

NALC Grave Re-Use Survey

The Law Commission is considering changes to update burial laws to help manage the shortage of burial space. The proposals form part of a consultation to bring the law on burial and cremation, which in parts is over 170 years old, up to date. The Law Commission's introduction to its consultation is set out below:

Burial space is running out across England and Wales, with the situation worse in some urban areas. Grave reuse has long been seen as a solution to this problem. Currently, only some burial grounds are permitted to reuse graves. The Law Commission's proposals would enable any burial ground to reuse graves, but only following consultation with the public and approval of the burial ground operator's plans by Government.

There would also be safeguards for each individual grave. Where it is currently permitted, graves can only be considered for reuse when the last burial was made at least 75 years ago. The Commission is consulting on whether a new law should use that period, or a different one such as 100 years. If the family of the deceased person objects, no reuse can happen for another 25 years.

The law around burial and cremation is also complicated and out of date. It has evolved over the years, with a patchwork of different laws which apply to different burial grounds depending on who operates them (e.g. Church of England, local authorities, private owners, etc). The Law Commission seek views from the public <https://youtu.be/Jbxog-HH6Iw>, experts in this area and those involved in the death care sector before making final recommendations to Government at the end of 2025.

The [consultation document](#) is part of the Law Commission's 13th programme of Law Reform and seeks to create a future proof legal framework to address what happens to our bodies after we die. As part of this, it will seek to make recommendations that will provide modern, certain and consistent regulation across different funerary methods. It will also seek to allow individuals to make decisions about what will happen to their bodies after they die which the law will respect, and to provide a fair and modern framework for decision-making by the deceased person's family where they have not made an advance choice. This includes on grave reuse, closed and disused burial grounds, commonwealth war graves and cremation.

The National Association of Local Councils is seeking views from local councils through its Grave Re-Use Survey. NALC's existing policy positions on this are:

Churchyards

Changes in burial legislation to allow local councils to enter into some form of joint arrangement with churches of all denominations, to enable them to manage and maintain a churchyard.

Grave reuse

That NALC should approach Members of Parliament and the government with a request to review legislation to give appropriate powers to town and parish councils (who are burial authorities) to extinguish rights of burials and to disturb human remains for the purpose of increasing space for interments when rights of burial have not been exercised for 75 years and in accordance with all the notice provision and safeguards included in the Bishop's Stortford Cemetery Act 2024.

Hilary Workman
Clerk & RFO
November 2024

WPC.EC.24.11.02 – NALC Grave Re-Use Survey

To help inform the development of a submission to the Law Commission on the consultation, NALC has launched its own online survey in order to gather views and insights from local councils and county associations of local councils. This, together with proposed responses, is attached as Appendix A to this report.

Action:

Agree proposed responses to NALC Grave Re-use Survey (subject to any amendments proposed at the meeting).

Burials and Cremation consultation sector survey

NALC will be responding to the Law Commission's consultation paper on Burial and Cremation. The Law Commission is an independent statutory body which is tasked with keeping the law of England and Wales under review and making proposals for reform, however it does not have the power to make changes to the law.

The paper is part of the Law Commission's 13th programme of Law Reform and seeks to create a future proof legal framework to address what happens to our bodies after we die. As part of this, it will seek to make recommendations that will provide modern, certain and consistent regulation across different funerary methods. It will also seek to allow individuals to make decisions about what will happen to their bodies after they die which the law will respect, and to provide a fair and modern framework for decision-making by the deceased person's family where they have not made an advance choice. This includes on grave reuse, closed and disused burial grounds, commonwealth war graves and cremation.

NALC's existing policy positions on this are:

Churchyards

Changes in burial legislation to allow local councils to enter into some form of joint arrangement with churches of all denominations, to enable them to manage and maintain a churchyard.

Grave reuse

That NALC should approach Members of Parliament and the government with a request to review legislation to give appropriate powers to town and parish councils (who are burial authorities) to extinguish rights of burials and to disturb human remains for the purpose of increasing space for interments when rights of burial have not been exercised for 75 years and in accordance with all the notice provision and safeguards included in the Bishop's Stortford Cemetery Act 2024.

To help inform the development of a submission to the Law Commission on the consultation, NALC has also launched it's own online survey in order to gather views and insights from local councils and county associations of local councils.


The link to the consultation document can be found below and should be read in conjunction with completing NALC's online survey:

<https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/30/2024/09/Burial-and-Cremation-Consultation-Paper.pdf>

The closing date for completing the survey is 23.45 on 15 November 2024.

