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Infant cremation



Summary

- 1 Emergence of problems connected to infant cremation
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Summary

The issues

From about 2012, some well publicised cases highlighted differences in practice, over a number of years, in the cremation of infants both in Scotland and in England and Wales. It became apparent that parents had received ashes from some crematoria but not from others. The availability of ashes after the cremation of an infant appears to have been dependent, at least in part, on the equipment and cremation technique used, and also on how the relevant authority defined “ashes”. At the time these problems emerged, there was no statutory definition of “ashes” either in England and Wales or in Scotland, and there was a difference of opinion among industry professionals about the meaning of the term.

There have also been cases where parents were told that no ashes would be recovered, whereas in fact there had been ashes, which were sometimes disposed of without the parents’ knowledge.

There have been a number of reports on infant cremation, all of which made recommendations, following which action has been taken to address problems they identified. This includes measures to ensure that, in nearly all circumstances, parents should receive ashes from the crematorium.

Scotland

Relevant reports in Scotland include the Mortonhall Investigation Report, the Infant Cremation Commission (Bonomy Commission) Report, and the Report of the National Cremation Investigation. These led to a number of developments.

A National Committee on Infant Cremation (subsequently renamed “National Committee on Burial and Cremation”) was established to oversee the implementation of many of the Infant Cremation Commission’s recommendations. The Committee published a Code of Practice which sets out the key principles and minimum standards for all organisations conducting infant cremations.

The Burial and Cremation (Scotland) Act 2016 includes provisions which respond to recommendations made by the Infant Cremation Commission, including a statutory definition of “ashes”.

An Inspector of Crematoria for Scotland has been appointed.

England and Wales

The Emstrey Report, published in 2015, investigated what had happened at a specific crematorium, but also made recommendations of national significance. The Government later confirmed its focus on ensuring that ashes are available from infant cremations, and that they are returned to parents.

Following a Government consultation on the issue, the cremation regulations were amended to introduce a statutory definition of ashes. Further new regulations added a new section on cremation forms to make applicants aware that, in some rare circumstances, such as in the cremation of a stillborn baby, no ashes may be recovered. In addition, the Government established a National Cremation Working Group to advise on technical matters related to other proposed reforms, including whether there should be an inspector of crematoria.

1 Emergence of problems connected to infant cremation

1.1 The first issue: are ashes available following the cremation of an infant?

From about 2012, some well publicised cases highlighted differences in practice, over a number of years, in the cremation of infants both in Scotland and in England and Wales. It became apparent that parents had received ashes from some crematoria but not from others.¹

The availability of ashes after the cremation of an infant appears to have been dependent, at least in part, on the equipment and cremation technique used, and also on how the relevant authority defined “ashes”.

At the time these problems emerged, there was no statutory definition of “ashes” either in England and Wales or in Scotland. The [Report into Infant Cremations at the Emstrey Crematorium Shrewsbury](#), published in May 2015, considered the difference of opinion among industry professionals, at that time, about the meaning of the term:

The Mortenhall report records a fundamental difference of opinion between the two leading professional organisations in the UK involved in the process of cremation. The Federation of Burial and Cremation Authorities considered that ashes consist of cremulated bone, to the exclusion of any other source of ash obtained from the burned coffin, clothing, or soft toys cremated along with the baby. The Institute of Cemetery and Crematorium Management, on the other hand, considered ashes to include all ashes from the cremation, both cremulated bone, as well as ash from items which were mementos or part of the fabric of the baby’s last resting place. Dame Elish comments in her report that the absence of a definition has caused ambiguity and confusion for those involved in the practice of cremation and is a significant underlying cause of the distress now being suffered by next of kin in Scotland.²

¹ Mortenhall Investigation Report, April 2014, p9

² [Report into Infant Cremations at the Emstrey Crematorium Shrewsbury](#), May 2015, paragraph 3.14

Quoting from Scottish reports, the Emstrey report went on to consider the technical aspects of cremation, and the challenging process of recovering ashes in baby and infant cremations.

1.2 The second issue: what happens to any ashes which are recovered?

There have also been cases where parents were told that no ashes would be recovered, whereas in fact there were ashes, which were sometimes disposed of without the parents' knowledge.

