

Draft Statutory Guidance on Funeral Costs
COSLA's Response

Summary and Recommendations

This report summarises the intent of the Scottish Government's Statutory Guidance on Funeral Costs and sets out a draft response to the consultation on it. The Guidance has a focus on clarity, transparency and presentation on service information including charges, and in encouraging all providers to have regard to supporting bereaved families manage the costs of a service. There is no major misalignment between the Guidance content and the direction of travel for local authorities on funeral charging policy and practice, nor are there likely to be significant resource implications.

This paper invites the Community Wellbeing Board to:

- i. note the intent of the Scottish Government's Statutory Guidance; and
- ii. agree the draft COSLA response to it, including the highlighting of points made in paragraph 13.

References

Previous reports on funeral costs and charges:

- COSLA Leaders – 'Local Authority Charges for Children's Funerals and Cremations', 25 May 2018
- CWB - 'Local Authority Charges for Children's Burials and Cremations', 22 June 2018
- CWB – 'Removing Local Authority Charges for Children's Burials and Cremations', 21 September 2018

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Scottish Government's
Draft Statutory Guidance on Funeral Costs
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Purpose

1. The Statutory Guidance is intended to help improve the availability and transparency of funeral charges information “to help consumers understand, compare and choose the services that are right for them” and to “encourage people to talk about and plan their funeral”. It also encourages service providers to advise and support people challenged by the costs of a funeral.
2. This report provides a draft response to the Scottish Government's consultation. It is informed by conversations and early sight of individual local authorities' responses where that has been possible.
3. The Scottish Government's consultation document is available from <https://consult.gov.scot/socialsecurity/statutory-guidance-on-funeral-costs/>

Current COSLA Position

4. Recent funeral policy at this Board and in the COSLA Leaders' discussion has been focused on the removal of local authority charges for children's burials and cremations. A report on that to the previous Board meeting referenced this broader consultation and members' welcomed the opportunity to comment on any draft response that COSLA planned to make.
5. Conversations with local authorities and early sight of their draft responses suggests that Scottish local authorities already exhibit good practice in making their own charges available and transparent, and there is continuing and increasing support to help combat 'funeral poverty'.
6. Importantly, the Draft Guidance explicitly acknowledges that it is for local authorities (and indeed private funeral businesses) to determine the setting of funeral charges in their areas. This is very much the cornerstone of a COSLA position and whilst COSLA would wish to promote service charge transparency and encourage local authorities to consider all factors in setting their charges, including affordability, the principle of local charging discretion should remain intact.
7. This consultation response will provide an opportunity to build on the response made to the Funeral Expense Allowance Regulations response in September, and in particular to re-assert a COSLA concern that migrants may not have access to the benefit given that eligibility is framed on resident status and access to existing UK benefits.

What is changing?

8. The Draft Guidance contains sections for burial authorities, for cremation authorities, for funeral directors and a section for local authorities on charge setting.
9. This report will cover for the most part the implications for local authorities. The most significant points made in the consultation are –
 - The need for clear, easily understood language to describe services that charges are being applied to, and for information to be available online and on paper

- Clarity that local authority charges are only a component – in most cases there will be additional funeral director costs
- To be on what is covered by standard service provision, and the additional services options that are available and the charges for those
- That variations and options in charges are made clear – e.g. different charges for different days of the week and at different times of the day; options for low cost, affordable services
- If the wish is not to involve the services of a funeral director, burial or cremation authorities should make reasonable efforts to accommodate that
- An encouragement to provide advice, support and proactive referral for bereaved families to help them manage the costs of a funeral, including the promotion of options for more affordable funerals (whilst making clear what would not be included)

10. The Guidance promotes similar principles and practice for funeral directors. Within that it provides a definition of a ‘simple funeral’ – and what would fall outside of that definition, and be subject to additional charges (and how much those would be), and that any increase in prices should be proportionate to the request for additional service. It also guides on transparency of charges for a ‘direct’ cremation or burial – that is, the service does not include any commemorative service element and is not attended by friends or relatives of the deceased person.

11. The final guidance will include or refer to a glossary of terms. The Scottish Government intends to work both with members of the funeral industry and the public to develop that. The consultation asks specifically for views on that and what ought to be included.

Proposed COSLA Position

12. COSLA is generally content with the Guidance’s thrust, which is to engender greater availability, consistency and transparency of information to service users, and in its encouragement for the funeral industry to give increasing regard to supporting bereaved families manage the cost of funerals.

