



Department for

Communities

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Draft Local Government (Cremation) Regulations (Northern Ireland) 2024 consultation response





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Consultation

On 24 June 2024, the Department for Communities issued a public consultation on the draft Local Government (Cremation) Regulations (NI) 2024. The consultation sought the views on proposed Regulations to update and replace the current legislative provisions contained within The Cremation (Belfast) Regulations (NI) 1961. The proposed Regulations will only apply to council provided and maintained crematoria.

The consultation consisted of a number of questions relevant to sections within the draft Regulations and was open for replies for 12 weeks closing on 14 October 2024.

Responses

A total of 20 respondents provided an answer or comment on all or some of the proposals outlined in the consultation document.

A breakdown of the responses by category is given below.

Category	Total	%
Councils	5	25%
Bodies representative of Councils and/or Councillors	1	5%
Individual	5	25%
Health	1	5%
Political Party	1	5%
Academic	1	5%
Government	2	10%
Bereavement	3	15%
Clergy	1	5%
Total	20	100%

The percentages throughout the document have been rounded to the nearest whole number and consequently the total may not always be 100%.

This document details the number of respondents who provided comments on each question set out in the consultation document.

The Department would like to take the opportunity to thank all those who responded to this consultation.

The full list of respondents is provided in the Annex to this document.

Copies of this document can be downloaded from the Department for Communities website or requested via the postal address or email below. This document may be made available in alternative formats – please contact us to discuss your requirements.

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Overarching issue raised

Pregnancy loss pre-24 weeks

Within the consultation document the Department stated that the proposed Regulations were drafted to incorporate the latest arrangements in place in England and Wales. A number of respondents (11 of the 20 responses) noted in their replies that pregnancy loss pre-24-weeks is not legislated for in The Cremation (England and Wales) Regulations 2008 and not considered within the proposed draft Regulations. Some of the respondents noted this matter is legislated for in Scotland.

Departmental response

The Department notes the Burial and Cremation (Scotland) Act 2016 and the associated Cremation (Scotland) Regulations 2019 provide for a comprehensive process to accommodate the cremation of pregnancy loss pre-24-weeks.

That legislation places a number of duties on health care professionals and provides for an administrative process to accommodate the decisions taken and the sensitive recording of the same. These are linked to the administration of the cremation process.

While the Department may legislate for cremations it may not legislate to place duties on health care staff or administrative processes within a health care setting.

The Department therefore does not intend to include legislative provision for pre-24-week pregnancy loss at this time but will consider this matter further in conjunction with the Department of Health.

The comments submitted on this matter have been included in the document against the relevant question to which they were submitted for context.

Responses: Question 1 – Definition of “ashes”

Question 1. Do you agree with the following definition of “ashes”(see regulation 2) “ashes” means all the material left in the cremator after a cremation, and following – a) the removal of any metal, and b) any subsequent grinding or other process which is applied to the material;

A total of 11 responded to this question. A breakdown is given below.

Category	Number and %
Councils	4 (37%)
Individual Health Trusts	2 (18%)
Health Trusts Joint Response	1 (9%)
Political Party	1 (9%)
Academic	1 (9%)
Bereavement Related Groups	2 (18%)
Total	11 (100%)

Comments

Ten respondents agreed with the definition of ‘ashes’ as outlined in question 1.

Of the two bereavement related groups that responded the Stillbirth and Neonatal Death Society (SANDS) noted only that it was the same definition of ‘ashes’ as in England and Wales.

Five of the respondents made additional comments.

The Northern Ireland Bereavement Network, the Western Health and Social Care Trust (WHST) and the Northern Health and Social Care Trust (NHSCT) noted that there is no inclusion of early pregnancy loss within the consultation.

Belfast City Council stated that in practice this definition needs to be caveated with the information to families proposed in the Explanatory Memorandum to The Cremation (England and Wales) (Amendment) Regulations 2017.

A professor from The School of Law (QUB) noted the slightly different definition of ‘ashes’ in the Burial and Cremation (Scotland) Act 2016 as well as noting the influence of both Lord Bonyon’s Scottish Infant Cremation Commission and the Jenkins report as influencing Scottish legislation.

Departmental response

The Department welcomes support on the proposal for the definition of ashes.