This issue was the focus of the investigation into what had happened over a period of decades at Mortonhall Crematorium in Edinburgh.³

1.3 Reports

There have been a number of reports on infant cremation, all of which made recommendations, including:

- In Scotland:
 - Mortonhall Investigation Report, April 2014;
 - [Report of the Infant Cremation Commission](#), (the Bonomy Commission), 17 June 2014;
 - [Report of the National Cremation Investigation](#), June 2016.
- In England and Wales:
 - [Report into Infant Cremations at the Emstrey Crematorium Shrewsbury](#), May 2015.

Information about these reports, and the action which has been taken to address problems they identified, is provided in the following sections of this briefing paper.

³ See, for example, [Mortonhall baby ashes: Report says scandal was a 'great tragedy'](#), BBC News, 30 April 2014 [accessed 21 September 2021]

1.4

What does “infant” mean in this context?

England and Wales

The Emstrey report dealt generally with the cremation of children of over 24 weeks gestation and up to 12 months old (with some exceptions):

The terms of reference for the inquiry provided for the inclusion of cases of infant cremation where the child was of over 24 weeks gestation and up to 12 months old. The rationale for these parameters was that fetuses of less than 24 weeks gestation are not subject to statutory regulation as to registration and cremation formalities, and I am advised that public health statistical convention is to use the term “infant” for children of up to one year old. The inquiry’s terms of reference did however allow discretion for a case to be included within the scope of our investigation, if a family contacted the inquiry team and asked that their child be included within our investigation, even though the child’s age was otherwise outside our scope.⁴

Scotland

The Bonomy Commission used a wider definition:

5.1 The Commission’s remit relates to “babies and infants”. That terminology was used to enable the Commission to address all cases where it could be suggested that there might be no ashes following cremation, and has been interpreted by the Commission as covering any pregnancy loss prior to the 24th week of gestation, stillborn children and infants up to about 2 years of age. Pregnancy losses will generally be referred to within this Report as “non-viable babies”.⁵

⁴ [Report into Infant Cremations at the Emstrey Crematorium Shrewsbury](#), May 2015, paragraph 1.10

⁵ [Report of the Infant Cremation Commission](#), 17 June 2014, paragraph 5.1

2 Infant cremation in Scotland

Various reports have been published which have led to a number of developments with the result that, in nearly all circumstances, parents should now receive ashes from the crematorium.

2.1 Background: Reports

Mortonhall Investigation Report

In 2012, the press reported that the parents of babies who had been cremated at the Mortonhall Crematorium had not had their babies' ashes returned to them, while the parents of babies who had been cremated at other crematoria had received their babies' ashes. It was also reported that ashes from infant cremations had been recovered at Mortonhall, at least some of which were buried by crematorium staff.⁶

Following press reporting of this case, it emerged that similar issues might exist in other crematoria in Scotland.⁷

In January 2013, the City of Edinburgh Council commissioned the former Lord Advocate of Scotland, Rt Hon Dame Elish Angiolini DBE QC, to undertake an independent investigation into the historical practices at Mortonhall Crematorium. The remit of the report was to establish the facts regarding practices relating to the cremation of babies at Mortonhall Crematorium and to learn lessons to ensure best practice for the future.

The Mortonhall Investigation Report, which made 22 recommendations, was published in April 2014.

Infant Cremation Commission

On 16 April 2013, Scottish Ministers established the Infant Cremation Commission chaired by Lord Bony. The remit of the Commission was:

- To review the current policies, guidance and practice in Scotland in relation to the handling of all recoverable remains (ashes) of babies and infants, and to make recommendations for improvement to ensure that: parents

⁶ Gina Davidson, "[Mortonhall scandal: Grieving parents refused babies' ashes as mass grave at Crematorium revealed](#)", The Scotsman, 5 December 2012 [accessed 21 September 2021]

⁷ [Report of the Infant Cremation Commission](#), 17 June 2014, paragraphs 3.1-3.6

and other bereaved relatives receive clear and consistent advice and information about the disposal of such remains and have their wishes adhered to; and that any such remains are treated sensitively and compassionately.

