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## **Chudleigh Natural (Green) Burials**

### **Rules Regulations and Procedure**

Notes for Natural (Green) Burials in Chudleigh

#### **Background - What are Natural (sometimes referred to as Green Burials)?**

Natural burials offer an ecological alternative to traditional burials and are sometimes, but not always, cheaper.

Some clients are concerned with the “ecological” cost of cremation in terms of the energy used for cremation and/or the preparation of coffins etc. And seek alternatives

The main price driver for natural burials is determined by the amount of surface space available in a cemetery and the number of deceased contained within one grave plot. Natural burials are more shallow than traditional graves and only one deceased is permitted within one grave plot whereas traditional grave plots sometimes allow three.

Natural burial sites, by their very nature, quickly revert to natural grass/meadow land and are managed accordingly. Some sites are gradually planted with suitable trees and are developed as new woodland as the site matures.

The Chudleigh Natural Burial Area is contained within the top corner of the current cemetery and a hedge and trees have been planted to delineate this “natural” corner.

Views over countryside sometimes play a role in the clients decision to choose one natural site over another. The Chudleigh site has south facing views over the town and beyond to Hator. As the hedge planting matures, views of the immediate location will be obscured.

#### **Natural Burials – the rules as defined by excerpts from the Ministry of Justice Guidance 2009**

##### ***Introduction***

The interest in and demand for natural burial has grown in recent years as an alternative option for people concerned about the potential environmental impacts of modern funerals.

This information is aimed at current and potential operators or managers of natural burial grounds in England and Wales.

It provides information and advice to help ensure that operators:

- are familiar with the legal and regulatory framework governing natural burial

- can provide a high quality service for bereaved people and the wider community.

### ***What is a natural burial?***

Natural burial is a term used to describe the burial of human remains where the burial area creates habitat for wildlife or preserves existing habitats (woodland, species rich meadows, orchards, etc.), sustainably managed farmland, in-situ or adjacent aquatic habitats or improves and creates new habitats which are rich in wildlife (flora and fauna). Where a funeral precedes such burial, it would typically seek to minimise environmental impact.

The terms 'green burial', 'green funeral' and 'woodland burial' are also sometimes used.

Interest in natural death has grown as people have become increasingly concerned about the emissions and fuel-use associated with cremation, the use of stone for memorials (often shipped considerable distances from overseas quarries), or the use of formaldehyde for embalming, which has an adverse effect upon groundwater.

Demand for natural burial would appear to be increasing although there is variation between different regions. People born between 1946 and 1964 (the 'baby boomers') are generally recognised as the first major generational group to take environmental issues seriously on a wide scale and they are now at the stage of life when they lose their parents or partners, or plan for their own funerals. Environmentally-friendly funeral provision is not only a logical extension of an environmentally-aware lifestyle, but also has broad appeal as an alternative to a conventional cemetery.

### ***The legislative background***

All burial ground operators must be familiar with legislation which applies to their sites, such as:

- burial law
- ecclesiastical law
- authority for burial
- health and safety
- contract and employment
- planning regulations
- environmental and wildlife law.

The following provides an overview of the key regulations and requirements.

### ***Burial law***

Most burial law is directed at particular types of burial grounds and various burial authorities who own the burial grounds for example:

- municipal cemeteries are covered by the Local Authorities' Cemeteries Order 1977 (LACO) as amended
- Church of England churchyards are covered by various ecclesiastical Measures (although the law relating to churchyards is mostly common law)
- privately owned cemeteries may also be subject to private Acts of Parliament
- privately owned natural burial grounds are not covered by the LACO provisions and are largely unregulated.

Even where burial grounds are not subject to site-specific legislation, there may be other legislation which regulates what the burial ground operator may or must do, e.g. all burial authorities must keep a register of burials.

### ***Burial of tissue***

There is no specific legal provision for authority to bury parts of bodies, including blocks and slides made from tissue and organs removed for examination. Nor is there any legal provision for the burial of foetal remains under 24 weeks.

The Ministry of Justice takes the view that burial site operators may decide for themselves whether to accept such material, having regard to practicalities.

Key issues will be whether blocks and slides are adequately documented or present an environmental hazard. Operators may need to obtain either an exhumation licence or a faculty if the intention is to place the tissue inside a person's coffin in an existing grave.

### ***Re-burials***

From time to time, operators may receive a request to re-bury remains which have been exhumed from other burial grounds.

