

**PRE-SCREENING
NOTIFICATION**

Scottish Government version

SEA PRE-SCREENING DOCUMENT

Responsible Authority:

[Box 1.](#)

Burial, Cremation, Anatomy and Death Certification Team,
Public Health Capabilities Division, Population Health Directorate, DG Health,
Scottish Government

Title of the plan:

[Box 2.](#)

Funeral Director: Code of Practice ('the Code')

What prompted the plan:

(e.g. a legislative, regulatory or administrative provision)

[Box 3.](#)

Legislative provision within the Burial and Cremation (Scotland) 2016 Act. Section 97 of the Act provides for Scottish Ministers to issue a Code of Practice about the carrying out of a funeral director's functions.

Plan subject:

(e.g. transport)

[Box 4.](#)

Health – regulation of funeral directors.

Brief summary of the plan:

(including the area or location to which the plan related)

[Box 5.](#)

Brief Summary: When grieving the loss of a loved one, the majority of bereaved people in Scotland will seek the services of a funeral director to help them make arrangements. Given the importance the funeral director holds in the process, there is a general expectation from the public that there is some form of regulation or statutory oversight with which funeral directors must comply. Currently, no such regulation exists.

However, the Burial and Cremation (Scotland) Act 2016 ('the 2016 Act') provides for a modern, comprehensive regulatory framework for the funeral sector to be developed. This includes introducing a national, statutory code of practice. The Code is the first step in setting out minimum standards of practice which funeral directors will be required to comply with. The code will set quality standards of care for the deceased.

The Code has six sections:

- Engagement of the funeral director and transfer of the deceased
- Care of the deceased and the premises used by the funeral director
- Planning the funeral service according to the wishes of the deceased and the bereaved
- Delivery of the funeral
- Complaints
- Business continuity and managing risks

Area to be impacted by the plan: the Code will apply to all funeral directors in Scotland.

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Expectations of plan to improve or strengthen the current approach: Funeral directors in Scotland are not currently regulated. While certain funeral directors are members of their trade associations, no statutory regulation exists to ensure funeral directors are maintaining minimum standards of service. It is expected that the Code will improve and strengthen the current approach that lacks any regulation.

Reason the plan is being prepared: To require funeral directors to adhere to minimum standards in their care of the deceased and in doing so will help to provide transparency in the goods and services offered to the bereaved.

Who it will apply to: The Code will apply to all funeral directors carrying out the functions of a funeral director (i.e. arranging and conducting funerals) in Scotland.

Timescale for delivery: It is anticipated that the Code will be laid in Parliament in mid-late 2023, and come into force in early 2024. The delay in bringing the Code into force will allow time for funeral directors to ensure they are compliant with the standards set by the Code.

Other – consultation: The Code was developed with significant input from a range of funeral director businesses and representatives, including trade bodies and other membership organisations. A public consultation was carried out on the Code between June-September 2019. The [original consultation](#) can be found here, and a consultation analysis has been [published](#). Three focus groups were held in March 2020 with small, rural, or independent funeral director businesses to discuss the Code and how it might impact these types of businesses. A series of phone calls with island-based funeral directors were also held for this purpose. Where possible, the Code was revised to incorporate their feedback.

Brief summary of the likely environmental consequences:

(including whether it has been determined that the plan is likely to have no or minimum effects, either directly or indirectly)

[Box 6.](#)

Having had regard to the Environmental Assessment (Scotland) Act 2005, Schedule 2, we have assessed that the Funeral Director Code of Practice is likely to have minimum direct or indirect environmental consequences. We have considered the following:

The Code puts into statutory form a set of minimum standards which, through consultation with the industry, officials understand to already be met by the majority of funeral directors in Scotland. Thus, the implementation of the Code is likely to lead to key changes among only a minority of funeral directors – already a small group themselves.

These standards are primarily in relation to: business practices (e.g. being engaged by a client, or managing complaints); care of the deceased and premises (e.g. ensuring the dignity of the deceased, and that premises are safe, secure, and fit for purpose); or planning and delivering a funeral service for the client (all of the above which will help the client make informed choices).

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The Code does not influence other plans or programmes which may have an environmental impact. For example, the Code does not have any impact on regulations surrounding processes of burial or cremation, which are themselves likely to have an environmental impact.

Where the Code may initially be perceived to have an environmental impact is in terms of care of the deceased (i.e. the use of equipment or products conduct first offices or embalming). However, the Code is careful only to refer to the need for funeral directors to familiarise themselves with the Health and Safety Executive's [guidance](#) on managing infection risks when handling the deceased.

Environmental considerations have been considered in greater depth in relation to two aspects of the Code.

First, the Code has a brief section related to embalming. This is the preservation of a body from decay through the injection of a chemical embalming fluid. However, the Code does not discuss the procedures for embalming, and does not seek to impact on the uses of embalming chemicals. The Code exclusively seeks to ensure that embalming is only carried out when a client instructs embalming, and that the funeral director ensures those performing embalming on behalf of their business are adequately trained to do so (and meeting health and safety requirements). We have no evidence that this section of the Code will lead to more or less use of embalming in Scotland. We therefore have no evidence there will be any environmental impact from the implementation of the Code.

