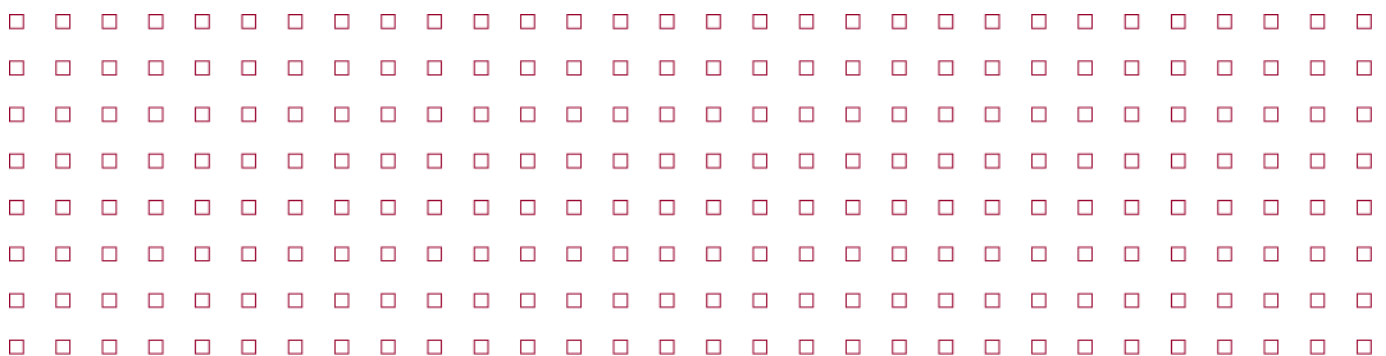




Natural burial grounds

Guidance for operators

2009





Ministry of
JUSTICE

Natural burial grounds

Guidance for the Secretary of State

This information is also available on the Ministry of Justice website:
www.justice.gov.uk

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Introduction

The interest in natural burial has grown in recent years as an alternative to the traditional burial. This is due to the fact that the traditional burial is becoming more expensive and less environmentally friendly.

This booklet is aimed at providing information on natural burial in England and Wales.

It provides information and advice to help you decide if you want to have a natural burial.

- a family with the legal and regulatory framework governing natural burial
- can provide a high quality service for the deceased and the wider community.

What is a natural burial?

Natural burial is a term used to describe the burial of human remains where the burial area creates a habitat for wildlife and a natural habitat (woodland, meadow, etc), usually managed naturally, adjacent to a natural habitat. It is a natural burial which is a natural habitat (field or meadow). Where a natural burial is used, it is usually a natural burial which is a natural habitat.

The term 'green burial', 'green funeral' and 'woodland burial' are also sometimes used.

Interest in natural death has grown as people have become increasingly concerned about the environmental impact of cremation, the use of formalin (formaldehyde) in embalming, which has a adverse effect on the environment.

A brief history of natural burial grounds in England and Wales

The first woodland burial was initiated by Kebleton, the then manager of Calverley Cemetery, Cumbria, in 1989. This led, in 1993, to the Calverley City Council being the first natural burial ground in the UK. It was a woodland site adjacent to the municipal cemetery. Other local councils took up the idea in the following years.

The interest in natural burial has grown as people have become increasingly concerned about the environmental impact of cremation, the use of formalin (formaldehyde) in embalming, which has a adverse effect on the environment.

- provide additional burial space
- provide a green burial service for the deceased and the wider community.
- provide a natural burial service for the community.

A member elected to the National Burial and Cremation Board, member of the committee which was set up to advise the Secretary of State on the development of private crematoria.

In 1994 the National Death Certificate Authority set up the Association of National Burial Grounds (ANBG) to promote the development of both the public and private sectors. It has produced a series of guidelines and provides advice and support to ANBG members. One may join the ANBG but the association does not accept any new members.

By the late 1990s many local authorities had provided municipal burial grounds and crematoria, and many of these (mostly former churchyards) have been transferred to private operators.

There are now over 220 national burial grounds in the UK – from the Scottish Highlands to the West of England. Many of these are now being managed by the local authorities.

Development of national burial grounds is being encouraged through the provisions of the Crematorium Act 1902. Between 1946 and 1964 (the 'baby boom') a large number of children were born and many of these were born at the time of their parents' deaths, and many of these children were born at the time of their parents' deaths. This has led to a large number of children being born at the time of their parents' deaths, and many of these children were born at the time of their parents' deaths. This has led to a large number of children being born at the time of their parents' deaths, and many of these children were born at the time of their parents' deaths.