13. The appendix sets out a proposed COSLA response to each of the questions posed in the consultation. Service Managers and others are better able to answer in greater technical detail, and whilst it reflects on those, the COSLA response will necessarily be more strategic. The most significant themes and points that COSLA would want to express are -

- that local authorities are typically advanced in their transparency and open to sharing information and are comfortable in doing that. As part of this they are keen to make the public aware that funeral service income needs to contribute to capital investment and grounds maintenance costs. Since Local Financial Returns may not capture those cost elements they are not likely the best way, or the only way, to publicly show income and spend;
- although addressing funeral poverty may not yet be a central element of many local authority and partnership poverty strategies, the need to advise and support low-income bereaved families to help them manage their costs, identify and assess lower cost options is recognised as important. The guidance helpfully encourages rather than directs poverty related support;
- it is less clear that local authorities are well sighted on how the principles of this guidance might apply, be actioned, to support the needs of people “who may be differently affected in relation to the protected characteristics”. Most commonly, local responses suggest that greater transparency of service options and their costs will help bereaved families from all communities and groups;
- there is an additional opportunity through this consultation to raise COSLA concerns previously voiced through a response to the Scottish Government’s

consultation on Funeral Expenses Allowance Regulations which were about access to benefits for migrant and traveller communities;

- there are some local authority concerns that there may be additional cost burdens arising from guidance expectations, with more time needed to allow a reasonable assessment;
- there may be a role for Scottish Government to support the sharing of best practice between local authorities and others in the funeral industry.

Next Steps

14. The response is due on 8 November 2018. COSLA has been allowed until Monday, 11 November to submit its response given the need for it to be endorsed by this Board.

15. The COSLA response will highlight the specific points made in paragraph 13, over and above responses to individual questions.

16. COSLA officers will continue to work closely with Scottish Government on funeral policy.

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November 2018

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RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual

Organisation

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response only (without name)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Questionnaire

Question 1: Do you think that the Scottish Government should publish a glossary of terms alongside the guidance on funeral costs?

Yes / No / Don't know

Question 2: If you answered "yes", please list any particular terms that you think this glossary should include, along with a rough definition of what you understand the term to mean.

Funeral industry – a listing of those bodies or the types of bodies within the industry

Burial / Cremation Authority – clarity on who that is or normally is

Lair – area of ground for the interment

Lair Certificate – the certificate that grants rights of burial

Cremation Lair – a lair for the burial of ashes

Burial Lair – a lair for either a coffin and ashes burial

Interment – Burial of a person

Interment Fees – Fees in relation to opening the lair and the burial

Mercury Abatement – controlling the dispersal of mercury from crematoria

Single Use Lair – Lairs suitable for a single coffin only

Simple Funeral – a funeral that relates to the basics that require to be covered

Social Burial – national assistance funeral organised and paid for by the burial authority

Direct Cremation – when a person who has died is cremated and the ashes later returned to the family without any ceremony at the time

Non-resident charge – the additional charge that is sometimes made to cover the cost of a funeral of a person who does not reside in the local authority area

Memorial registration fee – monumental mason registration fee

Foundation fee – charge for the installation of a new headstone foundation

Question 3: Do you think that the guidance should include measures which encourage private cemeteries and crematoriums and funeral directors with a website to display their pricing information online?

Yes / No / Don't know

Question 4: Please explain your answer.

Yes. People most often make an assumption now that costing information is available online. Most local authorities now display their charges online. The public should be able to access all charges online regardless of who is providing the service. A caveat is that since some customers will want a bespoke service not all charge options can be accommodated.

Question 5: In order for crematoriums to display their prices in a consistent manner, the Scottish Government proposes that all crematoriums should base their standard cremation service charge on a common set of components.

These are:

- Cremation fee
- Mercury abatement fee (where applicable)
- Provision of container for ashes
- Cremation certificate
- Provision of chapel / service room
- Administration and processing of forms

Do you think that the standard cremation service definition proposed in the draft guidance captures all of the necessary elements?

Yes / No / Don't know

Question 6: If you answered “no”, please provide suggestions for items that you think should be added or removed.

Any additional elements – e.g. the opportunity to bury ashes – for which there is a charge or no-charge should be made clear

Question 7: To help consumers make comparisons between funeral directors, we have proposed a standard definition for a simple funeral. This is set out in paragraph 9 of the draft guidance for funeral directors and also in paragraph 50 of this consultation document.

Do you think that the simple funeral service definition set out in the draft guidance captures all of the necessary elements?

Yes / No / Don't know

Question 8: If you answered “no”, please provide suggestions for items that you think should be added or removed.

COSLA would support the position well-articulated by West Lothian Council -

Paragraph 50 captures the elements required, but could be laid out in a more logical manner. The first bullet point “The funeral Director’s Services” should include as sub headings bullet points 2, 3, 5, 6 and 7 as these are what would be deemed “Funeral Director Services”. Listed separately should be:

- *Provision of a coffin*
- *Provision of a Hearse to the crematorium or cemetery*
- *A service / Religious Representation if required*
- *Local Authority or Crematorium Charges*

This would help make the actual cost more easily understood and may also align the layout and understanding to that of a social (National Assistance Funeral) interment undertaken by a local authority which would also include the above elements.

In addition, further consideration should be given to the inclusion of a family car as many of those in poverty, and most likely to request a simple funeral, will not have access to a vehicle.

