



MUSLIM BURIAL COUNCIL OF LEICESTERSHIRE



RESPONSE TO



BURIAL LAW AND POLICY IN THE 21ST CENTURY

(HOME OFFICE CONSULTATION – January 2004)

Muslim Burial Council of Leicestershire (MBCOL) was founded on the 24th August 1994. In October 1995 MBCOL signed a historic legal agreement with Leicester City Council the first of its kind in Europe which gave MBCOL authority to carry out burials seven days week at the Saffron Hill Cemetery in Leicester. The organisation is now a registered charity.

MBCOL acts on behalf of the needs and requirements of the Muslim community in Leicestershire regarding the procedures and practices relating to the internment of the deceased it also seeks to provide information, help and assistance to every member of the community relating to internment and to liaise with other relevant organisations to enable the Muslim community to access suitable internment services and practices. MBCOL has also been involved with consultation programs with local and central governmental departments in relation to the corners, death registration, burial grounds and other matters related to death.

MBCOL works in partnership with the following bodies, Leicester City Council, Leicestershire County Council, Borough of Oadby & Wigston Council, Leicester, Royal Infirmary Hospital, Leicester General Hospital, The Glenfield Hospital, BUPA Hospital, Leicestershire Ambulance & Paramedic Services, City and Country Registrars Offices, HM Coroners, Leicestershire Constabulary and the Muslim Council of Britain.

Since its inception great strides have taken place in easing some of the difficulties experienced by the Muslim community at the time of death and the organisation now forms the bases of good practice with many other counties nationally.

RESPONSE

Consultation on “Burial Law and Policy in the 21st Century” (January 2004)

Introduction

The responses to the questions set out have been considered by the Board of Trustees of the Muslim Burial Council of Leicestershire (MBCOL) of 394 East Park Road, Leicester LE5 5HH United Kingdom. Consideration has been given to the issues by the Trustees. The responses given in this document are based on MBCOL’s own experience in the way that it has operated for the last few years. The Trustees of MBCOL recognise that the answers given in this document is not meant to be in any way final or complete. In addition it must also be noted that the responses set out in this document reflect the majority opinion held by the different schools of thought of Islamic jurisprudence.

MBCOL envisage a system whereby there is a creation of a National Burial Authority. This body would control and direct the activities of a locally appointed Burial Board who work directly with a local authority and that the management and decisions relating to burial grounds are made by the locally appointed Burial Boards in conjunction with the local authorities. In addition matters of grievances would be dealt with by a tribunal convened by the local Burial Board and any rights of appeal would then go to the Coroner and rights of appeal thereafter would be subject to judicial review in the high Court.

Question 1:

The Government believes that any review of current burial law needs to address the case for legislation applying to all burial grounds consistently, even if some burial grounds, such as Church of England churchyards, were to continue to be subject to relevant ecclesiastical law. It would accordingly welcome views on:

- a) Whether there should be a single statute to establish the broad framework in which burial grounds should operate;
- b) b) What aspects that broad framework might or ought to include (and what might be better left to other areas of law, such as planning);

c) c) Whether there should be exceptions for different providers, or different types of burial ground, and, if so, what those exceptions might be.

Response:

- a) MBCOL are of the view that there should be a single statute to establish the broad framework in which burial at grounds should operate.
- b) MBCOL feel that the broad framework should encompass planning issues and in particular the town and country planning act. Local authorities should be given delegated powers to provide appropriate resources in relation to the provision of burial grounds. This should be a provision to all people that live, reside and work within their authoritative areas.
- c) MBCOL believe that exceptions for different providers should not apply. However particular spiritual and religious needs should be met.

Question 2:

The Government would welcome views on whether provision of burial grounds should be left to the market, or whether there should be a statutory obligation on local authorities to provide burial facilities.

Response:

MBCOL take the view that the provision of burial grounds should be made a statutory obligation on local authorities to provide burial facilities. However how the facilities are resourced and managed should be left within the local control of local authorities and local authorities should be free to negotiate and engage with different sections of the faith community to provide such provision. This allows different authorities the flexibility they need in order to meet the particular requirement of the local area where they operate.

Question 3:

The Government invites views on whether any change to the existing discretionary powers of local authorities to provide burial grounds should be based on a requirement to make an assessment of community needs, for example, every 10 years (geared to

statements in their Local Plan); to take account of all local existing non-municipal burial facilities (and any reusable sites, if appropriate – see Part D); to ensure adequate provision for particular cultural and faith needs, and for diversity of demand. The Government does not believe that diversity can necessarily be achieved at the lowest tier of local government, and that the aim should therefore be to provide adequate diversity of provision at district/London borough level.