The Department has noted The Cremation (England and Wales) (Amendment) Regulations 2017 and its associated

Explanatory Memorandum as highlighted by one of the respondents.

This legislation was introduced in England and Wales, following consideration of both David Jenkins’ report of June 2015 into infant cremations at Emstrey Crematorium in Shropshire, and Lord Bonyon’s Scottish Infant Cremation Commission report of June 2014.

The Explanatory Memorandum states that the instrument makes amendments to replace the existing cremation application forms and the Department has taken the view that the “information to families” refers to the warning on the application forms “that in some rare cases, such as in the cremation of small babies and still born babies, ashes may not be recovered”. The Department, in drafting these Regulations, had included this form of wording in Part 7 of Form 3 (Application for cremation of still-born child) and this is also included in Part 7 of Form 2 (Application for cremation of body parts) and within these forms the applicant is asked to ‘Please tick the box to confirm that you understand this and wish to proceed with the cremation’ in line with the current Regulations and corresponding forms in England and Wales.

The Department notes the wording in Part 7 of Form 1 of the draft Regulations (Application for cremation of the body of a person who has died) differs from that in England and Wales and will amend this for consistency.

The Department has looked at the definition of “ashes” in Scotland and for consistency across the rest of the draft Regulations and to avoid any drafting complications with future amendments, in line with those in England and Wales, it proposes to replicate the definition included in the England and Wales legislation.

Responses: Question 2 – Savings and transitional provisions – Part 7

Question 2. Do the savings and transitional provisions in Part 7, in particular regulation 40, provide for a smooth transition to the new Regulations?

A total of 9 responded to this question.
A breakdown is given below.

Category	Number and %
Councils	3 (34%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	2 (22%)
Total	9 (100%)

Comments

The NHSCT felt that a month for the current forms to phase out on commencement of the new Regulations was a fair amount of time.

Eight of the respondents made additional comments.

Ards and North Down Borough Council, Belfast City Council and the Alliance Party stated that transitional arrangements in particular regarding the use of the old forms should be extended from 3 to 6 months and Ards and North Down Borough Council further

added that a suite of guidance be developed and shared with stakeholders to facilitate any necessary training.

A joint response from health trust bereavement co-ordinators from NHSCT, South Eastern Health and Social Care Trust (SEHSCT), WHSCT and Southern Health and Social Care Trust (SHSCT) as well as individual responses from the WHSCT and the NHSCT noted that mortuary staff and funeral directors should review this section.

The WHSCT, NHSCT and the Northern Ireland Bereavement Network noted that within the revised schedule there is no provision for when there is no defined next of kin.

Belfast City Council has raised concern that medical referees do not have the qualifications or experience to fulfil the requirements of regulations 10(1) and (2) (Supplementary powers of the medical referee) and 24(3b) (take queries on the content of certificates) and that this may take some time to put in place and may require a new contract with the medical referee. The extended role of the medical referee in the absence of an Independent Medical Examiner of Death may render any contract unworkable and may jeopardise the continuity of the cremation service and have asked for Departmental opinion on this.

SANDS has stated that the current cremation forms available from Belfast City Council include a non-viable infant form and further note that this is similar to what is required in England and Wales and the draft Regulations contain no equivalent form so it will be essential that medical professionals are aware of the need to complete a declaration that the baby was delivered before 24 weeks

showing no signs of life and further note that: 'Although not covered by the regulations, additional guidance must be issued to primary and secondary healthcare providers on applications for cremation before 24 weeks with no signs of life to ensure that they are aware of any requirements and that they are prepared for issuing these should parents experience a miscarriage at home. Consideration must be given to the removal of the non-viable infant form from the new Regulations and any transitional arrangements required.'

Departmental response

The Department has had further discussions with Belfast City Council and Antrim & Newtownabbey Borough Council and has agreed that 3 months would be adequate for the new forms to be introduced. The new forms will be available electronically and will be accepted online.

The Department has no power to issue statutory guidance.

Regarding the application for cremation where there is no defined next of kin, regulation 14(2) provides that a person other than an executor of the deceased person or a near relative may make the application. The medical referee must be satisfied the person is a proper person to make the application and of the reason why that person is making the application. The application for cremation form asks the applicant to "please give the nature of your relationship and explain why you are making the application rather than a near relative or an executor" and requires the applicant to sign a Statement of Truth.

