

Home Burials – Guidance Note

There is nothing in law which prevents the burial of a deceased person in ground other than a cemetery (such as your garden) however; there are some formalities that must be complied with.

- You must be able to satisfy the Environment Agency that the burial will not take place within certain distances of specific types of water; i.e. No burial to be permitted within 50 metres of a borehole or well spring, 10 metres of drain, ditch or watercourse, a minimum of 10 metres from any 'dry' ditch or field drain and minimum of 30 metres from any spring, running or standing water.
- No burial should take place in waterlogged/poor draining ground.
- Electrical and other services must be avoided.
- You must have the consent of the owner of the freehold of the land,
- There must be no restrictive covenants attached to the title deeds or registration of the property that prohibit burial.
- Safe excavation of the grave is important and a minimum of 1 metre (3 feet) of soil must be left on top of the coffin lid/over the body after the burial has taken place. You may want to consider asking a local gravedigger who is used to working in graveyards if they could dig the excavation for you (an open grave can be hazardous, and should be adequately protected before the burial takes place).
- The owner of the freehold land on which the burial has taken place must prepare and keep a "Burial Register" pursuant to the Registration of Burials Act 1864
- A location map must be attached to the register to confirm the position of the grave and details of the name of the deceased, age, date and place of death should be recorded.
- A certificate for burial issued by the coroner or registrar of birth and deaths will have to be obtained and any other procedural matters of the Registrar satisfied. The detachable section of this certificate needs to be completed and returned to the Registrar by the person who is arranging the burial. The Registrar does not record the place/location of the burial and this is why it is necessary to write these details on the deeds to the property.
- If there are any infectious disease concerns relating to the deceased person, then you must inform the local Environmental Health department.
- Planning Permission may be required if there is a memorial structure.
- Any more than two interments on the same site may be construed as Change of Use for which Planning Permission is required.

There are legal ways by which you can ensure that the grave remains undisturbed but this will involve costs and you would need the services of a solicitor. It is possible to request that the deeds to the property contain the instructions that the body must never be disturbed or removed from its resting place. This is called a restrictive covenant and would ensure that any new property purchaser could not apply for an exhumation and reburial of the deceased. Another point to consider is access to visit the grave should the property be sold in the future. It may be possible to create a right of access for grave visits by way of an easement

These notes are for guidance only. Legal advice should be sought in the first instance.