The legislative background

All burial grounds are at **must** be familiar with legislation which applies to them, such as:

- burial law
- ecclesiastical law
- authority for burial
- health and safety
- contact and emphysema
- local government
- environmental and wildlife law.

The following provide a view of the key legislation and development.

Burial law

Most burial law is directed at a particular type of burial ground and various burial authorities within the burial ground framework:

- municipal cemetery are covered by the Local Authorities' Cemeteries Order 1977 (LACO) amended
- Church of England churchyards are covered by various ecclesiastical Measures (although the law relating to churchyards is mostly common law)
- privately owned cemetery may also be subject to private Act of Parliament
- privately owned urban burial ground are controlled by the LACO via a dedicated regulatory framework.

Even where a burial ground is not subject to specific legislation, there may be other legislation which regulates what the burial ground authority may do, e.g. all burial authorities must keep a register of burials.

Ecclesiastical law

Burial grounds are at common law with a statutory burial ground legislation enacted according to the terms of the Church of England must be familiar with the relevant aspects of ecclesiastical law.

Such areas are subject to the jurisdiction of the diocesan bishop, and that work may be carried out with the authority. The diocesan authority may also be granted authority by measure of a 'faculty'.

Faculties typically regulate the use and maintenance of grave sites, walls and fences as well as the protection of human remains.

When a burial is conducted, the burial ground should consult the local diocese and register if major work such as exhumation or levelling is to be carried out.

Authority for burial

Before a burial takes place, the deceased's representative (usually a family member) must provide the sexton with authority for the burial. This will normally consist of a certificate from the Registrar of Births and Deaths of the deceased's burial details.

In the case of a death overseas, the Registrar may issue a certificate of liability to register ('white form') which will include authority to bury. The executor or administrator of the estate may use this certificate if a child was still born or unborn.

If the executor or administrator's certificate of liability to register is not accepted, the Registrar may accept a declaration that the certificate is valid. A Registrar may also issue a duplicate certificate.

The executor or administrator must specify the burial authority and conduct of the burial. However, the sexton will need to take account of the legal duties of the executor or administrator which should be made clear to the public and funeral director.

One must notify the Registrar of the date and place of the burial, at least 96 hours after it has taken place.

Burial of tissue

The executor or administrator must specify authority to bury at a funeral home, including black and white made from tissue and glass, and a medical examination. Notwithstanding the legal authority for the burial of fetal remains under 24 weeks.

The Ministry of Justice takes the view that burial of tissue may decide for themselves whether to accept such material, having regard to actualities.

Key issues will be whether black and white are adequately documented and the executor or administrator may need to obtain either an exhumation licence or a faculty if the interment takes place in the future in a consecrated ground.

Re-burials

From time to time, a sexton may receive a request for re-burial which have been exhumed from the burial ground.

The executor or administrator must provide a certificate from the Registrar of Births and Deaths. One should, however, acknowledge an exhumation licence issued under the 1857 Burial Act directly issued under a by-law of the burial authority which is a condition of the re-burial.

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Disability legislation

Under the Disability Discrimination Act of 1995 and 2005, it is unlawful for service providers to treat disabled people less favourably than they would treat a person related to their disability.

All service providers have to make 'reasonable adjustments' to the way they deliver their services that disabled people can use them.

Part 3 of the 1995 Act applies to all publicly accessible places including bus stops. It is good practice, therefore, for bus stop providers to carry out an accessibility audit and make reasonable adjustments to ensure a high level of accessibility for service users with disabilities. In this text, disability covers people who totally have hearing or sight impairment but can also include people with certain illnesses.

With regard to wheelchair users, although the bus stop providers do have a hard surface but they must have a manageable ramp height.

Examples of reasonable adjustments include:

- installing a ramp for wheelchair users at bus stops
- providing the facility to make a payment by email as well as by cash
- providing disability awareness training for staff who have contact with the public
- installing a ramp at the entrance to a building instead of, as well as, steps.

For more detailed guidance contact the appropriate local authority via:
www.equalityhumanrights.com

One that may also wish to refer to the Equality Heritage publication "Every Access to Historic Landscapes". This publication is available on their website: www.equality-heritage.org.uk.

Burial and memorial rights

One should determine what rights of burial and memorial to convey to the family.

The estate may include the right to:

- determine the grave if the estate provides for the burial
- place erect a memorial
- visit the grave
- transfer a burial right by deed will.

One should determine the terms of burial right in a contract with the funeral home bequeathed family when they buy the plot.