- To consider existing legislation, with particular reference to the Cremation Act 1902 and the Cremation (Scotland) Regulations 1935, in order to identify gaps, inconsistencies and weaknesses and to make recommendations on what issues should be addressed in future legislation.
- To consider existing practice and guidance in related fields such as the NHS and funeral services in order to identify gaps, inconsistencies and weaknesses that should be addressed; and to make recommendations on the format and content of future guidance.
- To give guidance on the conduct of any investigations of historical practice undertaken by Local Authority or independent crematoria operators.⁸

On 17 June 2014, the Commission published its [Report of the Infant Cremation Commission](#). It found that, in some Scottish cases, parents had been incorrectly told that there had been, or would be, no ashes from their baby's cremation.

The Report made 64 recommendations to improve infant cremation practice, some for the Scottish Government and others for those more directly involved in the cremation of babies and infants, primarily the NHS, Funeral Directors and Cremation Authorities. The recommendations included:

- a statutory definition of “ashes”;
- regulation of cremation of babies of less than 24 weeks gestation; and
- an urgent review of cremation practices within Scotland.

The recommendations are set out in full in [section 2](#) of the Report.

On the same day that the Report was published, the Scottish Government published its [response](#) and accepted all the recommendations “without reservation”.⁹ The [Annex](#) to the response provides detailed comments from the Scottish Government on each of the Commission's recommendations and sets out how each recommendation would be taken forward, and by when.

⁸ Scottish Government, [Report of the Infant Cremation Commission](#), June 2014, paragraph 3.8

⁹ Scottish Government, [Infant Cremation Commission – Scottish Government Response](#), June 2014, p2, paragraph 3

National Investigation into Infant Cremations

On June 17, 2014, the Minister for Public Health announced the establishment of a national investigation into circumstances surrounding historical infant cremation practices in Scotland. The Minister said that the Mortonhall Investigation Report provided answers to affected families in the Edinburgh area, as well as some wider recommendations; and that the Infant Cremation Commission Report provided national recommendations for future improvements. However, Scottish Ministers acknowledged that families from some other areas of Scotland were still seeking answers.¹⁰

The National Investigation was led by Dame Elish Angiolini and investigated over 200 cases, across fourteen crematoria. It submitted a [report to Ministers](#) in June 2016.¹¹

In June 2016, the Scottish Government published its [formal response](#), accepting all the report's recommendations, including:

- Introduction of a criminal sanction to prohibit the cremation of a nonviable foetus, stillborn baby or infant with an unrelated person.
- Appointment of inspectors of funeral directors (under powers given to Scottish Ministers in the Burial and Cremation (Scotland) Act) who will take forward a review of the industry and make recommendations about the introduction of a licensing regime.
- Work with the National Cremation Committee to supervise the introduction of the Burial and Cremation (Scotland) Act and continue to drive improvement and reform throughout the industry in Scotland.¹²

Aileen Campbell, who was then Minister for Public Health, said the Scottish Government would take forward any outstanding actions identified in the report.¹³

¹⁰ Scottish Government, [Report of the National Cremation Investigation by Dame Elish Angiolini DBE QC](#), 20 July 2016, paragraph 2.1

¹¹ Scottish Government, [Report of the National Cremation Investigation by Dame Elish Angiolini DBE QC](#), 17 June 2016

¹² Scottish Government news release, [National Cremation Investigation](#), 27 June 2016 [accessed 21 September 2021]

¹³ Ibid

2.2

Developments related to infant cremation

National Committee on Infant Cremation

In 2014, a [National Committee on Infant Cremation](#), chaired by Scottish Government, was established to oversee the implementation of many of the Infant Cremation Commission's recommendations.

The Committee's main aims and objectives were set out in recommendations 57 to 62 of the Report of the Infant Cremation Commission, which the Scottish Government summarised as follows:

- Develop, promote and annually review a Code of Practice on baby and infant cremations which reflects contemporary standards and best practice
- Ensure all recommendations from the Infant Cremation Commission 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.
- Promote improvements in practice, technology, policy and legislation
- Report annually to Ministers on standards and practice in baby and infant cremations.¹⁴

The group was renamed the “National Committee on Burial and Cremation” in October 2016 following agreement that the majority of the Bonomy Commission's recommendations had been implemented, and that the group should widen its scope.¹⁵

The [National Committee on Burial and Cremation Code of Practice for Infant Cremation](#), first published in November 2015, sets out the key principles and minimum standards for all organisations conducting infant cremations. The [third edition](#) of the Code was published in April 2019.

