

PE1415/D

Petitioner Letter of 3 May 2012

Dear Chris,

With reference to three replies, I note they all support my proposal.

1. North Ayrshire Council sums the situation perfectly:

“Local Government has undergone a series of reorganisations since then, but principally, they still remain the managers of cemeteries, and as such, should be able to regulate how cemeteries are operated.

The petitioner refers to the Scottish Government’s report on Burial and Cremation Review, which does recommend consolidation of legislation pertaining to burials and in particular power to the Ministers to authorise local councils to implement a streamlined procedure for exhumation. This is supported by this authority in so far as it would obviate the need for courts to become involved.”

2. The Scottish Government:

“It has been recognised that the legislation does require to be modernised to bring it in line with 21st century living and the work that the independent Burial and Review Group undertook and reported on from 2005 -2007 is testament to that.

At the time, it was agreed that other aspects of the consultation would be dealt with a later date. However it must be noted that excavation of land within burial grounds, churchyards or cemeteries (the subject of this petition) is not regulated by the 1855 Act nor was it included in the consultation exercise.

The Burial and Cremation Review Group did consider the procedure for exhumation of human remains. This currently requires an application to be made to the Sheriff, either by the Local Authority or the nearest relative. The Review Group questioned whether it was necessary to involve the court in such matters, particularly in view of the necessary consequential expense and delay arising from the involvement of a solicitor and the court process. It recommended that a cheaper and more streamlined system would assist the process. That could suggest that there is support for updating the practice of exhumation, however the Review Group’s focus was on individual applications for exhumation and did not tackle the issue of archaeological excavation, which may give rise to different considerations.”

3. I note the response from North Lanarkshire Council is also supportive of my petition:

Having reviewed Mr Steele’s petition, it is clear that he is seeking some form of legislative recognition of disinterment from within the Burial Grounds (Scotland) Act 1855 and that this could be achieved through a review of this Act. Acting in the capacity of a Burial authority, it is believed that there would be benefits behind such a review particularly from an administrative perspective.

Many thanks,

John Steele