There is no legal requirement for a fresh certificate from the Registrar of Births and Deaths. Operators should, however, ask to see an exhumation licence issued under the 1857 Burial Act or directions issued under any other burial legislation which prescribes how the remains are to be reinterred. 4

If these documents cannot be provided, operators should satisfy themselves that the remains have not been exhumed or acquired unlawfully or that there is any need to report the matter to a coroner or the police.

### ***Grave depth***

Burials in a municipal cemetery must normally be at a minimum depth of three feet from the top of the coffin to the natural soil level. Where the soil is considered to be of suitable character, however, coffins of perishable materials may be placed at a reduced depth, though never less than two feet below the level of any ground adjoining the grave.

Natural burial ground operators are recommended to follow this regulation.

### ***Burial registers***

The Registration of Burials Act 1864 requires all cemeteries not otherwise subject to a legal requirement to do so to keep a register of burials. Such registers need to be kept in accordance with the provisions of the Parochial Registers and Records Measure 1978 as amended by the Church of England (Miscellaneous Provisions) Measure 1992. This Act therefore applies to natural burial grounds. The Local Authorities (Amendment) Order 1986 in addition allows the maintenance of register of burials on computer.

A standard burial register can be obtained from the Society for Promoting Christian Knowledge (SPCK). More information is available from their website [www.spck.org.uk](http://www.spck.org.uk). It is strongly advised that a duplicate copy of the register is kept offsite as well.

### ***Data protection***

Burial registers are not subject to the Data Protection Acts 1994 and 1998 to the extent that they do not contain information other than that relating to deceased persons.

If, however, operators hold information about living and identifiable individuals, for example where a record is kept of those who have been sold plots in advance, that information will be subject to the Data Protection Acts and should be handled accordingly.

If operators retain this information for core business purposes only, i.e. for administration and records relating to the burial ground, operators do not need to register as a data controller, provided that users are informed that these records will be maintained.

If in any doubt, operators should check with the Notification Department at the Information Commissioner's Office (ICO) at [www.ico.gov.uk](http://www.ico.gov.uk).

The register of burials and records of dis-interments in municipal cemeteries should at all reasonable times be available for consultation by any person free of charge.

### ***Disability legislation***

Under the Disability Discrimination Acts of 1995 and 2005, it is unlawful for service providers to treat disabled people less favourably than other people for a reason related to their disability.

All service providers have to make 'reasonable adjustments' to the way they deliver their services so that disabled people can use them.

Part 3 of the 1995 Act applies to all publicly accessible places including burial sites. It is good practice, therefore, for burial ground operators to carry out an access audit and make reasonable alterations to remove any physical barriers to goods or services for people with disabilities. In this context, disability covers people who not only have hearing or sight impediments but can also include people with certain illnesses.

### ***Burial and memorial rights***

Operators should determine what rights of burial and memorial to convey to users of their site.

These may include the right to:

- re-open the grave if there is space for more than one burial
- place or erect a memorial N.B. Not permissible in Chudleigh Natural Burial Site
- visit the grave
- transfer any burial rights by deed or will.

Operators should set out the terms of burial rights in a contract with the purchaser or bereaved family when they buy the plot.

### ***Burial ground plans***

In a traditional cemetery it is comparatively easy to identify a grave by its position in a burial grid or plan. In many natural burial grounds this is not possible as the grave locations may not conform to any a pre-defined burial plan and the natural setting with trees and shrubs will change over time. N.B. Chudleigh cemetery uses a grid system identified by marker posts on the boundary hedges.

A copy of the plan should always be kept offsite.

### ***Exhumation***

Under the 1857 Burial Act it is an offence to remove buried human remains without either:

- a licence from the Secretary of State for Justice if the remains are buried in non-consecrated ground
- a faculty if the remains are buried in ground consecrated according to the rites of the Church of England.

The Ministry of Justice takes the view that a licence is required for any kind of removal or disturbance, including relocating coffins in the same grave or correcting a burial made in the wrong grave.

The MoJ will normally be prepared to issue a licence if an application is made for personal reasons and if all relevant consents have been given by, for example, the next of kin and the burial grave owner. An application form for a MoJ licence can be obtained by emailing [coroners@justice.gsi.gov.uk](mailto:coroners@justice.gsi.gov.uk) or telephoning 0203 334 6390.

Burial in consecrated land is understood to be regarded by the Church of England as permanent. Applications for a faculty to authorise exhumation are granted only in special circumstances.

