

Salt and Light Papers provide important information and analysis to help Christians and Churches to engage with 21st century social issues

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LITTLE CHANGE ENVISAGED TO BURIAL REGULATION IN BRITAIN

On 5 June 2007, the Ministry of Justice published its response to the Home Office Consultation of 2004. It runs to 27 pages and is entitled *Burial Law and Policy in the 21st Century: The Way Forward*. It can be downloaded at www.justice.gov.uk/publications/buriallaw050607.htm free of charge.

The main press focus since its publication has been on the fact that the government intends for the first time to permit old graves to be re-used for new burials. In order to be re-used, 100 years will normally have elapsed, and 75 years must have elapsed, since the last burial, and the descendants of the original deceased must be traced and give consent.

Although the idea of people being buried with strangers has not surprisingly captured the public imagination, the main message of the government's response is that it has decided against major legislation, against setting up a new expensive national regulatory burial bureaucracy, and against any significant changes to the present haphazard pattern of ownership, management and maintenance of burial grounds.

The effect of this is to leave the control of burial grounds in the same hands as at present – a mixture of local authority and private sector (e.g. churches) owners. Improved standards will be achieved by means of guidelines, rather than legislation, but no additional public money will be provided to assist the present owners of burial grounds. Funding will therefore need to come, as now, from burial fees and from local authority rates and Council tax income. Any changes in law which become necessary will be included as incidental measures in other legislation.

Independent churches with burial grounds will have to continue to fund the cost of burial ground upkeep from the funds of the church, unless there are designated endowment funds in place for that purpose.

Although the re-use of existing graves will become permissible in future, burial ground owners will not be compelled to offer burials in existing graves, and nor will the families of deceased persons be obliged to accept new burials in the existing graves of strangers. However, neither will there be any obligation on burial ground owners to provide burial space to everyone who applies, so in areas where there is pressure on burial space, such as in the London area, burials may not be possible in public cemeteries as locally as families may wish. In view of the fact that there will be no additional public funding, the charges imposed by local authorities, and by burial providers in the private sector whose burial space is open to the general public, are likely to increase significantly over the next two or three years.

Two aspects of the government's response which are of particular relevance to Affinity's Consultation submission in July 2004 are the following:

The government states in its response: 'Where... land has been set aside for use for particular Christian denominations or other faiths, it would be consistent to regard any objections to re-use from the local representative body for the denomination or faith in question as paramount.' On the face of it, this appears to clarify that there should be no compulsion upon the bereaved to agree to burials in existing old graves. However, the government emphasises that all decisions would be for the local burial ground owner to determine. Evangelical Christians, who are likely not to want new burials in old graves, will therefore be likely to be able to get their wish, but probably at a financial premium.

In its submission to the original government Consultation in July 2004, Affinity expressed its opposition to a freelance attitude to burials, two expressions of which were so-called 'back garden' or 'woodland' burials. Affinity took the view that this informal approach to burial lacked the degree of dignity which death is given in the Bible.

Sadly, the government has declined to tighten up on this kind of burial, and we may therefore see more informal burials at 12 Acacia Gardens and the like. The government 'does not accept that there should be undue restrictions on the ways in which families should be allowed to dispose of the remains of their relatives, especially where there may be religious or cultural considerations, and that more choice in disposal options, subject to considerations of public health and decency, should be encouraged.'

The problem with grand language such as 'subject to considerations of... decency' is that currently no public authority has a public duty or legal responsibility to uphold 'decency.' The Environment Agency has a duty to protect water sources, and there are various authorities which might have the power to intervene over public health issues. In practice, however, it would be hard to prove that a burial in a back garden would be more of a hazard to public health than it would be in a burial ground.

The real issues relevant to back garden burials are social (e.g. the opinions of neighbours, and the effect on the saleability of a house), but there are no planning or other statutory controls over

what might constitute 'decency' in respect of individual burials, and the government now, far from addressing this lack, appears to be encouraging freelance burial ideas and arrangements, in the interest of 'more choice in disposal options.'

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Salt and Light Papers is a series of occasional papers on contemporary issues of social concern. It is published online by the Affinity Social Issues Team. Its purpose is to help Christians to think through questions of relevance to our place in the world around us. The views expressed by contributors are not necessarily endorsed by the Affinity Social Issues Team.

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