The provisions of regulation 10(1) and (2) replicate the current regulation 12 in The Cremation (Belfast) Regulations (NI) 1961 and are permissive powers which are available should the medical referee, appointed by the council, have the necessary qualifications and experience. The Department proposes to remove draft regulation 24 – please see question 8.

Responses: Question 3 – Medical referee – Part 3

Question 3. Do you have any comments on the proposed Part 3 of the draft Regulations?

A total of 9 responded to this question. A breakdown is given below.

Category	Number and %
Councils	4 (45%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	1 (11%)
Total	9 (100%)

Comments

Four respondents were content with or had no issues with the proposed Part 3 of the draft Regulations.

SANDS responded that this was outside the scope of their work but noted that this brings the definition of a medical referee in line with England and Wales.

Four respondents made additional comments.

Antrim and Newtownabbey Borough Council have stated that 'there is concern that the current medical referees do not have the qualifications or experience to discharge the supplementary powers; Regulations 10(1) and 10(2) and that this may take some time to put in place'. As the proposed draft Regulations extend the duties of the medical referee that 'cognisance must be given to the impact upon current contractual arrangements and continuity of service provision' and that 'Medico-legal consultation with families on cause of death is a high-level medical skill, which medical referees should be trained to undertake'.

Belfast City Council have stated that currently medical referees are not qualified to investigate cause of death or carry out post-mortems and that medico-legal consultation with families on cause of death is a high-level medical skill medical referees should be trained to undertake. They have also asked for Departmental opinion on the limits of duties and powers of a medical referee in the absence of a higher authority such as an Independent Medical Examiner and whether again in the absence of a higher medical authority the proposed Regulations make councils ultimately responsible for determining cause of death for all cremations. The council

further asked for statutory guidance on draft regulation 12(b) which clarifies the correct interpretation of identification and seeks Departmental opinion 'as to the definition of identification, and does it include a hospital number or a laboratory number where a name is not available?'

Ards and North Down Borough Council stated that as 'the proposed draft regulations extend the duties of the medical referee, cognisance must be given to the impact upon current contractual arrangements and continuity of service provision'.

The Alliance Party have stated that in the absence of an Independent Medical Examiner of Death that replication of the regulations in England and Wales would add different responsibilities of the medical referee and that this would necessitate for change to the current role and qualifications and have further stated that this would have resource implications for the Department of Health and an administrative impact on councils.

Departmental response

The provisions contained in Part 3 of the draft Regulations (regulations 6 to 10) are currently contained within regulations 11 and 12 of The Cremation (Belfast) Regulations (NI) 1961 and do not place additional duties on medical referees. Regulation 10(1) and (2) replicate the current regulation 12 in the 1961 Regulations and are permissive powers which are available should the medical referee, appointed by the council, have the necessary qualifications and experience. The draft regulation 12 replicates the current provisions of regulations 5 and 6 of The Cremation (Belfast) Regulations (NI) 1961 and where human remains cannot be identified,

burial remains an option. The Department does not propose to change Part 3 of the draft Regulations.

The Department proposes to remove regulation 24 ‘Right to inspect medical certificate and confirmatory medical certificate and to make representations to medical referee’. This Regulation was also removed in England and Wales in September 2024 following the introduction of the Statutory Medical Examiner System.

Please see the Departmental Response to Question 8 for further detail on the proposed removal of Regulation 24.

Responses: Question 4 – Deaths outside of NI but within Great Britain, the Isle of Man and the Channel Islands – Part 4

Question 4. Do you agree with the proposals put forward for deaths and still-births which occur outside of NI but within England, Wales, Scotland, Isle of Man or the Channel Islands?

A total of 10 responded to this question. A breakdown is given below.

Category	Number and %
Councils	4 (40%)
Individual Health Trusts	2 (20%)
Health Trusts Joint Response	1 (10%)
Political Party	1 (10%)
Bereavement Related Groups	2 (20%)
Total	10 (100%)

Comments

Nine respondents were either content or agreed with the proposals put forward for deaths and still-births which occur outside of NI but within England, Wales, Scotland, Isle of Man or the Channel Islands.

SANDS responded that this is outside the scope of their work but would reiterate the importance of ensuring that families are supported to know what forms and evidence will be required and assisted in accessing these and that those supporting parents to complete the forms must have the knowledge of which forms are needed.