Inspector of Crematoria for Scotland

The Infant Cremation Commission recommended that Scottish Ministers should appoint an independent inspector to monitor working practices and standards at crematoria, provide feedback to Cremation Authorities on how they are performing and to report to the Scottish Ministers as required.¹⁶

¹⁴ Scottish Government, [National Committee on Infant Cremation](#) [accessed 21 September 2021]

¹⁵ Scottish Government, [National Committee on Burial and Cremation](#) [accessed 21 September 2021]

¹⁶ Scottish Government, [Report of the Infant Cremation Commission](#), June 2014, paragraph 2.63

In March 2015, Robert Swanson QPM was appointed to the role of Inspector of Crematoria for Scotland.¹⁷

The Inspector publishes annual reports of his work, most recently in September 2020 for [the year ended 31 March 2020](#).¹⁸

Burial and Cremation (Scotland) Act 2016

The [Burial and Cremation \(Scotland\) Act 2016](#) (the Act) includes provisions which were in direct response to recommendations made by the Infant Cremation Commission requiring legislative change.

Among other things, the Act provides definitions of “cremation” and “ashes”:

(1) In this Act, “cremation” means the burning of human remains; and includes—

(a) where a grinding process is applied to the burnt human remains, that process, and

(b) where any other process is applied to the burnt human remains, that other process.

(2) In this Act, “ashes” means the material (other than any metal) to which human remains are reduced by cremation.

(3) In this section—

“coffin” includes any type of receptacle,

“human remains” includes, where remains are clothed, in a coffin or with any other thing, the clothing, coffin or other thing.¹⁹

The [Report of the National Cremation Investigation](#) summarised the topics on cremation covered by the Act:

- Duties of cremation authorities, applications, fees and registers – pregnancy loss is included in each of these processes;
- Who may instruct the disposal of human remains;

¹⁷ The Inspector was first appointed under the Cremation (Scotland) Regulations 1935. On 4 April 2019, he was reappointed, with a broader remit extending to the whole cremation process, under the Cremation (Scotland) Regulations 2019 made in exercise of powers in the Burial and Cremation (Scotland) Act 2016: [Inspector of Cremation Annual Report: 1 April 2019 – 31 March 2020](#)

¹⁸ Scottish Government, [Inspector of Cremation Annual Report: 1 April 2019 – 31 March 2020](#), 7 September 2020

¹⁹ [Burial and Cremation \(Scotland\) Act 2016, section 45](#)

- Inspectors and inspection, as well as the power for Scottish Ministers to introduce licensing of Funeral Directors;
- The suspension of burial and cremation legislation in response to public health risks (for example, pandemics);
- Methods for disposing of human remains which may be introduced in the future;
- The ability of Scottish Ministers to issue codes of practice covering various parts of the funeral industry; and
- A statutory definition of ashes.²⁰

The Report stated that the Act also includes provisions on a range of other Bonyon recommendations “that will improve procedures for the cremation of babies and infants, and which will additionally make improvements to cremation procedures generally”.²¹

Most of the provisions in the Act relating to cremation came into force in April 2019.

The [Cremation \(Scotland\) Regulations 2019](#), which came into force on 4 April 2019, make detailed provision in relation to cremation in Scotland.²² A [Policy Note](#), published with the Regulations, provides further information.

²⁰ Rt Hon Dame Elish Angiolini DBE QC, [Report of the National Cremation Investigation](#), 17 June 2016, section 1.3ii

²¹ Ibid

²² SSI 2019/36

3 Infant cremation in England and Wales

There have also been cases in England and Wales where no ashes were returned to families following the cremation of an infant. This section of this briefing paper deals with what has happened in response.

3.1 Emstrey Report

Following a BBC Radio Shropshire news item in June 2014,²³ Shropshire Council commissioned the Emstrey report, at the request of bereaved families, to look into cases where no ashes were returned to families following the cremation of an infant. The Shropshire news report followed the publication of the Mortonhall Report in Scotland.

The inquiry began in December 2014 and was led by David Jenkins. The remit of the inquiry was:

- to review the policies, practices and procedures adopted by Emstrey Crematorium and its partners when carrying out infant cremations during the previous fifteen-year period, and
- to publish a series of findings and recommendations.