Response:

MBCOL believe that diversity can be achieved at local authority level. The experience of MBCOL within the city of Leicester is a positive one. The Leicester City Council have engaged positively with the Muslim community in making provisions and meeting their diverse needs. This response is based on the experience of MBCOL in Leicester. MBCOL cannot of course make any other comment about the approaches and attitudes taken by other local authorities in other parts of the country. The Trustees feel that this methodology should be adopted and replicated in other parts nationally.

Question 4:

The Government would welcome comments on the practicalities of requiring such needs assessments, their frequency and scope, and the implications for practice in relation to the compulsory purchase of land. It would also be helpful to receive views on how parish, town and district Councils, local authorities in Wales, Church of England and Church in Wales diocesan and other religious authorities, might work together to provide an appropriate level and variety of burial facilities for all their communities.

Response:

The response form MBCOL is based on its experience with the local authorities and the work that has been carried out within the city of Leicester between the various faith groups. As some of the Trustees of MBCOL already engage in community work with other organisations such as the Leicester Council of Faiths, MBCOL envisage that it would be appropriate for local authorities to produce representations from various sections of the community. There would be a formation of a Burial Board who would be

volunteers in the first instance and the Burial Board would be drawn from various faith groups or interest groups and would work directly with local authority officials in supporting and delivering the specific needs of the particular area.

Question 5:

If diversity of provision is important, but it is not feasible to provide such diversity within first tier local authorities, is there a case for restricting the power to establish burial grounds to district-level authorities only, or even to county-level councils (or unitary authorities in Wales)? Or can adequate, diverse, local, facilities be provided through consortia of district level authorities? Or would some other tier of government, or other mechanism, be appropriate?

Response:

MBCOL believe that if the suggestion of having a locally appointed Burial Board could be established by statutory obligation upon the local authority to make provision then diversity of provision would be met the appropriate tier of government in view of MBCOL is at local authority level.

Question 6:

Views on the viability and practicality of leaving responsibility for local authority burial grounds within first tier councils are invited. Views would also be appreciated on the potential benefits of larger scale burial authorities, for example economies of scale in terms of training and developing expertise.

Response:

MBCOL believe that viability and practicality can be achieved with locally appointed Burial Boards that would be under the control and supervision of a national body which could be referred to as the National Burial Board. A comparison would be that of the Housing Corporation being a national organisation that engages at local level with local Housing Associations in the provision of social housing.

Question 7:

The costs of ensuring adequate provision of burial facilities are not strictly an issue for consideration within a consultation exercise on burial law, but views on the financial implications for first or second tier local authorities of any obligatory provision of burial facilities would be welcome.

Response:

MBCOL believe that the financial implications of the implications of the provision of burial grounds is a matter for local authorities to deal with. local authorities obviously need to make whatever changes they consider to be just and fit in order to meet its statutory obligations if any such are imposed.

Question 8:

The Government believes that while the information required can normally be expected to be provided voluntarily by the various cemetery managers, statutory authority to obtain the data would be desirable and a statutory obligation to report on the opening of cemeteries would provide an essential mechanism to ensure that central information was up to date. Views on the need for such provisions are invited.

Response:

MBCOL believe that there should be a statutory obligation to provide information, data and to report on the operation of burial grounds. The additional matter that MBCOL would stress would be that there ought to be some mechanisms as to enforcement.

Question 9:

The Government would welcome views on the case for additional regulation of the detailed aspects of cemetery operations set out in the above paragraphs, and in particular on the appropriate mechanisms for referral or appeal of any local decisions. One possibility would be for them to be made to the Home Office, as is already the case in some instances but alternatives might be more effective, such as a dedicated tribunal or other body.

Response:

MBCOL would strongly suggest that there should be a dedicated tribunal or body to receive complaints and grievances. MBCOL believe that the locally appointed board could appoint a tribunal of suitable persons to hear and determine such complaints. All rights of appeal are to be referred to Her Majesty's Coroner, further appeal would then be by judicial review to the High Court.

Question 10:

The Government would welcome views on whether a statutory obligation to bury or otherwise dispose of those who have died should be created. If so, on whom such an obligation should be placed, within what period of time, and what exceptions should there be (for example where the remains are required as evidence for a court case)?