Five respondents made additional comments.

A joint response from health trust bereavement co-ordinators from NHSCT, SEHSCT, WHSCT and SHSCT as well as individual responses from the WHSCT and the Northern Ireland Bereavement Network stated that this should be reviewed by their mid-wifery colleagues and midwives respectively.

Belfast City Council and the Alliance Party have noted that time will be needed to train staff and for them to have knowledge and sight of the relevant forms.

Departmental response

The Department welcomes the support for these proposals and will consider how best to accommodate the provision of additional information regarding the forms required.

Responses: Question 5 – Deaths in any other place outside NI – Part 4

Question 5. Do you agree with the proposals put forward for deaths or still-births which occurred in any other place outside of NI?

A total of 9 responded to this question. A breakdown is given below.

Category	Number and %
Councils	3 (34%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	2 (22%)
Total	9 (100%)

Comments

Eight respondents were either content or agreed with the proposals put forward for deaths or still-births which occurred in any other place outside of NI.

SANDS responded that this is outside the scope of their work but would reiterate the importance of ensuring that families are supported to know what forms and evidence will be required and assisted in accessing these and that those supporting parents to complete the forms must have the knowledge of which forms are needed.

Five respondents made additional comments.

A joint response from health trust bereavement co-ordinators from NHSCT, SEHSCT, WHSCT and SHSCT as well as the Northern Ireland Bereavement Network stated that this should be reviewed by their mid-wifery colleagues and midwives respectively.

Belfast City Council and the Alliance Party noted training needs for staff and knowledge of the forms being used.

The NHSCT noted that, "It is however significant to note that 'Where a death or still-birth occurs outside of NI, any query regarding the cause should be raised with the relevant authorities in the jurisdiction where the death or still-birth occurred. The Northern Ireland Coroner currently has no role where deaths occur outside of Northern Ireland'."

Departmental response

The Department welcomes the support for these proposals and will consider how best to accommodate the provision of additional guidance to assist in identifying and completing the forms required.

The consultation document noted the consultation conducted by the Department of Justice in 2022 regarding the role of the Coroner on deaths outside NI. The Department has noted that Department's publication of 'Coronial Investigations Into Deaths Abroad, The Way Forward' in September 2025 and will monitor developments in this area.

Responses: Question 6 – Checklist on Application Forms

Question 6. Should the Department include a checklist of additional forms to be submitted on the Application Form? (This will necessitate additional legislation to update forms if requirements change in other jurisdictions).

A total of 9 responded to this question. A breakdown is given below.

Category	Number and %
Councils	3 (34%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	2 (22%)
Total	9 (100%)

Comments

Seven respondents agreed that the Department should include a checklist on the Application Form of additional forms to be submitted.

The Alliance Party did not agree with including a checklist of additional forms as ‘this would necessitate further changes depending on any amendments or changes passed in other jurisdictions’ and that this could be complicated and confusing for

a bereaved family who have no need for additional forms. They further state that lists of additional needs could be listed in guidance notes and could therefore be changed as and when needed without requiring legislative change to update the form.

Belfast City Council recommends that the Department could set out the forms required in other jurisdictions in statutory guidance so this can be revised as required without having to revise and pass new regulations.

Three respondents made additional comments.

SANDS stated that guidance should be issued along with the forms to help bereaved families in completing application forms.

The WHSCT feels that clarity is needed on which forms a checklist be added to, those completed by the families or those completed by clinical staff.

The NHSCT stated that the checklist of additional forms is useful to quality assure the application process.

Departmental response

The Department agrees some form of checklist is required for clarity.

The Department does not have the legislative power to issue statutory guidance.

However, the Department will consider the usefulness of publishing this information on the Department’s website. This would remove the need to revise and pass new legislation in future when requirements in other jurisdictions change.

Responses: Question 7 – Part 4 – Applications

Question 7. Do you have any comments in relation to the proposals put forward in this Part?

A total of 9 responded to this question.
A breakdown is given below.

Category	Number and %
Councils	4 (45%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	1 (11%)
Total	9 (100%)

Comments

A joint response from health trust bereavement co-ordinators from NHSCT, SEHSCT, WHSCT and SHSCT as well as individual responses from the WHSCT and the NHSCT noted that it is not clear in the document what forms are changing to what number and that this is not clear within the consultation. The NHSCT further noted that removing the Statutory Declaration makes the process for application less onerous and is a welcome change.

