



KENT & SUSSEX
CREMATORIUM



ROYAL TUNBRIDGE WELLS

Burial in Private Land

This information on home burial is relevant in England and Wales, and we recommend that you take appropriate advice from the relevant local council.

Whilst burial on private land is a relatively straightforward matter, free of many of the restrictions and legal hurdles which might be imagined, it does need to be thought through carefully.

The number of private land burials which take place each year in the UK is quite small, and it is possibly for that reason that there are misconceptions widely-held not only by members of the public, but by some planners and funeral professionals as well. With regard to rules and regulations the following are imperative:

- You must have the consent of the owner of the freehold of the land
- The freeholder should check that there are no restrictive covenants attached to the title deeds or registration of the property that prohibit burial
- 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.
 - At least 10 metres from any 'dry' ditch or field drain
 - At least 30 metres from any spring or any running or standing water
 - At least 50 metres from any well, borehole or spring that supplies water for any use
- There must be a minimum depth between the settled soil level and the top of the coffin or shroud (3 feet)
- The person responsible for the burial must obtain a Certificate of Authority for Burial* from the Registrar of Births & Deaths (or in special circumstances from the Coroner) before the burial takes place. (*This is routinely issued at the time of the registration of the death, and more commonly referred to as 'the green form'.)
- Within 96 hours of the burial, the slip attached to the bottom of the Certificate for Burial or Cremation must be completed with the date and place of the burial, and returned to the Registrar of Births & Deaths
- The owner (or owner's agent) of the land on which the burial has taken place must prepare and keep a burial register in a safe place. Keeping a burial register does not mean that you have to purchase a special book from a legal stationers. A simple document will suffice, provided that it records the essential details of the deceased, and the date and place of interment with an accompanying plan showing the grave's location.

Those are the essential regulations which must be followed. What about planning permission?

The role of the Local Authority

Perhaps the single fact regarding private land burial which most surprises people at the outset is that for a limited number of interments, planning permission is not required.

The reason is simple - the presence of a very small number of burials would not constitute a 'material change of use', hence no such consent would be required. However you should be aware that case law has seen the use of the words 'limited' and 'restricted' rather than a definition setting out a precise number. Logically what might be a reasonable number in rural farmland should exceed that in a suburban garden, but as no definitive ruling can be cited it would be wise to err on the side of caution and consider that more than two burials could encourage the planning authority to require the submission of an appropriate application.

Strictly speaking there is no need, either, for an approach to the local authority with regard to the observance of distances from water, though it is better to be sure on this issue through consultation with the local council's Environmental Health Department. With their local knowledge they should be able to give a speedy opinion; and if clarification is required you could reference Environment Agency's leaflet 'Funeral Practices, Spreading Ashes and Caring for the Environment' which covers 'home burials' and sets out the criteria listed above.

There are no environmental implications from the burial of cremated remains so there would be no need to contact the Environmental Health Department in that event.

Grave digging and grave depth

Grave digging can be hard work! Hand digging is the preferred 'green' option, but a small mechanical digger will reduce the workload considerably provided that access to the chosen site can be provided easily and without damage to the local environment.

Although the majority of professional grave diggers work for local authorities, there are freelance grave diggers throughout the UK should you wish to employ someone for the task. Grave preparation should include a preliminary excavation to ensure that standing water does not gather when it is first dug, and that the soil is not too sandy.

The minimum depth for a grave as required by law should provide three feet from the top of the coffin (or shroud) to the normal ground level above.

Remember that an open grave can be hazardous, and should be adequately protected before the burial takes place. If the chosen plot is in an area which is crossed by a public footpath it may be advisable to apply for the temporary closure or diversion of the path under the provisions of the Wildlife and Countryside Act 1981 to ensure that there is no risk

to the general public while there is an open grave and that there is privacy at the time of the burial.

Some points to consider

There may be far fewer regulations than might have been imagined, but it is advisable to give careful consideration to some of the possible consequences of private land burial.

What about access to visit the grave should the property be sold in the future?

It would be possible to create a right of access for grave visits by way of an easement, but such an arrangement may deter a purchaser.

What effect would a burial or burials have on the property value?

Over the years it has been argued by some that an adverse effect would be inevitable, but that would be difficult to prove in any particular case. What is clear is that some properties will be far better suited than others. One or two burials in a quiet favourite spot near a tree in a rural paddock are unlikely to have the same impact as a burial in a suburban back garden, and although planning permission is not required for a limited number of burials, some built memorials would attract the attention of the planning authority. This need not be a concern if you just intend to plant a tree.

One final point to consider is that as burial in private land is not a common event it may attract attention from neighbours and/or passers by, therefore giving your local police advance notice of the funeral may prevent them being wrong-footed into suspecting some improper act!

Further information and advice

The Natural Death Centre <http://www.naturaldeath.org.uk/> is widely regarded as a primary source for independent advice on private land burial and is acknowledged as providing the above text. It can also provide details of professional services and suppliers such as manufacturers of biodegradable coffins.