Response:

MBCOL believe that there should be a statutory obligation upon the next of kin, if any, to bury or to cremate (if cremation is the tradition of that particular faith). In the event of the deceased not having any immediate family, MBCOL believe that the obligation should then fall upon the local authority in accordance with a statutory obligation that has been alluded to earlier. Any such burial shall be in accordance with the deceased's faith. This shall include the carrying out of all necessary religious ritual and ceremony. In the event of any doubt as to the faith or any particular request of the deceased, the issue shall be determined by the tribunal as described in response to question number 9 above. The obligations therefore are on a hierarchy which MBCOL believes should be as follows -

- a) Obligation on next of kin and family
- b) Local authority.

In the event of the deceased having made a will then MBCOL take the view that the obligation should fall on the executors before the responsibility passes on to the local authority. In relation to the period of time that has been raised in this particular question

and the exceptions MBCOL has always stated its position that within the Islamic tradition the burial of the deceased needs to take place as soon as practicably possible. It is therefore MBCOL's view that any statutory obligation imposed should recognise the faith requirements of the deceased person in question. MBCOL are of course acutely aware of the restrictions that currently exist in relation to post-mortems and Coroners inquests and those issues will no doubt remain in tact.

Question 11:

The Government believes that there should be scope for improving the standards of maintenance, restoration and safety in burial grounds through more precise definitions, reinforced through more effective staff training and enforcement measures, underpinned by guidance and new funding schemes. Views are invited on whether this is the right approach, whether new legislation alone will deliver the benefits required, or whether funding issues also need to be resolved before substantial progress can be expected.

Response:

MBCOL envisages that in a situation where there is a National Burial Authority, it would be this National Burial Authority that would set minimum standards. They would provide recommendations of best practice and guidance on the appropriate approach to be undertaken and ensuring that resources are provided in the delivery of burial services. This would be fed through locally via the locally appointed Burial Board working in conjunction with the local authority having the statutory power to undertake the provision of burial services.

Question 12:

The Government considers that, on the whole, service standards can be improved by guidance rather than regulation, especially where it may take time for standards to be established and bedded in. But views would be welcome on whether it would be helpful or constructive to place obligations on burial ground managers to take account of guidance on these issues in planning for the future, or to consult relevant experts, for example, on the options available for developing the environment of their sites.

Response:

MBCOL believe that there would have to be regulations and that these regulations would have to have appropriate mechanisms where they can be enforced. MBCOL envisages that this would be done by a National Burial Authority.

Question 13:

The Government does not believe that it would be the task of an inspectorate to undertake all these functions, although, if such a body was established, it might well contribute to policy development, standard setting, training and research needs. Views would, however, be welcome on: whether compliance with regulation and good practice would be dependent on the availability of a field force to provide a local presence of experience and expertise; where that resource should be drawn from; whether a standing body would be needed or whether it would be feasible to draw on existing sources; what frequency of inspections might be required; what size of any standing body might be needed; whether all burial grounds should be subject to inspection, or whether some should be exempt (if so, which ones and why).

Response:

MBCOL believe that in relation to inspections and to deal with complaints the vision that MBCOL has in having a National Burial Authority it would be this authority that would deal with the development of policy in conjunction with locally appointed Burial Boards working with the local authorities.

Question 14:

Views are invited as to whether the case for an inspectorate has been made out, whether the costs are likely to justify the benefits, and whether the costs might more appropriately be recovered from the industry, rather than from the taxpayer, perhaps through a system of licensing cemeteries.

Response:

MBCOL believe that the creation of a National Burial Authority can be justified both from an economic point and from the point of achieving and meeting the diverse needs of multi-cultural and multi faith Britain.

Question 15:

The Government believes that it is right to continue to protect buried human remains from unauthorised disturbance. Where statutory provision has been made for remains to be exhumed or removed, it is important that the remains should be treated at all times with dignity and respect, however old the remains might be. The Government believes that disturbance may be justified only in limited circumstances: in the interests of justice (for example, exhumation on the order of a coroner); for personal reasons by the next of kin of the deceased; on grounds of public health or nuisance; in the public interest (in connection with site developments which have public or other planning consent); for scientific purposes (e.g. for archaeological research); for other exceptional reasons (the case for exhumation for the purpose of re-use of old graves is discussed below).

Response:

MBCOL has considered the comment made under this question. Strictly speaking whilst not phrased as a question the sentiments set out and the views expressed are supported and MBCOL has full agreement with the government's belief as to the right to continue to protect buried human remains from unauthorised disturbance.

Question 16:

The Government would welcome views on whether these grounds are too narrow (or too wide).