Departmental response

The Department recognises that the consultation document should have provided clarity on which forms were changing titles and the corresponding reference in addition to the table setting out the corresponding regulations. The table is listed below:

Forms currently used in The Cremation (Belfast) Regulations (Northern Ireland) 1961	Equivalent forms in the draft Local Government (Cremation) Regulations (NI) 2024
Form A	Form 1
Form B	Form 4
Form C	Form 5
Form D	Form 10
Form F	Form 9
Form G	Form 13
Form H	Form 3
Form I	Form 12
Form J	Form 14

Comments

Ards and North Down Borough Council and Antrim and Newtownabbey Borough Council have noted that ‘proper person’ needs to be clearly defined. And both further note that they welcome the removal of countersigning and the statutory declaration and feel that it needs to be made clear to bereaved families that the option to inspect medical forms will delay the cremation.

Departmental response

As the consultation document notes, the term 'proper person' refers to any person other than the executor or near relative. There may be a number of reasons why those persons cannot sign the form which would be hard to encompass in legislation without being prescriptive. It is currently and will continue to be the role of the medical referee to consider the reasons as to why that person is making the application and decide whether it is fitting for that person to do so.

Comments

Belfast City Council welcomes the clarification on applicants and recommends that the statutory guidance on this regulation sets out a hierarchy of near relatives to resolve disputes and recommends inclusion of brother and sister. The council further welcomes the introduction of a 'Statement of Truth' as long as the associated statutory offence and penalties are highlighted as in their experience many people including professionals are ignorant of this statutory offence and would seek clarity on how this could be addressed with all those involved in the bereavement processes. They have also highlighted that there is no requirement on Form 6 to provide information on radioactive or explosive implants which means that in every case where the coroner conducts a post-mortem examination, they have no powers to obtain information about radioactive or explosive implants and they would seek Departmental opinion to remedy this loophole.

The Alliance Party feels that in highlighting all those that 'near relative' could encompass that sibling is included.

Departmental response

The Department considered the issue of hierarchy of near relatives when drafting the proposed Regulations and noted the position in sections 65, 66 and 74 of the Burial and Cremation (Scotland) Act 2016, the hierarchy set out in Article 32 of The Mental Health (NI) Order 1986 and also Article 2(6) of the Sex Discrimination (NI) Order 1976. The Department recognises the need to explore further how this can be reflected in legislation related to cremation in the future and develop a hierarchy which reflects legal requirements in this jurisdiction.

Form 6 is used for the cremation of bodies that have been donated to medical science and must be filled in by a registered medical professional at the organisation where the examination took place. Form 6 'Certificate Following Anatomical Examination' should accompany Form 1 'Application for cremation of the body of a person who has died'. The requirement to provide information on Form 1 as to implants placed in the body would therefore make that information available for the council when an applicant submits Form 6 in conjunction with Form 1.

Comments

SANDS have highlighted a minor difference in wording in Form 3 'Application for cremation of still-born child'. In this form on page 4 it states, 'Despite every effort being made to recover ashes following a cremation, on very rare occasions (particularly with the cremation of still-born children) there may be no recoverable ashes.' In the England and Wales Form this states, 'Despite every effort being made to

recover ashes following a cremation, on very rare occasions (particularly with a cremation following an early pregnancy loss) there may be no recoverable ashes.’ The respondent feels that this risk is highest during early pregnancy loss and should be carefully considered and worded to not cause alarm to parents who wish to opt for a cremation.

Departmental response

The Department notes this difference in the form from that in England and Wales and will change the form accordingly.

Comments

Fermanagh and Omagh District Council commented on the provision to permit the viewing of medical certificates that ‘this was brought in further to the Shipman case, to enable family members to draw attention to unusual symptoms or features of a case to the medical referee i.e. a medical professional who is not the GP who signed the certificate.

The Alliance Party raised concerns about introducing the same practices as England and Wales with regard to the right of inspection of medical forms. It asked if the Department could be assured, given that funerals and cremations in England and Wales are less time sensitive than in Northern Ireland, that this will not create undue delay.