The [Report into Infant Cremations at the Emstrey Crematorium Shrewsbury](#) was published on 1 June 2015. The report established that between 1996 and 2012, Emstrey Crematorium failed to obtain ashes to return to parents following infant cremations.

Although the report was commissioned by Shropshire Council and its terms of reference were local to Shropshire, the report included a number of recommendations of national significance to improve infant cremation practice, including that:

- the Government should take steps to ensure a single and authoritative code of practice for baby and infant cremations;²⁴
- the Secretary of State should exercise their powers under the Cremation Regulations to appoint an independent inspector with powers

²³ See, [Baby ashes not given by Shrewsbury's Emstrey Crematorium](#), BBC News, 3 June 2014 [accessed 21 September 2021]

²⁴ Paragraph 5.16

comparable to those outlined in recommendation 63 of the Bonomy report;²⁵

- the inspector’s responsibilities should include the promotion of a single national code of practice with regard to cremator technology and techniques for infant cremations so as to maximise the chances of the preservation of ashes that could be returned to the applicant for the cremation;²⁶
- the Cremation Regulations should be amended in England, as in Scotland, to give effect to the Bonomy Commission’s definition of ashes - as “all that is left in the cremator at the end of the cremation process and following the removal of any metal”;²⁷
- minimum standards of professional training, and for continuing professional development, should be introduced for crematorium supervisory and operating staff;²⁸
- a single official, reporting to a single minister, should be given responsibility for coordinating the Government’s approach to cremation law and practice and for drawing together into a coherent whole the policies, including environmental policies, of different Government departments on the subject;²⁹
- arrangements should be made within Government for the Bonomy Commission’s recommendations to be considered more widely for their applicability for infant cremation law and practice.³⁰

3.2

Westminster Hall debate

On 8 July 2015 there was a Westminster Hall debate on [Cremation of Infants \(England\)](#).³¹

Daniel Kawczynski (Conservative), who led the debate, said that constituents had called for the appointment of a full-time inspector of crematoria and that crematoria should have to report to the inspector when they were not confident that ashes had been created in a particular case. He said constituents also wanted a national cremation investigation team, able to investigate historical cases.

Responding to the debate, Caroline Dinenage, who was then junior Minister for Women and Equalities and Family Justice, said the Government was

²⁵ Paragraph 5.20

²⁶ Paragraph 5.21

²⁷ Paragraph 5.22

²⁸ Paragraph 5.23

²⁹ Paragraph 5.24

³⁰ Paragraph 5.25

³¹ [HC Deb 8 July 2016 cc151-166WH](#)

focussing on ensuring that ashes were available from infant cremations, and that they were returned to parents. She also said the Government would carefully consider the recommendations of the Emstrey report and of the Bonomy Commission.

The Minister also spoke of ensuring good practice across the country and of the requirements of industry codes of practice:

More generally, we need to ensure that the industry knows, in no uncertain terms, what good looks like, and that good practice must be installed across the country. I am aware that the Federation of Burial and Cremation Authorities felt that Lord Bonomy's report, which came a year before the Emstrey report, had been a wake-up call for crematoriums. The FBCA and Institute of Cemetery and Crematorium Management codes of practice require crematoriums to recover ashes for families wherever possible. I also understand that crematoriums have been working with funeral directors to ensure good and consistent practice following both reports. The technology now allows for far more sophisticated cremation programmes for infants than 20 years ago, and such programmes increase the recovery of ashes after cremation.³²

3.3 Government consultation and response

On 16 December 2015, the Ministry of Justice published its [Consultation on cremation following recent inquiries into infant cremations](#). The consultation document asked for views on improving infant cremation legislation and practice in England and Wales. It followed the Government's consideration of the recommendations of both the Emstrey report and of Lord Bonomy's Infant Cremation Commission (in Scotland).

Announcing the consultation, Caroline Dinenage spoke of improving the situation for the future:

I am clear that what happened at Emstrey, and sadly also at other crematoria, should never happen again. No other family should go through the pain of not having their baby's ashes returned to them. That is why I am taking action to make sure that after a cremation infant ashes should always be returned to their families.

