

22 February 2016

Government Consultation on cremation following recent inquiries into infant cremations

Purpose

For discussion and direction.

Summary

This paper sets out the draft response to the Ministry of Justice's consultation into infant cremation, which makes a number of recommendations for the future of cremation services.

Recommendation

Members are asked to:

1. Discuss and agree the LGA's draft response to the Government's consultation on infant cremation.

Action

Officers to progress as directed.

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Government Consultation on cremation following recent inquiries into infant cremations

Background

1. On 16 December the Government announced a consultation to seek views on proposals for a number of changes to the Cremation (England and Wales) Regulations 2008 and for improving other aspects of cremation practices. This consultation is in response to the findings of both the Emstrey Crematorium report by David Jenkins, and the Bonomy Infant Cremation Commission in Scotland into infant cremations. Both these reports made a number of recommendations for the Government to improve practices and the consultation examines these.
2. Lead Members discussed the consultation in January, and the Board's Champion for Bereavement Service, Cllr Ian Gillies, was also consulted. The draft response to the consultation is attached at **Appendix A**.

Issues

3. Emstrey Crematorium in Shropshire was investigated by David Jenkins for its handling of infant cremations between 2004 and 2012, where it was found that there had been 29 cremations of infants where no ashes had been returned to their families. In Scotland over 250 families had been affected by the working practices at the Mortonhall Crematorium in Edinburgh, which prompted the creation of the Bonomy Infant Cremation Commission (ICC).
4. The Consultation looks at the recommendations from the reports coming out of these two investigations, and examines how they could improve practices not only around infant cremation but also the cremation of adults and children. Many of the aspects included in the consultation are around operational issues, including:
 - 4.1. a new definition of ashes
 - 4.2. standardising practice across crematoria for the disposal of ashes
 - 4.3. extending the retention of records by crematoria
 - 4.4. the regulation of cremation for foetuses under 24 weeks gestation
 - 4.5. introducing new codes of practice on cremation and training for crematoria staff
 - 4.6. improving information received by bereaved parents
 - 4.7. looking at memorials for parents who have been affected by a lack of ashes from infant cremations.

5. The consultation also looks at two particular issues around improvement which are of interest to the LGA, including the creation of an inspector of crematoria and the creation of a new national working group. These are the issues that our draft consultation response has particularly concentrated on, given their potential impact on council improvement.

Consultation questions

6. The consultation sets out proposals for a new inspector of crematoria, the consultation asked if this appointment would be the most effective way to monitor working practices and ensure standards. The consultation also seeks views on the remit of the inspector. The full questions are:
 - 6.1. Q14 - Do you think that the appointment of an inspector would be the most effective way of monitoring working practices and ensuring appropriate standards at crematoria? If so, it would be helpful to have your views on:
 - 6.1.1. what you think the inspector's role should be – for example, should it replicate the current remit of the Scottish inspector or should any of these responsibilities be removed or other responsibilities included and, if so, why?
 - 6.1.2. how frequently you think crematoria should be inspected?
 - 6.1.3. in what way and how frequently you think the inspector should report to Ministers?
 - 6.1.4. whether publicising cremation authority good and bad practice would be an effective way of raising standards?
 - 6.1.5. whether you consider that the inspector's remit should include complaints handling?
 - 6.1.6. whether you consider that the inspector's remit should extend to the funeral industry?
 - 6.1.7. how you think an inspector should be resourced and funded?
 - 6.1.8. how you think the independent status of the inspector should be safeguarded?
 - 6.2. Q15 - If you do not think that an inspector would be the most effective way of monitoring working practices and ensuring appropriate standards at crematoria, what alternative approach do you think might be needed to improve standards, and how might this be implemented?
7. As mentioned in paragraph 6.1.1 the independent inspector of crematoria for Scotland was appointed in March 2015 to inspect their 28 crematoria. His role is to:
 - 7.1. ensure cremation authorities in Scotland are adhering to current legislation and best practice
 - 7.2. respond to complaints or queries from the public about cremations

- 7.3. inspect cremation registers and other statutory documentation to ensure they are being completed and maintained appropriately
- 7.4. provide direction to crematoria managers and staff to ensure they are operating in line with the recommendations of the ICC
- 7.5. support the development of future primary legislation on burials and cremations.
8. There is an existing statutory provision for the inspection of crematoria under the Cremation Act 1902, Section 7, though it has not been exercised in recent years.
9. Chapter 6 of the consultation concerns the creation and operation of a national working group to improve cremation law and practice. The Government states that they intend to set up the working group and they are particularly interested in respondents' views on the remit, aims and objectives of the group. The question is:
 - 9.1. Q16 - Should the working group's aims and objectives be similar to those of the Scottish National Committee? Should anything be added, or omitted?
10. The National Committee in Scotland has a number of representatives from local authorities, industry bodies, the Scottish Government, the NHS, bereavement organisations, the Inspector of Crematoria, the UK government as well as parent representatives. It is chaired by the Scottish Government, and reports directly to Ministers. The Committee's aims and objectives are:
 - 10.1. to develop, promote and annually review a Code of Practice on baby and infant cremations which reflects contemporary standards and best practice
 - 10.2. to ensure all recommendations from the ICC are implemented, through a combination of strategic oversight, monitoring and also through direct tasks which will be undertaken by expert Working Groups set up by the National Committee
 - 10.3. to promote improvements in practice, technology, policy and legislation
 - 10.4. to report annually to Ministers on standards and practice in baby and infant cremations.
11. The consultation states that the national working group will consider in detail, and where appropriate take forward, the recommendations in the Emstrey report and the ICC. The consultation also outlines that they intend for the national working group to look at training and qualifications of crematorium staff, to look at the best technical framework or recovering baby ashes as well as to look at communications with bereaved parents.
12. The remit of the national working group is separate from the remit set out for the inspector of crematoria, however there is potential for some overlap. Anecdotally in Scotland the work has been divided so that the National Committee sets the standards, and examines and promotes good practice, whilst the Inspector is checking that these are being adhered to on the ground. The Inspector works 2 days per week on a part time basis, examining all 28 Crematoria in Scotland including both public and private crematoria. In England and Wales there are approximately 250 crematoria. The full

consultation is available on the Government's website:

<https://consult.justice.gov.uk/digital-communications/consultation-on-cremation>

Draft response

13. It is clearly important that bereaved families are provided with a good service when they use council crematoria services. Following conversations with lead members and the Board Champion, the draft response sets out a range of ways in which crematoria could be scrutinised. This includes increased scrutiny from councils with complaints being referred to the Local Government Ombudsman, a local inspection regime using coroners, or through a national inspector that is fully funded by the Government.
14. The LGA has also suggested that representation from members on the national working group would be beneficial. It is clear that the national working group would play a key role in developing good practice and setting standards, which is an area that the LGA could contribute positively towards.

Next steps

15. Members are asked to:
 - 15.1. Discuss and agree the LGA's draft response to the Government's consultation on infant cremation.

Financial Implications

16. None.