Rural authorities in particular are keen to draw attention to transport issues. This is expressed well by Highland Council –

The Council would be supportive of this proposal [for a simple funeral definition] if a more robust wording was included for transportation of the deceased in remote communities as “taking into account local circumstances” is somewhat vague and open to interpretation. The Highland Council covers a large rural geographical area the transportation of the deceased person from the place of death may frequently exceed 10 miles within the Highland Council area”.

Question 9: Do you think that the guidance for funeral directors should include a measure suggesting that funeral directors should describe their processes for care of the deceased to help consumers understand costs associated with this?

Yes, with sensitivity

Question 10: Please explain your answer.

It helps families to make informed choices

Question 11: Do you think the guidance should include a provision encouraging burial and cremation authorities to make reasonable efforts to accommodate the wishes of a person that does not want to use a funeral director?

Yes

Question 12: Please explain your answer.

The public should be able to understand what is essential and what is required and to make informed decisions. The Scottish Government should seek to offer impartial advice. As part of that advice should be offered on the support that is and is not likely to be available from burial and cremation authorities. COSLA is mindful that local authorities should not face additional burdens that cannot be accommodated within existing resources, or additionally funded by local government or supported by the estate of the deceased.

Question 13: Paragraphs 3 and 4 of the draft guidance for local authorities suggest that local authorities should consult the public when developing charging proposals and explain the reasons for any proposed changes to charges.

Do you think these measures will help improve the transparency of, and public engagement with, the local authority charge setting process?

Yes / No / Don't know

Question 14: Please explain your answer.

Scottish local authorities typically have processes already in place to consult with local residents on their budgets. The approaches set out in paragraphs 3 and 4 are sensible. The means of consultation should be for local discretion.

Question 15: Paragraph 5 of the draft guidance for local authorities suggests that local authorities should publish information from their Local Financial Returns annually on their websites, showing income generated and expenditure incurred through the provision of burial and cremation services.

Do you think that this would help increase public understanding of the costs associated with local authorities' provision of these services?

Yes / No / Don't know

Question 16: Please explain your answer.

COSLA welcomes greater transparency on income and expenditure. Local authorities have a concern that doing so through Local Financial Returns alone may not be helpful in that regard or the best means for doing so.

LFRs, as the guidance itself acknowledges, will not capture the cost to burial ground authorities and crematorium operators of, for example, capital development and maintenance of grounds and buildings.

From their own draft responses it is clear that local authorities are keen to take more from this opportunity to show what their income needs to contribute to other than the cost of the services provided to customers on the day of the funeral.

Question 17: Do you think the guidance should encourage local authorities to link burial and cremation charge setting to broader strategies and duties aimed at reducing poverty?

Yes / No / Don't know

Question 18: Please explain your answer.

The Fairer Scotland Duty already requires local authorities to give due regard to the needs of disadvantaged communities in resourcing and strategy decisions.

Funeral poverty will have a greater profile in some areas than in others but local authorities are well placed to include it as an area to consider further action. The wording of this question is appropriate – “the guidance should encourage ...” rather than to be more directive.

The draft Dumfries and Galloway Council response expresses an approach well –

The cost to the authority of providing the service must be the starting point in determining the charge for the service. Any means of reducing cost impacts on those in poverty needs to be clearly linked to the ability to assess the means of the deceased and their families There are some (additional) simple actions which could be implemented relatively easily ... such as encouraging sign post(ing) bereaved people

to care / funeral grants. Provision of reduced cost services as outlined in question 5 can significantly reduce impacts on bereaved families.

Question 19: Do you think that local authorities should be encouraged to take actions to support individuals who are struggling with the costs of a funeral?

Yes / No / Don't know

Question 20: Please explain your answer.

As the draft guidance fully acknowledges, funerals are an extremely difficult time for families both emotionally and financially. Local authorities already provide support to low income families through direct services or through other providers. Principal areas of advice and support more specifically on funeral response would include sign posting on making claims for funeral assistance grants, information on lower cost funeral options, but also on affordable and trust worthy credit options. Beyond this more needs to be done nationally and locally to help families plan for bereavement and funeral costs.

Question 21: Please tell us about any potential impacts, either positive or negative, that you consider the proposals in this consultation may have on people who may be differently affected in relation to the protected characteristics.

It is of interest to COSLA that some of the responses that we have seen are silent on this point. Whilst the encouragement of greater transparency and clarity is welcomed, COSLA would wish to see the development of specific advice for faith groups in particular.

COSLA would like also to take up this opportunity to again express concerns on the access of migrants and traveller communities to the Funeral Expense Allowance (FEA). That concern is developed in some detail in COSLA response to the consultation on FEA regulations.

Question 22: Please tell us about any potential business or regulatory impacts, either positive or negative, costs and burdens that you think may arise as a result of the proposals within this consultation.

The guidance broadly aligns with direction of travel for local authorities. However, local authorities are concerned about additional cost burdens relating to stepping up the level of service and charges transparency, consultation on pricing changes, and on supporting people to manage the costs of funerals.

