



23 May 2020

S20.08

Submission to Ministry of Health on the on the consultation document Death, Funerals, Burial and Cremation: A Review of the Burial and Cremation Act 1964 and Related Legislation

Introduction

- 0.1. The National Council of Women of New Zealand, Te Kaunihera Wahine o Aotearoa (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000 with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right.
- 0.2. This submission has been prepared by the NCWNZ Social Issues Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.
- 0.3. Members were asked to consider three main areas of the document (questions 7, 17-20, and 27-30) and canvassed for their thoughts on eco-burial or non-traditional arrangements (question 41).
- 0.4. Our membership understands that this Act has not been revised since 1964, and strongly felt that it was time for a major revision.

1. A3: Modernising the death certification system (Q7)

- 1.1. The majority of our members are in favour of Option 3, which was to implement all of the Law Commission's recommendations 2, 4-6 and 10-14.
- 1.2. We think there may be difficulties with identification, for example for homeless people and for people who have changed their names since birth. We believe that identification of the body is important and if this cannot be done satisfactorily, the Police should be involved.

- 1.3. Our membership felt that the identification processes need to be improved, in contrast to the Ministry of Health's preferred option. One possible suggestion is the use of identity bracelets in care homes and palliative care facilities. This would enable other doctors, in consultation with staff at the facilities, to undertake the identification process without having to wait for the person's doctor. Alongside this, the proposed online system could link to the patient system at the medical centres to cut down the paperwork and length of time it takes to process the information.
- 1.4. There was no mention of circumstances when death does not match up with existing health records. The process around transport for post-mortem and return complicates timeframes and how the body can be cared for.
- 1.5. We approve of making the timeframe for death certification explicit. Even 24 hours can be a long time for the family/whānau to wait, and a long time for a funeral director to wait to obtain the body for burial. For this reason we also support an alternative medical or nurse practitioner signing the death certificate in the circumstances outlined. While some members were aware that an online facility for death certificates was being developed, it will need to be reliable and able to deliver the certificates within the timeframe.
- 1.6. The section on Death Certificates mentions Maori but not other cultures. We strongly feel there should be a provision for issue of death certificates in Te Reo Maori and other languages as appropriate, and that consideration of other cultures should be strongly evident throughout all processes.
- 1.7. Some of our members favoured Option 2, that is, implementing most of the Law Commission's recommendations, but disagreed with some of them. One point of confusion was the perspective that the proposal is that the death certification would not be provided until 24 hours after the death, as opposed to "within 24 hours". It is important that health practitioners do not work to the maximum allowable time unless it is unavoidable.

2. B3: Regulating the funeral services sector (Q17-20)

- 2.1. The majority of our membership supported Option 4, which is providing central registration for funeral directors.
- 2.2. Bereaved people are at their most vulnerable and unscrupulous funeral directors can and do take advantage of this vulnerability. Mandatory central certification of funeral directors will help provide consistency of performance and a route for redress if necessary.
- 2.3. There need to be firm standards on the physical premises, and procedures, especially for the care of the deceased. For example, our members suggested that all funeral directors should be obliged to provide refrigeration facilities on their premises so that those choosing not to embalm bodies would have an alternative to hospital mortuaries. Many funeral directors do have refrigeration facilities already but it should be a requirement of registration.

- 2.4. Although we support Option 4, our membership would like clarity about ethnic/individual involvement in funeral arrangements e.g. Muslim or Jewish cultures who prepare bodies themselves for burial but are not funeral directors.
- 2.5. Our membership supports all funeral directors having a qualification as a requirement for registration. There should be a grandparenting system for people to obtain qualifications. This would enable people to learn both funeral directing and embalming processes. The membership also advocate for maintenance of qualifications as part of the new regime. The three year timeframe given is not considered to be long enough, with 10 years being suggested as more appropriate.
- 2.6. The standards, qualifications and the registration of funeral directors should be prepared by the Funeral Directors Association (FDANZ) but set in law by the government. At the moment, anyone can be a funeral director and set up a business anywhere. 80% of funeral directors belong to the FDANZ but only 50% of funerals are taken by these members. There is no set standard that needs to be adhered to.