Departmental response

The provisions relating to the inspection of forms is being removed see Departmental response to Question 8 below.

Responses: Question 8 – Right to inspect medical certificates.

Question 8. Do you agree with the wording of draft regulation 24?

A total of 9 responded to this question. A breakdown is given below.

Category	Number and %
Councils	3 (34%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	2 (22%)
Total	9 (100%)

Comments

Six respondents agree with the wording of draft regulation 24.

Ards and North Down Borough Council have also asked ‘can clarity be made in respect of ‘Certificates which contain all the particulars required by the medical certificate and confirmatory medical certificate’.

The Alliance Party have also stated that it needs to be made absolutely clear which forms are available for viewing.

Belfast City Council raised concerns that the wording of regulation 24 will cause confusion to bereaved families in that they

will expect to see the Medical Certificate of Cause of Death (MCCD) and medical notes and recommends that this regulation is reworded to replace the word 'certificate(s)' with 'Cremation Forms 4 and 5' and Coroners Certificate Form 6 and further recommends that the Department also produces statutory guidance on this regulation to include the role of the certifying doctor, the Coroner and the medical referee.

Antrim and Newtownabbey Borough Council have stated that clarity is needed on regulation 24(1)(a)(i)(bb) 'certificates which contain all the particulars required by the medical certificate and confirmatory medical certificate'.

SANDS have stated that it is outside the scope of their work.

Departmental response

The Department proposes to remove this regulation which was also removed in England and Wales in September 2024 following the introduction of the Statutory Medical Examiner System.

The inspection of medical certificates has been raised by a number of consultees for various reasons, however when looking at this matter further, the Department notes how patient confidentiality is handled within the Health Service and in particular the right to confidentiality of the deceased's confidential medical records as stated in the Department of Health's '**Code of Practice on Protecting the Confidentiality of Service User Information**' published in April 2019:

"The confidential nature of a service user's information and the ethical obligation on

health and social care staff to respect that confidentiality continue to apply after the death of that service user. Where a competent service user has made an explicit request before his or her death that the confidence be maintained, then the service user's request should normally be respected."

In England and Wales the guidance given to Medical Practitioners when similar provisions were introduced advised the Medical Professional that the cremation medical forms may be viewed by the applicant for cremation and that any information which the patient may have given in confidence which is disclosed may effectively breach the deceased person's confidentiality and that they may wish to give this information on a separate sheet of paper to the medical referee marked "IN CONFIDENCE".

The Department notes the Department of Health's work on the potential for **a Medical Examiner service in Northern Ireland** and that, when this service was introduced in England and Wales, the requirement for doctors to complete cremation medical and confirmatory certificates was removed and replaced by a requirement for Medical Examiner scrutiny of all non-coronial deaths, that is deaths due to natural causes.

The Department would wish to explore this matter further to ensure that patient confidentiality in Northern Ireland would not be breached and to assess the need to introduce legislation which may need to be repealed in the near future.

Responses: Question 9 – Disposal of ashes.

Question 9. Do you agree with the wording of draft regulation 33?

A total of 10 responded to this question.
A breakdown is given below.

Category	Number and %
Councils	3 (30%)
Individual Health Trusts	2 (20%)
Health Trusts Joint Response	1 (10%)
Political Party	1 (10%)
Academic	1 (10%)
Bereavement Related Groups	2 (20%)
Total	10 (100%)

Comments

A joint response from health trust bereavement co-ordinators from NHSCT, SEHSCT, WHSCT and SHSCT as well as individual responses from the Northern Ireland Bereavement Network, WHSCT and NHSCT have stated that in relation to regulation 33(4), they would like to know what the definition of a 'reasonable attempt' is where the council is required to contact the applicant for cremation, prior to the interring or scattering of the ashes, and feel 14 days' notice is too short for a bereaved family although they do acknowledge that some time limit is needed.

Ards and North Down Borough Council and Antrim and Newtownabbey Borough Council note that where there are no clear instructions for disposal of ashes the cremation should not proceed and Antrim and Newtownabbey Borough Council states that this a retrograde step and that in Northern Ireland, cremation authorities have adopted non statutory processes and further stating that these non-statutory processes are sufficient and do not present ambiguity with regards to what should happen to ashes following cremation.