Thank you for taking the time to complete this survey.

1. The Law Commission provisionally proposes that there should not be a single


uniform burial law applying to private, local authority, Church of England and Church in Wales burial grounds. Instead, they are provisionally proposing that different aspects of regulation should be introduced for different types of burial grounds, where there is a case for doing so. Do you agree? 

Yes

No

2. Please explain your answer to the previous question.

For clarity and consistency it would be better to have a single uniform burial law

3. The Law Commission provisionally proposes that regulation of private burial grounds should encompass any land where the primary purpose is, or has been, burial. Do you agree? 

Yes


No

4. Please explain your answer to the previous question.

Enter your answer

5. The Law Commission invite consultees' views on whether the definition of burial in the Local Authorities' Cemeteries Order 1977 has caused any problems.

No experience of any problems


6. The Law Commission provisionally proposes that in a local authority cemetery, the religious services that accompany a burial in all areas reserved or consecrated to a religious faith should be restricted to those of that faith, or to no service at all. Do you agree? 

Yes

No

7. Please explain your answer to the previous question.

We have a non-consecrated cemetery/burial ground. The religious services the accompany a burial provide comfort to the bereaved and take place at a particular instant in time. Excluding or restricting services to a particular faith in a particular area does not promote inclusivity, tolerance or multiculturalism


8. The Law Commission provisionally proposes that every burial ground owner should be required to maintain their burial ground in good order appropriate to its current use. Do you agree? 

Yes

No

9. Please explain your answer to the previous question.

Maintaining the burial ground in good order shows respect to the dead and their bereaved family and friends.

10. Are problems of poor maintenance of burial grounds sufficient to impose requirements on burial ground operators, over and above setting a uniform standard of maintenance? 

Yes


No

11. Please explain your answer to the previous question.

A uniform standard of maintenance should be sufficient.

12. The Law Commission invite consultees to provide examples or evidence of issues with poor maintenance that would potentially justify such requirements.

Enter your answer


13. The Law Commission invite consultees' views as to whether, if further regulatory action should be taken in relation to the maintenance of burial grounds: (1) the Secretary of State should issue a statutory code of practice for burial ground maintenance, following consultation with stakeholders; **or** (2) all burial ground operators should be required to publish a management plan on a periodic basis. 

The Secretary of State should issue a statutory code of practice for burial ground maintenance, following consultation with stakeholders

All burial ground operators should be required to publish a management plan on a periodic basis.

14. Please explain your answer to the previous question.

a statutory code of practice is transparent and also removes the obligation on smaller operators (for example parishes) to spend time preparing and reviewing a management plan, particularly where resources and experience are limited


15. The Law Commission provisionally proposes that the Secretary of State should continue to be able to authorise inspections of burial grounds. Where an inspection finds that the law is not being complied with, the Secretary of State should be able to issue a notice requiring actions to be taken to bring the burial ground into compliance. Do you agree? 

Yes

No

16. Please explain your answer to the previous question.

Allows for clarity

17. Should the Secretary of State have the power to direct that a local authority takes over the management of a burial ground which has failed to comply with the actions required in a notice? 

Yes

No

18. Please explain your answer to the previous question.

It should be a power, not an obligation though

19. In such circumstances should Local Authorities have the power to charge costs back to the cemetery owner? 

Yes


No

20. Please explain your answer to the previous question.

Only where those costs are clearly published in accounts though

21. The Law Commission invites consultees' views on what the minimum burial depth should be for bodies buried in a non-perishable coffin. Please explain your answer.

From the point of view of the environment and sustainability, non-perishable coffins should not be used.


22. The Law Commission provisionally proposes that (1) in all burial grounds there should be six inches of soil between two coffins or bodies which are interred in the same grave; and (2) for walled graves or vaults, there should be a requirement for them to be properly constructed of suitable materials, and for the coffin to be embedded in concrete or enclosed in a separate airtight compartment within 24 hours of the interment. Do you agree? 

Yes

No

23. Please explain your answer to the previous question.

Difficult to see that there can remain a case for walled graves or vaults if space is an issue, and the use of concrete or other airtight compartment is unlikely to be environmentally friendly.

24. The Law Commission provisionally proposes the creation of a new criminal offence of recklessly breaching minimum burial requirements, with a maximum penalty on summary conviction of a fine at level 2 on the standard scale (£500). Do you agree? 