Burial ground plans

In a traditional cemetery it is common to actively identify a grave by its location in a burial ground plan. Many funeral homes provide a plan of the grave location may be confirmed by a defined burial plan and the funeral home with the headstone will change over time.

In the event of a contract, it is recommended that all burial ground contracts should include a clause to identify the location of the grave with accuracy. This may be especially when, for example, an exhumation is required.

This could be done by:

- surveying each plot and recording the coordinates and location of a digital location
- using a Radio Frequency Identification (RFID) system that uses a device attached to the memorial engraved in the ground that transmits data to a RFID receiver
- using fixed markers (especially when the grave location is defined by a defined area that may be required to locate a grave by triangulation).

Some burial grounds will emit markers to make the grave location a permanent record, metal ceramic markers. If the estate is required, the estate is recommended to have a backup system in case the markers are removed. A backup system for the grave location will be necessary if the memorial is required to be marked.

Accuracy of the location should always be kept in mind.

Exhumation

Under the 1857 Burial Act it is a offence to remove buried human remains without either:

- a licence from the Secretary of State if the remains are buried in a consecrated ground
- a faculty if the remains are buried in a churchyard consecrated according to the rites of the Church of England.

The Ministry of Justice take the view that a licence is issued for **any** kind of removal of human remains, including religious caskets in the same grave consecrated for a burial made in the wrong grave.

The M.J. will normally be prepared to issue a licence if a application is made for the removal of all elevated caskets have been given by, for example, the extent of the burial grave. A application for a M.J. licence can be obtained by email to justice@justice.gov.uk telephone 0203 334 6390.

Burial in consecrated land under the Act is regulated by the Church of England Act 2001. A faculty of a faculty to authorise exhumation is required by the ecclesiastical authorities.

One should always be aware of the 'welfare' of the exhumation of a body. The need for such a decision may arise if the church believes a permanent examination to be necessary of the unexcavated remains of the death of a child or a child with that death a suspected death.

Financial legislation

If the estate value exceeds a certain amount, they must comply with the requirements of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. One may wish to establish a trust to administer the estate.

One should have a defined liability for future financial commitment. The simplest method is to create a liability fund which is directed to the estate.

Cum gratia will vary but, as a guideline, the Act of Natural Burial Ground have negotiated an agreement with the Valuation Office Agency (Practice Note 2: 2005: Revaluation 2005: Natural burial ground) which suggests 20% of the total value of the estate be treated in this way, during 15% of the estate has been affected by the year.

One may wish to establish a trust to deal with the burial of the body. The full details, for example, a wildlife charity. It should be noted that the relevant legislation is controlled by the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (Chapter XIV - Funeral Plan Contract). One may wish to contact a trust fund by a trust.

For more information, see www.justice.gov.uk/ij2001/20010544.

Environmental and ecological aims

One aim should provide a clear statement of use which identifies the environmental and ecological aim of the burial ground and whether the site is ever to be used for other purposes.

It is a good practice, although it should be taken into account, to identify the environmental and ecological value of the site and the surrounding area.

One aim could be determined by commissioning a full environmental and ecological survey by a qualified ecologist, e.g. a member of the Institute of Ecology and Environmental Management (IEEM).

The statement should allow the burial site to achieve the stated aim, e.g. how the site design, materials used, maintenance and management strategies will contribute to the long-term environmental and ecological value of the site.

For example, if the aim is to create a wildlife haven, the objective might be to provide a haven for native species and a refuge for birds, insects, and other wildlife. Some species, such as bats, badgers, great crested newts and otters, are particularly important. Management should be carried out in a way that does not harm the species which are important to the site. For more information on wildlife management visit: www.defra.gov.uk.

When the aim is to create a wildlife haven, the objective might be to allow a maximum of native species to flourish, with the emphasis on the use of native species.

One aim should be aware that the design and maintenance of the site should reflect local cultural and historical values and the local character. Historically cemeteries have been used to keep the site secure and such values should be considered at the design stage.

Features and areas of historic wildlife interest can be designated and can be protected by various measures. Such designations include local authority conservation areas, scheduled monuments, listed buildings, registered ancient monuments, and registered battlefields. Individual groups of trees may also be protected by Tree Preservation Orders (TPO) and tree felling is regulated by the Forestry Commission. One aim should be aware of such designations, regulations and conservation measures. The conservation of a wide range of trees and plants with the ability to differentiate between environmental management which should be aware of. For more information available via the Government website www.landis.gov.uk and www.magic.gov.uk (Multi-Agency Geographic Information for the Country).

Health and safety legislation

Owners must be aware of all relevant health and safety legislation and take appropriate steps to mitigate significant health and safety risks arising from the management of their burial ground.

