatal accident inquiry into the death of a child due to a falling memorial. The Guidance was published in June 2019 and is intended to support local authorities. It is for each local authority to decide how the guidance fits in to their memorial inspection programmes.

The letter from my predecessor, Sinéad Power, of 27 June 2022 explained the legal responsibilities of burial authorities in relation to their burial grounds. Each burial authority is responsible for the maintenance, safety and management of their burial grounds. There is a statutory duty placed on burial authorities, as employers, for the health, safety and welfare of staff and visitors to their burial grounds. This is primarily under

both the Health and Safety at Work etc. Act 1974 (as amended) and the Occupier's Liability (Scotland) Act 1960.

We are developing burial regulations under the 2016 Act and they along with the guidance for the regulations and a burial code of practice will set out minimum standards for all burial authorities on Scotland. At the same time as the burial regulations, we will bring forward regulations to introduce inspection for the funeral sector: burial, cremation and funeral directors. Inspectors will inspect against the legislation, as well as any relevant guidance and codes of practice. As a first step towards publishing the consultation the commencement regulations were made on 11 May.

The public consultation on the draft regulations, which will include sections on maintenance and management of burial grounds, is due to be published in summer 2023 although I am unable to provide an exact date at this time.