Second, the Code requires that a funeral director have on their premises, or have access to, clean and appropriate refrigeration facilities (either a refrigeration unit or a temperature controlled cold room) to store the deceased in their care. Where refrigeration is provided by a third party, a Service Level Agreement (SLA) must be in place. Officials understand that most funeral directors will already be compliant with this requirement. However, it may be that certain funeral directors will require to obtain refrigeration facilities. If this occurs, there may be a minimal environmental effect in terms of emissions generated by energy consumption.

The funeral sector in Scotland is currently unregulated, therefore it is unknown how many funeral directors will need to attain, or attain access to, refrigeration or cold room storage. However, it is estimated that there are approximately 500 funeral director businesses in Scotland. Any funeral directors who are members of trade associations (SAIF or NAFD) will have, or have access to, refrigeration. While we do not have further quantitative data regarding refrigeration across Scotland, the consultation on the Funeral Director Code of Practice and subsequent focus groups, suggested that the industry is supportive of the requirement to have (or have access to) refrigeration to ensure deceased persons are adequately cared for.

In summary, it has been determined that the Code is likely to have minimum effects, either directly or indirectly.

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Brief summary of how environmental principles have been considered:

(including whether any of the guiding principles, as set out in section 13 of the Continuity Act, are relevant to the plan)

[Box 7.](#)

Officials have considered the guiding principles on the environment as set out in the Continuity Act 2021, section 13(1). Officials have assessed that the principles are only relevant to the Code insofar as they are relevant for general policy consideration. For example, principle (a) requires the protection of the environment to be integrated into the making of policies, and (c) requires preventative action to be taken to avert environmental damage. However, there is only minimal potential risk of environmental impact from the Code, in relation to refrigeration. This requirement for refrigeration is necessary to ensure the safe and dignified storage and disposal of the deceased.

Contact details:

██████████
Burial, Cremation, Anatomy and Death Certification Team
Public Health Capabilities Division
██████████

Date of opinion:

When completed send to: SEA.gateway@scotland.gsi.gov.uk or to SEA Gateway, Scottish Government, Area 2H (South), Victoria Quay, Edinburgh, EH6 6QQ

Completion guidance (Please delete before submission)

Link to SEA Guidance: <http://www.gov.scot/Resource/0043/00432344.pdf>

Box 1	<p>Name of the organisation that is responsible for the plan.</p> <p>Note: The Responsible Authority is any person, body or office holder exercising functions of a public character. Where more than one authority is responsible for a plan they should reach an agreement as to who is responsible for the SEA. Where an agreement cannot be reached, the Scottish Ministers can make the determination (Extract from SEA Guidance: Glossary (Page 50)).</p>
Box 2	<p>Name of the plan.</p> <p>Note: The 2005 Act applies to plans which relate to matters of a public character. The term 'plan' within guidance also covers policy, programme and strategy (Extract from SEA Guidance: Glossary (Page 50)).</p>
Box 3	<p>In terms of pre-screening, knowing why a plan is being produced is one of the key components in understanding whether exemption is an option.</p>
Box 4	<p>The 2005 Act outlines the sectors as agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town & country planning and land use.</p>
Box 5	<p>The name of the plan alone can seldom offer sufficient information to understand what it covers and why it has been considered suitable for pre-screening.</p> <p>The description of the plan being pre-screened has to contain sufficient information to allow those reading the notification to understand the objectives of the plan and how the Responsible Authority aims to deliver them. Brief descriptive information such as the area or location of the plan is required by the 2005 Act, but it can also prove helpful to include additional information in a summary, such as whether the plan is expected to improve or strengthen the current approach, the reason the plan is being prepared, who it would apply to and the timescale for delivery. This type of information can help paint a clear picture of whether pre-screening was suitable in the circumstances.</p>
Box 6	<p>As only those plans that have <u>no or minimal</u> effects on the environment can be pre-screened, it is important for a Responsible Authority to use the criteria detailed in Schedule 2 of the Environmental Assessment (Scotland) Act 2005 as a guide to providing a description of the likely environmental effects. This approach supports the transparency of the assessment process, whilst helping to ensure Responsible Authorities remain compliant with the requirements of this self-exemption route.</p> <p>Similarly to Box 5 above, it can prove helpful if a Responsible Authority provides additional information, such as a summary of the reasons why the plan will have no more than minimal effects on the environment, including any intrinsic mitigation, as well as any existing or future assessment needs within the plan hierarchy.</p> <p>In those cases where a Responsible Authority is uncertain of the scope of the likely environmental effects, pre-screening is not recommended. In this scenario, screening the plan is likely to be a better option.</p>
Box 7	<p>Section 15 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2020 places a duty on public authorities to have due regard to the guiding principles on the environment when preparing a plan, programme or strategy requiring a SEA under the 2005 Act. Whilst not yet in force, it is important that the guiding principles are considered in all policy development.</p> <p>Interim guidance on the usage of the guiding environmental principles can be accessed here.</p>

¹ Please note: (A) The plan has to fall into Section 5(4) of the Environmental Assessment (Scotland) Act 2005 & (B) you should apply the criteria specified within Schedule 2 of this Act to reach a conclusion on no or minimal environmental effects: www.legislation.gov.uk/asp/2005/15/contents (delete this note before submission)