Yes

No

25. Please explain your answer to the previous question.

Emphasis should be on enablement and education, not criminalising operators. Difficult to see how the recklessness element could be established. An operator may discover on re-opening a grave that there is insufficient depth to meet the requirements. how would such a situation be dealt with

26. The Law Commission provisionally proposes that, in relation to all cemeteries: (1) It should be a requirement for all burial rights, both exclusive


and non exclusive, and memorial rights, to be issued in writing (2) where this requirement is not met on the grant of a burial right, the purchaser should be able to request that their burial right is made out in writing, and that where the operator does not comply within a month the Secretary of State should have the power to issue a civil penalty; (3) that where a burial right has not been issued in writing, there should be a presumption that the right is a statutory exclusive burial right. Do you agree? 

Yes

No

27. Please explain your answer to the previous question

Agree with the principle that burial rights should be issued in writing, and that a document should be issued within a reasonable period of time upon request. Small operators including parish councils however should not be held to a higher standard than government departments, nor should civil


28. The Law Commission proposes that: (1) in its cemetery, a local authority should have the power to grant a memorial right to any relative of a person buried in a grave if no memorial has been placed on the grave two years after the burial; and (2) if there is a dispute between different relatives, or between the relatives and the owner of the exclusive burial right, a local authority should only have the power to grant the right to a neutral memorial displaying the name of the deceased person and their dates of birth and death. Do you agree? 

Yes

No

29. Please explain your answer to the previous question.

There is no point in issuing an exclusive right of burial which confers the rights to applying for a memorial if the local authority then has the power to grant a memorial right to any relative if no memorial placed within two years. How wide will be the description of relative? Local authorities should have clarity


30. The Law Commission provisionally proposes that a local authority should be permitted to maintain a tombstone, memorial or vault without the consent of its owner, if they have served notice on the owner at their last address known to the authority, and the owner has not objected within three months of such notice being served. Do you agree? 

Yes

No

31. Please explain your answer to the previous question.

Only where maintenance of the memorial is for safety purposes


32. The Law Commission provisionally proposes that: (1) a consistent system of burial registration should be introduced (2) the requirement for burials (of both bodies and cremated remains) to be registered as soon as possible should be retained (3) all burial ground operators should be under a statutory duty to keep the following documents: (a) a burial register (b) a register of disinterments (c) a plan of the burial ground and (d) a register of rights granted and (4) these records should be kept either electronically or on paper. Do you agree? 

Yes

No

33. Please explain your answer to the previous question.

Clarity on registration of scattered ashes would be helpful, and how to record a memorial where no remains interred.


34. The Law Commission provisionally proposes the repeal of the criminal offences of failing to register a burial: (1) by a private burial ground operator where registration is not governed by an Act of Parliament; and (2) by a Church of England minister when a burial takes place in consecrated ground in a Church of England churchyard without the rites of the Church of England. Do you agree? 

Yes

No

35. Please explain your answer to the previous question.

Agree with removing the criminal element but there should be some administrative sanction for any operator failing to register a burial.


36. Should burial registration documents be sent to the General Register Office or Historic England when a burial ground closes? 

Yes

No

37. Please explain your answer to the previous question.

Registration documents should go to the General Register Office for archive.


38. The Law Commission provisionally proposes that any grave reuse powers should apply to common or public graves, and to those where exclusive rights of burial have expired, as well as those where exclusive rights of burial have been extinguished. Do you agree? 

Yes

No

39. Please explain your answer to the previous question.

Agree with common or public graves and where exclusive rights have expired, but concerned about how a proces for extinguishing exclusive rights of burial might work and its impact on bereaved families.

40. The Law Commission invites consultees' views on the minimum time that must elapse between the last burial in a grave, and the burial rights in that grave being extinguished and the grave being reused. Should it be: (1) 75 years; (2) 100 years; or (3) a different period 


75 years

100 years

A different period

41. Please explain your answer to the previous question.

At least 100 years from last burial.

42. Should there be a requirement that a grave must not be reused if it still contains significant remains from a previous burial? 

Yes

No




43. Please explain your answer to the previous question.

Enter your answer

44. What should count as "significant remains?"

Not sure


45. Is there a case for the Secretary of State to be able to permit certain cemeteries to reuse graves after a shorter period of time in exceptional circumstances, and where the people, making burials in the graves which are to be reused, consent to it? 

Yes

No

46. Please explain your answer to the previous question.

Be consistent

47. The Law Commission provisionally proposes that, in any extension of grave reuse and burial right extinguishment powers, notices should be posted: (1) on the burial ground operator's website if they have one;(2) in local newspapers;(3) by the grave and entrances to the cemetery; and (4) should be sent to the last known address of the owner of the burial rights and memorial. Do you agree? 