Belfast City Council have stated that allowing a 'decision pending' option results in an accumulation of unclaimed remains at the crematorium. They state they have a very comprehensive process whereby after 16 weeks the applicant is contacted by phone and by letter, before they are scattered. The council argues that the options for applicant collection or funeral director collection allow for the applicant to come to a decision. Only the option for scattering is permanent. These consequences can be highlighted on any application form. The council does not support the inclusion of the option for a 'decision pending'. The current non statutory process employed by the council is sufficient and has no ambiguity. They recommend that the option to bury the remains (if they are not collected) be removed. The current practice is that scattering of uncollected remains is appropriate.

The Alliance Party is concerned that councils may be forced to hold on to ashes indefinitely and that this must be avoided and a time limit imposed, either by statute or removal of any doubt within the legislation.

SANDS have stated that care must be taken to ensure all reasonable efforts have been made to contact bereaved parents, or their representative, before the disposal of ashes.

A professor from The School of Law (QUB) states there needs to be clear directions around the 'disposal' of ashes, and giving legislative clarity to this is to be welcomed. They further state that 'the draft provision mimics regulation 30 (as amended) of The Cremation (England and Wales) Regulations 2008 and the Ministry of Justice guidance notes that accompany those regulations are essential in fully understanding the scope of Regulation 30, and the various 'protocols' that crematorium managers should follow, what constitutes 'exceptional circumstances' etc. In the NI context, one would assume that similar guidance notes would be issued to assist crematorium managers, funeral directors and applicants for cremation and members of the public and the latter is essential for public reassurance that ashes will not simply be disposed of unless certain procedures and time limits have been followed. They further note that there are much more detailed provisions around the disposal of ashes within Scottish legislation.

Departmental response

The Department accepts that the comments submitted lead to a need to further develop any replication of the legislative provisions in England and Wales, with consideration of the provisions in Scotland. For these reasons the Department propose to maintain the status quo with the current legislative provisions and continue the flexibility afforded to crematoria under the current regulation 16. The Department will work to develop

this further in conjunction with crematoria operators, funeral directors and groups representative of bereaved families with a view to amend the regulations in the future.

Responses: Question 10 – Confirmatory Medical Certificate.

Question 10. Do you have any views on the continuation of the use of a Confirmatory Medical Certificate?

A total of 10 responded to this question. A breakdown is given below.

Category	Number and %
Councils	4 (40%)
Individual Health Trusts	2 (20%)
Health Trusts Joint Response	1 (10%)
Political Party	1 (10%)
Bereavement Related Groups	2 (20%)
Total	10 (100%)

Comments

Seven respondents are content with the continued use of a Confirmatory Medical Certificate with some respondents noting the absence of a statutory Medical Examiner Service in place.

SANDS have stated that this is outside the scope of their work.

Fermanagh and Omagh District Council are supportive of the fact that this would no longer be required, subject to the introduction of a Statutory Medical Examiner Service, as they have in England and Wales, on the basis it reduces bureaucracy.

The Northern Ireland Bereavement Network state that their understanding is that the establishment of the Independent Medical Examiner will be on a Monday- Friday basis in the first instance and would be interested to hear how this will affect the need for a Confirmatory Medical Certificate.

Further comments received from health trust bereavement co-ordinators from NHSCT, SEHSCT, WHSCT and SHSCT as well as individual responses from WHSCT and NHSCT state that they are also content with permitting a cremation to take place without a Confirmatory Medical Certificate (current Form C) being completed in cases where the deceased died in a hospital at which they were an in-patient and were subject to a hospital consented post-mortem and the results of that post-mortem were known to the medical practitioner who completed the Medical Certificate (current Form B). The WHSCT have further advised that their Childbirth and Pregnancy Loss Specialist Midwife asks; 'if the form has been suspended since 2020 here and not reintroduced within England and there's plans for a Statutory Medical Examiner system which would make the form obsolete, why is there a need to reintroduce it for a temporary timeframe?'

Departmental response

The Department acknowledges the support for the continuation of the use of the Confirmatory Medical Certificate Form.

This Form was temporarily suspended during COVID both here and in England and Wales. The Form was not re-introduced in England and Wales due to the plans to introduce a statutory Medical Examiner System being at an advanced stage and due to come into operation within a short timeframe of the need for COVID measures being removed. The Form was re-introduced here, to provide the necessary oversight in the interim of a similar service being introduced here when its need will be reviewed.