Operators should also be aware of the coroner's power to order the exhumation of a body. The need for such an order may arise if the coroner believes a post-mortem examination to be necessary for the purposes of investigation of the death or criminal proceedings in connection with that death or a connected death.

### ***Environmental and ecological aims***

Operators should provide a clear statement for users which identifies the environmental and ecological aims of the burial ground and whether the site is new or conserves and/or enhances an existing setting.

In preparing such a statement, account should be taken of the existing environmental and ecological value of the site and the surrounding area.

N.B. Chudleigh Town Council declares that the natural burial ground shall be maintained as meadow land and encourages such native plants as to be useful to, and a source of food for, local species of insects and animals.

### ***Health and safety legislation***

Operators must be aware of and follow all relevant health and safety legislation and take appropriate steps to mitigate significant health and safety risks arising from the management of their burial ground.

Typical risks include:

- excavation of graves, with the risk to both gravediggers and the public
- health hazards associated with the exhumation of human remains
- unstable tombstones and other memorials
- building, site and horticultural maintenance (especially the management of trees) and the use of machinery.

N.B. Chudleigh Town Council has a comprehensive H&S policy

For more information on all aspects of health and safety law, visit [www.businesslink.gov.uk](http://www.businesslink.gov.uk)

### ***Access rights***

Whatever the long-term land management plans are, natural burial ground operators should bear in mind that for many people the site will be an emotional as well as a physical landscape. Bereaved people will expect access for visits and so operators must ensure that they are informed of rights of access and any restrictions. Natural England have published a guide "By All Reasonable Means" designed to help countryside and urban greenspace managers and landowners improve accessibility of their sites, routes and facilities. A copy of the guide is available at [www.naturalengland.org.uk](http://www.naturalengland.org.uk)

Where the site is within a municipal cemetery, the cemetery's existing regulations will apply. If operators run a private natural burial site they should consider what visiting hours are feasible and practical.

### ***Faith groups and burial rites***

Operators of natural burial grounds should welcome enquiries about their policies and operations from any faith group.

### ***Facilities***

Chudleigh Town Council has discretion to decide what facilities should be provided on site for users.

Chudleigh Town Council, generally, is unable to provide facilities for the care of the deceased prior to the funeral, function rooms and catering etc. In time CTC may be able to provide somewhere for simple shelter from the elements or prefer to keep all infrastructure and man-made structures to a minimum.

Clear, accessible signage is always be provided on the site.

### ***Site maintenance***

Chudleigh Town Council has a well tried and trusted plan to manage the burial areas, access paths, tracks, car parks, buildings and infrastructure, to ensure that all buildings and infrastructure are safe and in good repair. The management of all environmental features should be carried out sensitively so as to maximise the biodiversity of the site and its overall environmental quality.

### ***Providing information for the public***

In order to help users (funeral directors, local religious organisations, the public and especially bereaved people) make an informed choice when selecting a type of funeral and burial ground, CTC provides clear and accessible information.

### ***Complaints procedure and handling***

Operators should plan both to deal with complaints and to learn from them. Complaints are most likely to arise from:

- disagreement with the burial authority's policy, e.g. the level of fees or site maintenance regime
- or where things go wrong, e.g. booking the wrong day for the funeral or allegations of rude or insensitive behaviour by staff.

Operators should ensure that they provide users with readily available information about how to complain, and that complaints procedures are not unduly bureaucratic.

Complaint handling is most effective if the complaint can be made locally and quickly, with the local manager empowered to deal, without delay, with the majority of the complaints which can be anticipated.

Complaint procedures should include provision for complaints to be escalated if necessary. For private cemeteries, the normal route will be to the General Manager and on to the Operations Manager or Director.

For authorities who are signatories to the Charter for the Bereaved, reference can be made to the charter organiser who can provide an independent investigation and report. It should be borne in mind that local authority cemeteries are subject to their own authority's complaints procedures.

### ***Management***

information on the burial ground management, directors, trustees, managing body or similar, with relevant qualifications given and membership of the Association of Natural Burial Grounds, the Federation of Burial and Cremation Authorities, the Institute of Cemetery and Crematorium Management or equivalent organisation.

### ***Memorials***

Small Bronze, Brass, Oak or Teak markers are permissible to lay horizontally at the head of the grave. It should be remembered that these may become tarnished with age or possibly damaged during routine mowing maintenance of meadow land.

### ***Pricing***

The pricing as detailed in the Chudleigh Town Council Price List shall apply

### ***Coffins***

Shall be of a biodegradable material, including types of materials allowed in their construction