

Citizen Participation and Public Petitions Committee
Wednesday 13 November 2024
17th Meeting, 2024 (Session 6)

PE1941: Stop the destruction of headstones within community cemeteries

Introduction

Petitioner Cllr Andrew Stuart Wood

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions taken by Local Authorities when undertaking their statutory duty of ensuring Health & Safety within our cemeteries.

Webpage <https://petitions.parliament.scot/petitions/PE1941>

1. [The Committee last considered this petition at its meeting on 24 January 2024](#). At that meeting, the Committee agreed to write to the Scottish Government.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a new written submission from the Scottish Government which is set out in **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage](#).
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial response to the petition on 1 July 2022](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 28 signatures have been received on this petition.

Action

8. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
November 2024

Annexe A: Summary of petition

PE1941: Stop the destruction of headstones within community cemeteries

Petitioner

Cllr Andrew Stuart Wood

Date Lodged

30 May 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to monitor and regulate actions taken by Local Authorities when undertaking their statutory duty of ensuring Health & Safety within our cemeteries.

Previous action

Oliver Mundell MSP has been contacted. We have also highlighted the overzealous actions taken by sub contractors acting on behalf of our Local Authority. We have brought this destruction to the attention of the Ombudsman and lodged small claims seeking the cost of repair and reinstatement of damaged headstones.

Background information

As an elected member to the local authority, I have been approached by many family members regarding headstones that have now been dismantled and either left lying on the ground or dug into the lair, leaving many names unreadable and exposed to erosion from the grounds moisture. I have challenged the council officers, who claim that this is Scottish Government policy that they are carrying out. I am now told the council intends to continue with the unlawful destruction of headstones within a B-listed cemetery without planning consent, community consent, and family members' consent, all of which is emotionally distressing for the 14 families affected.

The Scottish Government should ensure a properly funded maintenance and repair policy is in place and is carried out instead of the present destruction of headstones left lying on the ground or dug into the lair.

Annexe B: Extract from Official Report of last consideration of PE1941 on 24 January 2024

The Convener: PE1941, on stopping the destruction of headstones in community cemeteries, was lodged by Councillor Andrew Stuart Wood and calls on the Parliament to urge the Government to monitor and regulate actions taken by local authorities when undertaking their statutory duty to ensure health and safety in our cemeteries.

We previously considered the petition on 19 April 2023, when we agreed to write to the Scottish Government. Its response states that, once they are finalised, the new burial regulations will set out minimum standards for all burial authorities in Scotland and will work alongside existing guidance and a burial code of practice. Regulations will also be brought forward to introduce inspection for burial, cremation and funeral directors, with inspectors inspecting against the legislation, guidance and codes of practice. Two public consultations have taken place in relation to that work.

The committee has also received a written submission from David Brunton outlining specific concerns about Scottish Borders Council's cemetery improvement programme. He states that the guidance has not been followed in practice and that the use of individual notices for signalling planned works in cemeteries needs to be enforced. He raises concerns about listed building consent not being obtained prior to works being carried out and about poor communication when people seek information from councils about their rationale for taking stones down.

Colleagues will remember our evidence session on the petition, when we were provided with quite graphic illustrative examples of the way in which headstones had been routinely destroyed in cemeteries without reference to any of the families concerned. However, the Scottish Government appears to be making progress in that regard. I am aware that the petition throws up a number of issues beyond the ones that we are considering here.

Do members have any suggestions as to how we might proceed?

David Torrance: You know that I like to close petitions when the Government has consulted on the issue, but I would like the committee to write to the Scottish Government to seek an update on the consultation on the burial regulations. Specifically, we should ask when the consultation responses will be published and what work the Government intends to prioritise as a result of the responses that it has received.

The Convener: I think that there is still widespread interest—represented by colleagues from all around the country, in all parties—in how the matter progresses.

Foysof Choudhury: We could also ask whether there is a database with information about the families. For example, if something went wrong with a headstone, would we have the family's contact details?

The Convener: We could ask that, but I think that the evidence suggests that such information is very fractured; it depends on individual practice. I do not think that there is a national database on such matters.

Foysoi Choudhury: Could we ask whether one could be provided?

The Convener: We could certainly ask whether anybody has given any thought to whether that might be an option.

Are we content to proceed on that basis?

Members *indicated agreement.*

Annexe C: Written submission

Scottish Government written submission of 15 February 2024

PE1941/CC: Stop the destruction of headstones within community cemeteries

I am responding as Deputy Director for the Public Health Capabilities Division, with responsibility for the overarching policy governing the Burial and Cremation (Scotland) Act 2016 ('the 2016 Act'). Officials in the Burial, Cremation, Anatomy and Death Certification Team are taking forward the development of the draft burial regulations.

I note that there have been three previous responses to the Committee on Petition PE1941 (27 June and 19 October 2022, and 22 May 2023) and you are now seeking additional information about:

- When the results of the burial regulations consultation will be published;
- What actions the Scottish Government intends to take in response to the consultation; and
- Whether a national database of lair owners has been considered by the Scottish Government.

The "[Management of burial grounds, application for burial, exhumation, private burial and restoration of lairs: regulation in Scotland](#)" consultation ran from 25 August to 17 November 2023 and received fifty-nine responses.

The consultation was split into sections (shown below), with specific questions relating to each of these sections:

- Section 1 – Commencement of part 1 of the 2016 Act
- Section 2 – Management of burial grounds
- Section 3 – Burial Application and Register
- Section 4 – Private burial
- Section 5 – Exhumation
- Section 6 – Restoration of lairs
- Any other comments

Following the consultation, the Scottish Government has been carefully analysing the responses and reviewing all feedback to help guide us in our next steps. We aim to publish the analysis of the burial consultation shortly.

The Scottish Government is not exploring the possibility of establishing a nationwide database for individual lair right-holders. There are around 59,000 deaths in Scotland each year and we understand about 30% of those are burials. Maintaining a national database would not provide added value to the information that is maintained locally by burial authorities. Each burial authority is responsible for maintaining a register of rights of burial. Section 17 of the 2016 Act, which is already in force, sets out that each burial authority must maintain a register of rights of burial and may take the steps necessary to ensure that records are accurate and up to date.