The Department will continue to liaise with DOH on the introduction of a statutory framework for an Independent Medical Examiner Service.

Responses: Question 11 – Removal of Form E – Coroner's Certificate.

Question 11. Do you agree with the removal of Form E and the separation of the Cremations Registrar return from that Form?

A total of 8 responded to this question. A breakdown is given below.

Category	Number and %
Councils	3 (36%)
Individual Health Trusts	2 (25%)
Health Trusts Joint Response	1 (13%)
Political Party	1 (13%)
Bereavement Related Groups	1 (13%)
Total	8 (100%)

Comments

The Alliance Party have stated that dependent on the advice and response from the Coroner's Office who would be the key stakeholder in relation to the element, they tentatively agree with the proposed changes to Form E and the separation of the Cremations Registrar return.

Ards and North Down Borough Council, Belfast City Council and Antrim and Newtownabbey Borough Council have stated that the General Register Office should be consulted and have further stated that regarding Regulation 36 (maintaining a Cremations Register) the information that is held in the register should be reviewed. For example, whether the occupation of the deceased could be removed and whether the details of the funeral director should be included. Also, rather than recording the age of deceased it would be more helpful to show their date of birth (this should also be asked for on Form 1 instead of age).

Health trust bereavement co-ordinators from NHSCT, SEHSCT, WHSCT and SHSCT as well as individual responses from SANDS, WHSCT and NHSCT stated that this is either outside their remit or the scope of their work.

Departmental response

The Dept has discussed this proposal with both GRO and the Coroners Service and both are content.

The Department notes the comments on reviewing the information held within the register by the Registrar of Cremations. Regulation 36 of the proposed Regulations replicates the provisions in regulation 33 of The Cremation (England and Wales) Regulations 2008 and incorporates the latest arrangements currently in place.

Responses: Question 12 – Dispensations – infectious disease – epidemic.

Question 12. Do you agree with the wording of the revised regulation 16?

A total of 9 responded to this question. A breakdown is given below.

Category	Number and %
Councils	3 (34%)
Individual Health Trusts	2 (22%)
Health Trusts Joint Response	1 (11%)
Political Party	1 (11%)
Bereavement Related Groups	2 (22%)
Total	9 (100%)

Comments

Six respondents either agree or are content with the wording of the revised regulation 16.

SANDS have stated that this is outside the scope of their work.

Belfast City Council have asked for Departmental opinion 'to determine if this regulation prohibits all cremations for which the new statutory forms do not apply – Including the cremation of remains prior to 24 weeks gestation.'

The Alliance Party have stated 'concern has been raised about the remains either of still-born children with less than 24 weeks gestation of the foetal human tissue as a result of a termination who would not be in possession of some of the forms outlined in regulation 16.'

Ards and North Down Borough Council and Antrim and Newtownabbey Borough Council have made additional comments noting that it is a 'matter of concern that the cremation of fetuses of less than 24 weeks' gestation have not been regulated for within the scope of regulations.'

Departmental response

The Department welcomes the support for the revised wording of the current regulation 16 within draft regulation 29. This provides the flexibility to suspend or modify the regulations in response to a public health issue within the scope of the regulations.

List of respondents to the consultation

1. Alliance Party
2. Antenatal Results and Choices NI (ARC)
3. Antrim and Newtownabbey Borough Council
4. Ards and North Down Borough Council
5. Belfast City Council
6. Belfast Health and Social Care Trust
7. Department of Health
8. Fermanagh and Omagh District Council
9. Isle of Man Government
10. Mid and East Antrim Borough Council
11. Northern Health and Social Care Trust (NHSCT)
12. Northern Ireland Bereavement Network
13. Northern Ireland Local Government Association
14. Professor Heather Conway, School of Law, Queen's University Belfast
15. Rev. Derek Johnston MBE, Lead Chaplain, Belfast Health and Social Care Trust (BHSCT)
16. South Eastern Health and Social Care Trust (SEHSCT)
17. Southern Health and Social Care Trust (SHSCT)
18. Stillbirth and Neonatal Death Society (SANDS)
19. Western Health and Social Care Trust (WHSCT)
20. WHSCT, SHSCT, SEHSCT and NHSCT – joint response



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