

DISPOSAL OF THE DEAD

Is UK law fit for modern use?

Legal rights to a body

No one can legally take 'ownership' of your body when you die. Historically, English common law states that 'the only lawful possessor of a corpse is the earth'.

There are rights to possessing a body. Many would consider that the next of kin, a surviving spouse or partner, or other close family, would have first right, but that's not necessarily the case e.g. the hospital.

Certain individuals may be lawfully granted the duty or responsibility to dispose of the deceased corpse found in their possession (*Anstey v Mundle* (2016)). It is important to note that 'possession' of the body is distinctly different to 'ownership'. It is rare for disputes to arise in UK courts as they are often complex, but when they do the courts tend to apply to 'no property in a corpse' rule.

The current law

The law commission itself has said the current law governing how we dispose of bodies is "unfit for modern needs".

For years, the government has been consulting on reform to burial law, creating Measures and has even identified it as an area of public interest.

Despite this, its start date has been listed as 'as and when resources allow'.

Leaving the start date essentially up to chance, potentially not having it addressed for years more may not be an option any longer.

There are a number of factors that make this an unavoidable crisis waiting to happen that only urgent reform can stop.

Impact of COVID-19

This was an area that could be consistently put back for issues deemed more important, however the unexpected impact of a pandemic means that reform in this area is more needed than ever.

In terms of loss of space, Cities that had not been expecting to reach capacity for nearly 20 years are facing burial space shortages that could mean full capacity very soon.

Methods and the Environment

There are multiple methods of disposing of the dead which are eco friendly. Resomation the liquidation of the body, profession freezing of body which is used to compose. Eco-friendly burial in infinity suit, as well as that bodies, can be donated into science to become a part of a reef; these are USA based methods, but the standard disposal is burial and cremation. Burial results in loss of space.

The cremation act 1909 legalised the method of burial into our society. It created a risk of environmental damage. 400 kg of co2 released into the atmosphere per body. We are inhaling harmful toxic produced by corpses.

The environmental protection act 1990, stated that authorities must enforce specific procedure to deliver a healthy environment. Meaning methods can be used to remove harmful substances must be taken.

Loss of Space

Inner city as well as village cemeteries are reaching their capacity. The Commission itself has pointed out the increasing pressure the issue of existing burial space provides. Although governments have considered this issue for years and many in the field have expressed the urgent need for change in some way "death doesn't win votes".

The solution to this problem and what needs legislating is the reuse of graves. The Burial Act 1857 s25 stops this most effective solution from being used. Though many other acts and measures have been passed to allow the reuse of graves.