A majority of the 12 Emstrey report recommendations were for the Westminster government, including the recommendation that we consider the ICC's 64 recommendations. In July, I announced our

³² [HC Deb 8 July 2016 c164WH](#)

intention to consult on these recommendations and that consultation starts today.³³

The consultation document invited comments on, among other things:

- a proposed new statutory definition of ashes (chapter 2);
- whether regulations should require cremation applicants to make pre-cremation decisions on the collection or scattering of ashes, and what should be done when ashes are not collected (chapter 3);
- whether there should be an inspector of crematoria (chapter 5);
- a proposal to set up a national working group for cremation (chapter 6) which should consider the training of cremation staff and funeral directors (chapter 7);
- a proposal to have one or more codes of practice (chapter 8);
- a technical framework for recovering baby ashes (chapter 9);
- information and guidance for bereaved parents (chapter 10);
- the cremation of foetuses of less than 24 weeks' gestation which showed no sign of independent life outside the womb (Chapter 11).

The consultation ended on 9 March 2016 and the Government published its [response](#) on 7 July 2016. This set out how the Government intended to proceed:

- We will provide a statutory definition of 'ashes. This will make clear that everything cremated with a baby including personal items and clothing must be recovered.
- We will amend cremation application forms to make explicit the applicant's wishes in relation to ashes that are recovered. Cremations will take place only after applicants are consulted about their wishes, and there is a record of their decision.
- We will bring the cremation of foetuses of less than 24 weeks' gestation within the scope of regulation. There will be equivalent safeguards and audit trails for parents who cremate following a pregnancy loss as for parents who cremate after a stillbirth or death of a baby.
- We will establish a national working group of cremation experts to advise us on:
 - the detail of application forms;
 - the regulation of cremations of foetuses of less than 24 weeks' gestation;
 - codes of practice and training for crematorium staff;

³³ [WS405 \[on Cremations\], 16 December 2015](#)

- information for bereaved parents; and
- whether there should be an inspector of crematoria.³⁴

Announcing publication of the response in a written Ministerial statement, Caroline Dinenage said that her aim was to “ensure that no bereaved parent suffers in future as many have suffered in the past”.³⁵

3.4 National working group

In a written Ministerial statement made on 8 September 2016, the then junior Justice Minister, Dr Phillip Lee, said the Government had set up a National Cremation Working Group:

The group is made up of representatives from the cremation and funeral industries, voluntary organisations who support bereaved parents, medical professionals and other government departments with an interest in cremation. In the coming months it will provide expert input into our work to further improve cremation legislation and practice. The group’s first priority will be amending statutory application forms regarding options for disposal of ashes, and bringing the cremation of foetuses of less than 24 weeks’ gestation into the remit of the cremation regulations.³⁶

In 2016, the Government said it would ask the working group to consider the content of a national code of practice for infant cremation, as well as the need for guidance in other specific areas regarding infant cremations.³⁷

3.5 New cremation regulations

2016 Regulations

The [Cremation \(England and Wales\) \(Amendment\) Regulations 2016](#) came into effect on 1 October 2016.³⁸ These regulations amended previous regulations made in 2008 (the “2008 Regulations”),³⁹ and include a statutory definition of ashes:

“ashes” means all the material left in the cremator after a cremation, and following—

³⁴ Ministry of Justice, [Consultation on cremation response](#), 7 July 2016, Foreword, p4

³⁵ [HCWS67 \[on Cremations\], 7 July 2016](#)

³⁶ [HCWS139 \[on Cremation regulations\] 8 September 2016](#)

³⁷ [Explanatory Memorandum to the Cremation \(England And Wales\) \(Amendment\) Regulations 2016 2016 No. 883](#), paragraph 9.1

³⁸ [SI 2016/883](#)

³⁹ The Cremation (England and Wales) Regulations 2008

(a) the removal of any metal, and

(b) any subsequent grinding or other process which is applied to the material.

The term "ashes" had not been defined previously in the 2008 Regulations.

