



**Law
Commission**
Reforming the law

Burial and Cremation report

Andrew Bazeley

Lawyer

[@Law_Commission](https://twitter.com/Law_Commission)

www.lawcom.gov.uk



The Law Commission

- Established in 1965 by statute.
- Recommend reforms to make the law fair, modern, simple and cost-effective.
- Government makes decisions on whether to take forward our recommendations.
- Project on Burial, Cremation and New Funerary methods arose through the public consultation on our 13th Programme of Law Reform.

The three sub-projects

- Burial and Cremation – reported March 2026
- New Funerary Methods – reporting June 2026.
- Rights and Obligations Relating to Funerals, Funerary Methods, and Remains – began April 2026
- Issues including regulation of funeral directors and reforms to planning and environmental law are out of scope.

Grave re-use and reclamation

- Definitions
- Currently held by London local authorities and three other cemeteries (and the Church of England)
- Expanding those powers is a sensitive issue
- Consulted on outline of scheme with some open questions

Grave re-use and reclamation

- Two stage process:
 1. Obtain grave reuse and reclamation powers
 - Create a plan – consult – apply. Can be revoked.
 2. Safeguards for each grave
 - Must be 100 years since last burial.
 - Must give notice so relatives can object.

Regulation of burial grounds

- Different law in CofE, “private” and local authority burial grounds.
- Not recommending a single uniform law – need to retain flexibility.
- We recommend a series of more uniform safeguards
- Less change for local authorities – new powers relating to memorials.

Regulation of burial grounds

- Maintenance duty: “good order appropriate to current use”.
- Minimum burial specifications, eg depth of 2 feet
- Burial and memorial rights must be issued in writing
- Updated burial registration requirements, including in relation to pre-24-week pregnancy remains
- Modern enforcement powers for Government.

Other changes relating to burial grounds

- Powers to reopen burial grounds closed by Order in Council
- When this occurs, fees from CofE will be shared with LA
- Extension of rules permitting building on disused burial grounds to private, non-religious burial grounds
- Further powers for CWGC and Ministry of Defence in relation to burials of service men and women



Cremation

- Additional safeguards:
 - Mistaken cremation – new ID requirements
 - Direct cremation – requirement to inform applicant
 - Joint cremation – requires consent of both applicants
 - Cremation of unidentified remains prohibited

Cremation

- Solving long-standing problems
 - Pacemakers – simple scheme to resolve unique issue of ownership
 - No change to “radius clause” on siting of crematoria
 - New scheme to permit funeral directors to return ashes
 - Increase time period following consultation; crematoria can charge a fee (to be set in regulations)

Should you be able to make binding decisions about your funeral?

- Complex moral and ethical considerations. Who is a funeral for?
- If the answer is “yes”, what should you be able to make decisions about?
- How should those decisions be recorded? Or enforced?

How should disputes about funerals or remains be resolved?

- Current common law position – tied to rules on dealing with your estate.
- Should this change? How should disputes at the same “level” be resolved?
- How should this link in to any binding decisions a person might make?

Does the law on public health funerals and other duties to bury/cremate need reform?

- Current law leaves much to local authorities with non-statutory guidance
- Have been calls for rules to be clearer and more specific
- Interactions with binding decisions and resolution of disputes.



Thank you – questions and
comments welcomed