3. B4: Informing consumers about the costs of funeral services (Q21-24)

- 3.1. Our membership has mixed views about regulations relating to costs. Some of our membership prefer Option 3, that is making it mandatory to disclose all component prices as per the Law Commission's recommendations (recommendations 96–103).
- 3.2. Bereaved families need full financial details from the funeral directors in writing to assist decision making prior to making funeral arrangements. It also helps families with their pre-planning, when families are talking about funeral wishes. Families need to be able to make well informed decisions.
- 3.3. Some of our members support Option 2, which is to make it mandatory to disclose some component prices in writing. These particular members highlighted that it would be unsettling for families to read the itemised details of the care and preparation of the person for burial. Our membership expects to know things like casket, car, flowers etc but would not like the hospital type list which showed how much embalming fluid was used or the disposable utensils. A family could find the mandatory disclosure of all the component prices distressing at a time of intense grief. This perspective is about the emotional wellbeing and duty of care for the families.

4. C3: A new burial and cremation management framework (Q27-30)

- 4.1. The majority of our membership agreed with Option 2: Implementing a package of changes to the current system based on all of the Law Commission's recommendations (recommendations 20–72). Option 2 covers all bases and protects funeral directors. Some guidance is required regarding disposal or place of rest for the ashes.
- 4.2. It was felt that after cremation the person who has passed away should be memorialised in some concrete way with name, date of birth, date of death, wife/husband/family displayed. This becomes

an official and physical record. It also helps those researching family history. Recent vandalism and stealing of memorial plaques has given rise to concerns.

- 4.3. Some of our members were unsure that five years was long enough to retain the ashes post cremation and thought ten years would be a more appropriate period for the funeral parlour, although there were mixed views. A central register for people wanting to trace ashes would be helpful.
- 4.4. Our membership also noted that when scattering ashes that most people are unaware of the restrictions or processes to enable or prohibit this.
- 4.5. Our membership raised the scenario where ashes are placed in the care of a family member or friend but are never disposed of. This raises a question of the disposal of these ashes when that person dies. We suggest that the proposed amendment bill should provide a resolution for this.
- 4.6. One of our members did not want to see private crematoria permitted because it was felt that sometimes private crematoria are not always maintained properly.

5. E: New methods of body disposal (Q41)

- 5.1. The membership were in favour of eco-burial as cemeteries are running out of space. The increased demand for eco-burial or non-traditional funeral arrangements should be allowed for, and options available. The processes of embalming were also discussed, noting that some funeral directors are now providing environmentally friendly embalming. All practices must remain in compliance with local and national laws about body disposal.
- 5.2. Any chosen method for a funeral must be respectful to both the dead and the living and be culturally sensitive. Some religions need their people to be buried within a short period of time and we need to cater for this as best as we can. It was also suggested that the keeping of accurate records of relatives' expressed wishes and in the disposal of the body should be mandatory.
- 5.3. Our membership agreed there was a need for eco burial but not sure of the best way to do this. We need to familiarise ourselves with the options and availability in local areas and ensure people know these options e.g. in Invercargill Cemetery a section is set aside for natural burials, a fact which people may not be aware of. In the Dunedin Cemetery, an area was provided for eco-burials seven years ago and there have been only 15 of these burials in that time.
- 5.4. Members saw the risks of eco-burial was similar to current burial method risks. A major benefit is less land used or more than one use for that land. For example, with upright burial in memorial forests, trees can later be felled and new trees planted. A plaque would memorialise the person.
- 5.5. There was some discussion on public health issues around the process of burial. Further information was needed as communicable diseases are not recorded in the paperwork and the coroner does not disclose this information either.
- 5.6. Other methods our members were aware of included:

- Burying a person in a shroud. Multiple people could be in one site with plaques commemorating each person.
- Cryogenics – a process of preserving a dead body with liquid nitrogen. It was considered that the area required and the cost to keep the body frozen would preclude it being an option.
- Dissolution – where bodies are dissolved in the high temperature using bacteria (done in North America). Some members felt that it is cruel although under optimum conditions there is nothing left.
- The embalming process with the use of toxins causes contamination of the soil. One member has read of herbal treatments to replace this process, although we do not know how available or effective this. Indigenous people and historical research might inform us more on this.
- Burial at sea.
- Our membership understand that snow globes and vinyl have been considered in Australia and also scattering of one's cremated ashes by way of a beautiful and spectacular fireworks display but there were concerns around whether these would be suitable practices in New Zealand.

6. Conclusion

- 6.1. Our membership supports the proposed amendments but also suggests that this legal document needs to be simple to allow for variation in practices. Our membership strongly suggest that all funeral directors need to have qualifications and to be registered. There need to be firm standards on the physical premises, and procedures. These need to include minimum standards for the premises and for the care of the deceased.



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