Typical risks include:

- excavating graves, with the risk of the ground giving way and the public
- health hazards associated with the exhumation of human remains
- unstable mounds and the memorial
- buildings, sites and horticultural maintenance (especially the management of trees) and the use of machinery.

For more information on all aspects of health and safety law, visit www.burialguidance.co.uk

Contract and employment legislation

Owners may need to use good advice in the use of the site and should therefore be familiar with contract law, good customer practice and the use of the best value.

Similarly, if employees staff they must be familiar with relevant legislation relating to the recruitment, employment, training and treatment of staff.

The cost of the training will depend, among other things, the nature of the burial ground, the services offered and the extent of the training, for example, the availability of grave-digging and ground maintenance.

For more information on employment law, visit:

www.justice.gov.uk/whatweds/burial.htm

www.burialguidance.co.uk

Access rights

Whatever the local management arrangements, all burial grounds should be aware that it may be the case that the site will be available to the public. Be advised that the local authority will expect access to be available to the public and that they are entitled to request access to the site. Natural England have published a [guide](#) "By All Reasonable Means" designed to help you identify and understand the local authority's access to the site, and the facilities. A copy of the guide is available at www.naturalengland.org.uk

Where the site is within a municipal cemetery, the cemetery's existing regulations will apply. If an unauthorised burial site they should consider what visitation is a reasonable and practical.

Public rights of way

One at should be mindful that the potential additional rights of way could be affected by existing public rights of way. Unauthorised diversions of the highway, either deliberately or inadvertently, can be a criminal offence if they are taken against a landowner. One at should be aware of existing rights of way crossing their land and the measures they must take to preserve them.

Councils have been advised about accepting privately owned statutory public rights of way through a change of ownership. One at may wish to consider the provisions of Section 16 of the County (Rights of Way) Act 2000. This enables a landowner to voluntarily dedicate land for public use. If a dedication is made it creates a legally enforceable right of way over the land which binds subsequent landowners and prevents a subsequent landowner from revoking the dedication for a period of 10 years. Land that is dedicated in this way is exempt from section 13 of the Occupiers' Liability Act, by virtue of Section 13 of the CRWA Act.

Faith groups and burial rites

One at for statutory public rights of way should welcome enquiries about their policies and arrangements for many faith groups.

Facilities

One at should have discretion to decide what facilities should be provided for use.

One at may wish to provide facilities for the care of the deceased in the funeral, funeral home, and catering etc. One at may just want to provide a simple shelter for the elements and to keep all infrastructure and maintenance to a minimum.

Clear, accessible signage should always be provided for the site.

Site maintenance

One at should consider how they will maintain the burial area, access, paths, tracks, car parks, buildings and infrastructure, to ensure that all buildings and infrastructure are safe and durable. The management of all features should be carried out effectively to maximise the biodiversity of the area and to ensure all environmental quality.

Providing information to the public

Individuals (funeral directors, local eligibly, the public and especially bereaved people) make a informed choice when selecting a type of funeral arrangement, and that they should provide clear and accessible information.

We recommend that they provide information sheets booklet describing full the service provided. Page 15 of this guidance shows the type of information that could be included.

The following (while not exhaustive) provide some additional information that should be covered.

Access rights to the grave

- the individual's grave (right) where and detail whether the right can be transferred/extended in the future
- the estate's legal representative the land and what long-term arrangements place for the future of the burial ground
- what provisions made to ensure people with disabilities have access to the service.

Bereavement Services

- information for bereaved people how to deal, understand and cope with their loss and grief. Such information can be obtained from organizations such as the Council for Bereavement Care at www.councilforbereavementcare.org.uk.

Burial procedure

- care of the deceased before burial and whether they can be embalmed
- type of coffin to be used, e.g. biodegradable material such as wood, cardboard, wicker, bamboo and similar
- how family and friends can be involved in the funeral.

Complaints procedure and handling

Organizations should be able to deal with complaints and to learn from them. Complaints are most likely to arise from:

- disagreement with the burial authority's policy, e.g. the level of fees or the maintenance regime
- where things go wrong, e.g. breaking the wrong day for the funeral or alleged inappropriate behavior by staff.

Organizations should ensure that they provide user-friendly information about how to make a complaint, and that complaints procedures are set up and operated.

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Environmental policy

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Management

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Memorials

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- whe the a y f m f i d i vidual g ave mem ial ma ke i all wed a d i f , detail the iti , ize, i c i ti a d mate ial e mitted, a d g i g mai te a ce a a geme t .