Response:

MBCOL believes that in relation to an examination of exceptions and in particular for the purpose of exhumation of old graves should be a matter that needs to be agreed locally. This would be by the local authority and the locally appointed Burial Board and that the permission for disturbances has to be ratified by the locally appointed Burial Board and the local authority JOINTLY. In the event of no agreement between the local authorities

and the locally appointed Burial Board the matter would then be referred to the National Burial Authority who would make the final decision.

Question 17:

The Government would welcome views on the case for licensing the disturbance of all human remains, cremated or otherwise, which have been interred or otherwise given a permanent resting place.

Response:

MBCOL take the view that the whole issue of granting permission for the disturbance of human remains should be vested by a joint permission being given by the locally appointed Burial Board and the local authority. MBCOL take the view that referring matters to the Home Office is overly bureaucratic and would delay strategic decisions that would need to be made, such decisions are often needed to be made quickly.

Question 18:

The Government would welcome views on whether: authority to license the exhumation of remains should be retained centrally; such authority might be delegated to the burial authority/burial ground manager; the criteria for the grant or refusal of licenses should be regulated in statute; there should be a formal appeal mechanism; fees should be charged, or chargeable; procedures and criteria should be more closely aligned with those relating to faculties; whether archaeological remains should be subject to the same regulation, or be unregulated, or more lightly regulated;

Response:

MBCOL believe that all the issues listed in this question could easily be issues that could be dealt with by the locally appointed Burial Board working in conjunction with the local authority. Obviously any regulations or standards of practice devised by the National Burial Authority would have to be taken into account.

Question 19:

It would also be helpful to have views on: what the criteria should be for the grant of licenses or faculties; how old buried remains might need to be to justify any relaxation of the regulation of their disturbance.

Response:

MBCOL take the view that the criteria as set out of the government's views in question 15 should be the appropriate general criteria. Any exceptions would have to be considered on its own merits and MBCOL do not believe that there ought to be any relaxation of the regulation of the disturbance by reference to time. In other words all disturbances would have to be subject to permission which would have to be secured jointly by the locally appointed Burial Board and the local authority.

Question 20:

Views are invited on the case for the delegation of authority for the removal of remains in these circumstances, and to whom such authority might be delegated.

Response:

MBCOL believe that it would be appropriate for the authority to vest jointly with the local authority and the locally appointed Burial Board and that no authority is to be delegated to any other body.

Question 21:

The Government believes that statutory provision to require the removal of remains before a burial site is developed reflects a roper balance between the need for respect towards those who have died, sensitivity towards the bereaved and their descendants, and the interests of public and private sector developers. However, views would be welcome on: whether the existing legislation might be rationalised for general application; whether there is sufficient protection of the interests of those who have died and their families, for example in relation to the ability to prevent development, or to have the costs of re-burial reimbursed, or to restrict making the graves inaccessible; and whether the notice

arrangements (two weeks) or the time allowed to make private arrangements for reburials (two months) are too short or too long; whether there might be circumstances in which the prescribed procedures should be de-applied, for example because the site or the remains are so old.

Response:

MBCOL believes that in relation to the removal of remains for the purposes of land development and use of graves, MBCOL believe that there has to be rationalisation of the existing legislation in relation to this particular issue and that a newly formed National Burial Authority is to set up regulations and guidelines as to best practice which would then be implemented by the locally appointed Burial Board working in conjunction with the local authority.

Question 22:

Given the sensitivities on this issue, the Government believes that the arguments in favour of the re-use of graves need to be tested, in particular, so as to gauge public concerns and acceptability, and to determine the practicality and economics of any new approach, having regard to the need for any exceptions and safeguards. Comments are therefore invited on the principle as to whether the disturbance of remains would be justified in the interests of preserving and funding local, viable burial grounds, and reducing demands for new land for burials.

Response:

MBCOL believe that the way to deal with this would be through the process as set out in answer to question number 21. MBCOL believes that it may be possible for some faith groups to accept the re-use of land to be re-used for the purposes of burial. In addition MBCOL is also acutely aware of the adverse effect this might have on certain sections of the community and also in particular certain sections of the faith communities. MBCOL believes that remains of those graves that have been removed could be recorded on permanent memorials at appropriate sites which could be reached with agreement at local level with the local authority and a locally appointed Burial Board.

Question 23:

Comments are invited on the potential impact of re-using graves on the character of a burial ground, and how any adverse effect might be mitigated. Views would also be welcome on how tombstones and memorials should be dealt with where graves were to be re-used (for example, new or additional memorials, additional names on existing memorials or the details of the further burials to be recorded in books of remembrance).

