

The Public Health etc. (Scotland) Bill

Evidence from the Scottish Council of Jewish Communities

The Scottish Council of Jewish Communities welcomes the general provisions of the Public Health etc (Scotland) Bill. The impact of the majority of the Bill appears no different for the Jewish community than for any other community in Scotland. However, the provisions of Part 6, “Mortuaries etc”, could potentially impact on religious requirements after a person has died.

Halachah (Jewish Law) regards the human body – including all body parts, and tissue – as sacrosanct, and requires that it should always be treated with dignity. According to *Halachah*, there should be as little interference with a dead body as possible, it should not be left unattended, and burial should take place as early as possible, preferably before sunset on the day that death occurred. Any delay, or procedures such as a post-mortem examination, are therefore likely to be particularly distressing to the family of the deceased. In addition, the *shivah* (initial period of mourning) cannot begin until after the burial has taken place, and consequently any postponement will delay the grieving process, and inevitably cause great psychological stress to the bereaved.

Clauses 82 - 83

We support the requirement in clauses 82-83 of the Bill for Local Authorities and Health Boards to ensure adequate mortuary provision. However, we suggest that, in addition to providing “premises and facilities” for the temporary storage of bodies and for post-mortem examination, these should also be required to include facilities for any relatives who wish to stay with the body until after the burial. Ideally there should be more than one area, so that, for example, families of different religions, or of none, would be able to occupy separate spaces, so as not to disturb each other’s ritual and the start of the grieving process.

Clauses 85 - 86

We welcome the explicit statement in 85(8)(b) that “disposal ... includes preparation of the body for burial or cremation”, and recommend that the Explanatory Note should clarify that this includes preparations required by religious observance, for example, such as those generally undertaken for Jewish people by the local Jewish Burial Society, or *Chevrah Kadishah*.

We also welcome the requirement for the Health Board to give detailed and accurate information about the risk of infection or contamination to anyone with responsibility for disposal of the body (and therefore anyone with responsibility for preparing the body for burial), and to advise them about appropriate precautions. This will enable the *Chevrah Kadishah* and similar organisations to carry out their work with greater confidence.

Clauses 87- 88

Although, where possible, many observant Jews prefer to watch over the body at home in the short time between death and burial, the saving of life (*pikuach nefesh*) takes precedence, and so would not conflict with a requirement for the body to be removed to a mortuary where there is an immediate risk to public health.

We trust that the power of the sheriff to order immediate disposal of the body will only be invoked where the risk to public health is significant and immediate. However, when applied, it is unlikely to cause difficulties for the Jewish community, since, as already stated, Jewish law requires burial to take place as soon after death as is practically possible. It should however be noted that any disposal other than burial would be strongly resisted, as Jewish law does not permit cremation.

Conclusion

In summary, we welcome the provisions of this Bill, and are pleased that its provisions are such as to accommodate Jewish practice.

Note: The Scottish Council of Jewish Communities is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges.

In preparing this response we have consulted widely among members of the Scottish Jewish community.