Pricing policy

- itemised price list for the various services provided
- method of payment accepted
- any administrative charge fee, eg, a charge for墓地.

Records

- what detail are kept in file, why and for what period of time, and where such records are held
- what burial land records are held, the arrangements for public access to them, and any fees payable.

Site maintenance

- How the burial ground will be maintained and if this will impact memorial setting, acceptance of graves, and how the land care charges may change, e.g. through elective interment fees, which may impact on the cost of especially individual memorial trees.
- Officers should make it clear that the site is managed for wildlife and visitation and graves where there should be no expectation that the site will be different to conventional cemetery.

Information for actual burial ground

It is recommended that each burial ground should have clearly published information and policies available for use. Below is a list of the mutual subject that the public will be interested in if they decide to make a decision:

1. **Description of the site** (topography)
2. **Location** (including details of the main highway to locate the cemetery and details of any public transport links)
3. **Site Owner** (including information whether the site is freehold or leasehold. If the latter, state how long the lease is for)
4. **Site Operator** (including contact details)
5. **Type of plots available** (including plots, crematorium plots, whether plots can be purchased in advance)
6. **Burial rights** (including time limit)
7. **Pets** (including where they can be buried and licence fees involved)
8. **Gravedigging** (including contact details, times for families)
9. **Embalming** (including whether embalmed bodies are acceptable for burial, level and type of chemical emitted)
10. **Memorials** (including types available, materials, terms of years, approved designs, traditional schemes, memorial books, websites, benches)
11. **On site facilities** (including catering, helpline, shops, chapel, toilet, maternity facilities, what is additionally provided)
12. **Funeral services** (including times available)
13. **Coffins** (including types of material allowed in their construction)
14. **Details of the future of the site, its maintenance and management**

Acknowledgements

The Ministry of Justice acknowledges the invaluable help and contribution of the following individuals.

Audrey Claydon, Deputy of Lady Justice, University of Sheffield

Michael Jarvis, formerly manager of Association of Natural Beauty Guild

Jane Leedham, Native Woodland Limited

Nichola Taylor, Cleary Memorial Park Limited

Kevin Weir, formerly cemetery manager at Croydon Borough Council

Useful resource information

Ministry of Justice Policy and Publications for Burial Ground Management

www.justice.gov.uk/whatwed/burial.htm

General guidance on running a business

www.businesslink.gov.uk

Association of Natural Burial Grounds

1 The Hill House
Watley Lane
Wichester, SO21 1QX

T: 0871 288 2098

E: contact@naturaldeath.org.uk

www.naturaldeath.org.uk

Association of Burial Authorities

Waterloo House
155 Upper Street
London N1 1RA

T: 020 7288 2522

F: 020 7288 2533

E: aba@burial.org.uk

www.burial.org.uk

English Heritage

1 Waterloo Square
138 - 142 Hill
London

EC1N 2ST

T: 020 7973 3000

F: 020 7973 3001

www.english-heritage.org.uk

Equality and Human Rights Commission

www.equalityhumanrights.com

Federation of Burial and Cremation Authorities

41 Salisbury Road

Chalfont

Slough

SM5 3HA

T: 020 8669 4521

F: 020 8669 4521

E: fbca.ec@tiscalic.com

www.fbca.org.uk

Institute of Cemetery and Crematorium Management

City of London Cemetery

Aldebury Road

Marlow Park

London E12 5DQ

T: 020 8989 4661

F: 020 8989 6112

E: julie@iccm.fet.com

www.iccm.uk.com

Institute of Ecology and Environmental Management

43 Southgate Street

Wichester

Hants

SO23 9EH

T: 01962 868626

F: 01962 868625

E: enquiries@ieem.net

www.ieem.org.uk

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
T: 08456 30 60 60
T: 01625 54 57 45
www.ica.gov.uk/

Natural England

1 East Parade
Sheffield
S1 2ET
T: 0114 241 8920
F: 0114 241 8921
www.naturalengland.gov.uk

National Federation of Funeral Directors

618 Warwick Road
Slihall
West Midlands
B91 1AA
T: 0845 230 1343
F: 0121 711 1351
www.nfd.gov.uk

National Society of Allied & Independent Funeral Directors

SAIF Building Centre
3 Bullfield
Sawbridgeworth
Hertfordshire
CM21 9DB
T: 0845 230 6777
F: 01279 726 300
www.aif.gov.uk

Wildlife Trusts

The Kill
Wateride
Mathe Road
Newark
North Nottinghamshire
NG24 1WT
T: 01636 677711
F: 01638 670001
www.wildlifetrusts.org

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