An [Explanatory Memorandum](#) published with the new regulations set out why the Government had decided to introduce the definition:

Following analysis of the consultation responses, our view is that having a clear statutory definition of ashes will create consistent good practice by cremation authorities across England and Wales. Defining 'ashes' as anything (other than metal) left in the cremator following a cremation will provide clarity that cremation authorities should deal with all that is in the cremator in accordance with cremation applicants' wishes. The statutory definition will apply to all regulated cremations, not just infant cremations.⁴⁰

The Explanatory Memorandum also stated that there had been widespread support for the definition among those who responded to the Government's consultation, and that it would address problems experienced previously by some bereaved parents:

Almost all of those who responded to the consultation supported the proposed statutory definition of ashes. Most felt that it would provide clarity for cremation authorities when recovering ashes. It would also address the problem that some bereaved parents had experienced whereby they were told that no ashes from their baby would be recovered from the cremation, only ashes from the coffin or personal items, and they would not receive those ashes. In many cases parents found out many years later that ashes from their babies had been recovered and disposed of without their knowledge, which caused them great distress.⁴¹

2017 Regulations

Further regulations, the [Cremation \(England and Wales\) \(Amendment\) Regulations 2017](#) came into effect on 6 April 2018.⁴²

Among other things, the regulations introduced new forms for use in applying for a cremation. They include a section for the applicant to confirm their wishes regarding the return of ashes following the cremation. The forms also provide a new section to make applicants aware that in some rare

⁴⁰ [Explanatory Memorandum to the Cremation \(England and Wales\) \(Amendment\) Regulations 2016](#), paragraph 7.6

⁴¹ *Ibid.*, paragraph 8.3

⁴² [SI 2016/1238](#)

circumstances, such as in the cremation of a stillborn baby, no ashes may be recovered.⁴³

The [Explanatory Memorandum](#) published with the regulations provides further information.

3.6 Hull City Council internal investigation

The report of an internal investigation into the working procedures for infant cremations at Hull Crematorium was published in July 2017.⁴⁴ Further information is provided in an associated Hull City Council press release, [Hull City Council statement: Internal Investigation into the Working Procedures for Infant Cremations](#).⁴⁵

Bereaved parents, who were not given ashes, called for an independent inquiry.⁴⁶ Dame Diana Johnson (Labour) has raised this matter in the House of Commons on several occasions.

In 2016, the Government said that it did not intend to order further inquiries and reiterated the action it had taken:

The government is supportive of local investigations into historic infant cremation practices but does not plan to order such inquiries in Hull or elsewhere. Our clear priority since we received the Emstrey report in June 2015 has been to put measures in place across England and Wales to prevent such distressing infant cremation practice ever happening again. That is why we held a consultation which closed in March, announced our proposals in light of consultation responses in July, introduced a new statutory definition of ashes in October and have put in place a National Cremation Working Group of experts which is now advising us on more complex regulations and new statutory forms which will come into effect in 2017. The Working Group, which includes Action for Ashes Hull, will also assist us in developing new codes of practice, training and information for bereaved families.⁴⁷

⁴³ [HCWS389 \[on Cremation Regulations\], 21 December 2017](#), and [Cremation Application Form Part 7](#)

⁴⁴ Hull City Council, [Internal Investigation into the Working Procedures for Infant Cremations at Hull Crematorium](#)

⁴⁵ 25 July 2017 [accessed 21 September 2021]

⁴⁶ Frances Perraudin, "[Hull: dozens of families given wrong details on babies' remains](#)", Guardian, 26 July 2017 [accessed 21 September 2021]

⁴⁷ [PQ 54807 \[on Cremation: Babies\], 2 December 2016](#)

3.7

Further information

- The Institute of Cemetery and Crematorium Management (ICCM) has a [Policy and Guidance for Baby and Infant Funerals](#), formulated with the assistance of Sands, the stillbirth and neonatal death charity.⁴⁸
- The Federation of Burial and Cremation Authorities (FBCA) provides information in [response to the question](#), “What quantity of ashes will there be following a cremation of non-viable babies, stillborn babies and very young deceased babies?”⁴⁹
- On 6 February 2020, the House of Commons held a debate on [Historical Stillbirth Burials and Cremations](#).⁵⁰

⁴⁸ Adapted from the ICCM Charter for the Bereaved, updated September 2015

⁴⁹ FBCA, [Questions people ask about cremation](#), updated January 2019 [accessed 21 September 2021]

⁵⁰ [HC Deb 6 February 2020 cc482-507](#)

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