



Ministry
of Justice

Lord (David) Wolfson of Tredegar, QC
Parliamentary Under-Secretary of State

The Rt Hon Dame Eleanor Laing MP
Chairman of Ways and Means
House of Commons
London
SW1A 0AA

MoJ ref: SUB87560

7 May 2021

Dear Dame Eleanor,

HIGHGATE CEMETERY BILL: STATEMENT OF ECHR COMPATIBILITY

I write concerning the Highgate Cemetery Bill.

I consider that the Bill's promoters have undertaken a full assessment of the compatibility of their proposals with the European Convention on Human Rights (the "Convention") and I see no need to dispute their conclusions. I do, however, have two points to note.

First, the promoters state that, in carrying out their assessment of compatibility, it was not necessary to determine whether the Friends of Highgate Cemetery Trust (the "Trust") is a "public authority" for the purposes of section 6(3)(b) of the Human Rights Act 1998 (the "1998 Act"). However, in my view, in considering the compatibility of the Bill with the Convention, it is appropriate to consider whether the Trust will be subject to the duty in section 6(1) of the 1998 Act to act compatibly with the Convention rights. I consider that the Trust will be exercising public functions within the meaning of the 1998 Act, and will therefore be subject to this duty when exercising the relevant functions. Nevertheless, as noted above, this does not affect my conclusion that the proposals are consistent with the Convention.

Secondly, the promoters' assessment of compatibility considered whether any interference with the relevant Convention rights, which is necessary for the protection of the rights and freedoms of others in using the cemetery, is justifiable and proportionate. The promoters have taken into consideration in particular the safeguards contained in the Bill. I have, however, also considered whether there may be alternative means available of achieving the same aim, which would not involve interference with Convention rights. I am satisfied that other methods of developing burial space have already been implemented to the extent available. I therefore agree with the promoters' assessment that the powers conferred by the Bill are both justified and proportionate.

Kind regards,

LORD (DAVID) WOLFSON
OF TREDEGAR, QC