Yes

No

48. Please explain your answer to the previous question.

Not local newspapers - cost is extremely high and onerous on small parish operators.

49. The Law Society provisionally proposes that one notice should suffice for both grave reuse and


extinguishing burial rights. Do you agree? 

Yes

No

50. Please explain your answer to the previous question.

Provided that the notice is clear whether it is just extinguishment of rights or whether it is to include grave re-use.


51. The Law Commission provisionally proposes that one notice should suffice for both grave reuse and extinguishing burial rights. Do you agree? 

Yes

No

52. Please explain your answer to the previous question

Enter your answer


53. The Law Commission provisionally proposes that burial ground operators should be required to keep a register of disinterments. Do you agree? 

Yes

No

54. Please explain your answer to the previous question.

For clarity and transparency


55. The Law Commission provisionally proposes that burial ground operators should be required to disclose the fact that a grave has been reused or reclaimed to potential purchasers. Do you agree? 

Yes

No

56. Please explain your answer to the previous question.

For clarity and transparency


57. The Law Commission provisionally proposes that burial ground operators should be able to apply to the Secretary of State for a decision enabling them to extinguish burial rights in graves and reuse graves, on a case-by-case basis. Do you agree? 

Yes

No

58. Please explain your answer to the previous question

Enter your answer


59. The Law Commission invites consultees' views on whether applications for grave reuse and reclamation powers should be made by each burial authority to cover all of their burial grounds; **or** (2) for each burial ground individually: 

By each burial authority to cover all of their burial grounds

For each burial ground individually

60. Please explain your answer to the previous question.

For clarity and transparency

61. The Law Society proposes that an application for grave reuse and reclamation powers should be accompanied by: (1) a grave reuse and reclamation plan setting out any additional mitigation proposed and identifying the graves which are intended to be affected; and (2) the results of a consultation with those living near the burial ground and those with friends or relatives buried in the burial ground. Do you agree? 

Yes


No



62. Please explain your answer to the previous question.

Would need guidance on the extent of any public consultation (time, reach etc)

63. We provisionally propose that the Secretary of State should have the power to close a burial ground where: (1) there is no useable space for new burials

in graves which are free from exclusive burial rights; (2) the legal minimum standard of maintenance or burial specifications have not been complied with; or (3) the burial ground represents a risk to public health. Do you agree? 

Yes


No

64. Please explain your answer to the previous question.

Enter your answer

65. Are there other reasons why a burial ground should be closed to new interments?

No


66. We provisionally propose that the Secretary of State must post notice of the intention to close a burial ground at the entrances to the burial ground, and in the London Gazette, for two months before a burial ground can be closed. Do you agree? 

Yes

No

67. Please explain your answer to the previous question.

Difficult to see how the London Gazette is likely to be relevant to a small rural parish - requirement should include notice on parish, district and principal authority websites


68. The Law Commission provisionally proposes that where a closed Church of England churchyard is reopened, any local authority which has become legally responsible for its maintenance should continue to have that responsibility. Do you agree? 

Yes

No

69. Please explain your answer to the previous question.

Not unless the entirety of the management is left to the local authority, with no input from the diocese or requirement for faculties.

70. Should Church of England fees for funerals and burial be shared with local authorities, or should an additional fee payable to local authorities be charged, in relation to reopened churchyards? 

Church of England fees for funerals and burial should be shared with local authorities

An additional fee payable to local authorities should be charged

71. Please explain your answer to the previous question.

If the local authority is going to be responsible for maintaining a re-opened churchyard, it should benefit from the fees to cover its costs.

72. The Law Commission proposes that the scheme in the Disused Burial Grounds (Amendment) Act 1981 permitting building on a disused burial ground and exhumation without a licence or faculty, where notice requirements are met, should be extended to all private and local authority burial grounds. Do you agree?


Yes

No



73. Please explain your answer to the previous question.

Not sure

74. The Law Commission invites views on the appropriate period of time during which an objection by the personal representative or close relatives of a deceased person should prevent building works from taking place on the burial ground in which they are interred. Should it be: 

50 years

75 years

100 years

Another period

Never give out your password. [Report abuse](#)



This content is created by the owner of the form. The data you submit will be sent to the form owner. Microsoft

is not responsible for the privacy or security practices of its customers, including those of this form owner. Never give out your password.

Microsoft Forms | AI-Powered surveys, quizzes and polls [Create my own form](#)

[Privacy and cookies](#) | [Terms of use](#)