Response:

MBCOL believe that the way to deal with this would be by recording the details of graves that have been removed on a memorial, it may be that such memorials would be faith specific and the community could get involved in its management. MBCOL would also like to see records kept in a book of remembrance.

Question 24:

The Government would welcome views on whether the age of the grave should be the appropriate criterion to determine whether a grave might be re-used. If so, is 100 years the appropriate length of time? Should it be longer, or shorter? And if so, on what basis? Should there be any linkage to the time granted for exclusive rights of burial? Or to the 50 years from the date of burial which, under the Disused Burial Grounds (Amendment) Act 1981, qualifies the next of kin to prevent the development of a burial ground? Should re-use depend on a shortage of burial space in the particular local area?

Response:

The members of MBCOL are reluctant to commit a specific time line in relation to disturbance of existing burial grounds. MBCOL can state that within the Muslim community the contact with parents and grandparents in particular often tends to be fairly committed and fairly strong amongst members of individual families. It is the view of MBCOL and indeed the view of the Muslim community in general that we would not want to see the disturbance of graves of our parents and grandparents in our own lifetime. Accordingly, MBCOL believe that the minimum period should be 100 years.

Question 25:

Alternatively, might a more scientific approach be adopted which determined that only graves containing skeletal remains were used? Would this be practical? (Decomposition would mainly depend on local soil conditions, might not be accurately predictable, and might involve a period of time considerably longer or shorter than 100 years.)

Response:

MBCOL believes that scientific data and scientific research would be useful in being able to determine some sort of reasonable time line. Again this information and scientific study may be helpful.

Question 26:

The Government believes that, if graves were to be re-used, the lift and deepen method would be the preferred approach. Views are invited on any foreseen disadvantages of this method, or advantages of alternative methods.

Response:

The practice of burying at two levels below the soil level is possible and acceptable to some faiths and groups. However MBCOL would state that any such practice should have to be subject to consultation and approval with local communities from different faith groups.

Question 27:

It would also be helpful to have views on whether particular methods of re-using graves should be prescribed, or whether burial ground managers should be free to adopt whatever method appeared appropriate according to local circumstances.

Response:

In respect of this question MBCOL would refer you to a response given to question number 26. In addition it may be useful for a further separate consultation to take place perhaps at local level between the local authority and the local appointed Burial Board to

consider alternatives.

Question 28:

The Government would welcome comments on any or all of these factors.

Response:

MBCOL feel very strongly that all issues relating to this particular area would have to include religious beliefs and sensitivity to cultural heritage and of course environmental pressures.

Question 29:

The Government believes that local consultation about any re-use of graves would be essential, but that it would be important for such exercises to be undertaken on a consistent basis. Comments are invited on the need for consultation and what might properly be addressed in such consultation, including: . best estimates of remaining burial space and demand; details of any additional burial grounds already earmarked or acquired, and reasons why it is not proposed to use them; details of any local burial facilities which will not be subject to a re-use scheme; proposed criteria for exempting graves or cemeteries from re-use, or details of graves and cemeteries already identified for exemption; proposed method of re-use; and implications for burial charges.

Response:

MBCOL supports the government's view of local consultation about the re-use of graves. MBCOL believe that such consultation would be essential if there is going to be any long term and agreed development of proper policy.

Question 30:

Whether and how such consultation might usefully be undertaken jointly with other burial ground providers would be appreciated.

Response:

MBCOL believe that such consultations could be done by different local authorities. An example would be for the Leicester City Council to convene a consultation group from the faith communities and to collect the consultation data and views for consideration by central government.

Question 31:

The Government would welcome views on the proposed exceptions to any re-use arrangements, in particular: whether the exceptions proposed are the right ones, or whether there should be others; whether it would be right to enable exceptions, in effect, to be purchased; whether the criteria for identifying exceptions are sufficiently clear, or flexible, to be effective; and whether the need for sustainable land use is such that exceptions should not be permitted in any circumstances.

Response:

MBCOL believe that the whole issue of making exceptions is incredibly difficult. MBCOL are aware that there are different sections of the faith communities and indeed different subsections within the Muslim community that have important scholars and imams. Such individuals and senior clerics and indeed those religious and devout individuals who are recognised as such and achieve the status of sainthood may create difficulties. This is not a tradition simply restricted to Islam but the whole issue of sainthood can also be seen in the Catholic Church and in the Christian Church in general and also the issue of relics of human remains that are preserved in specialist mausoleums as practiced by the Catholic Church is an issue that will prove difficult. MBCOL believe that there will be some sections of the Muslim community that will want to have certain exceptions for specific individuals so that there is no disturbance to their particular graves. At this moment in time MBCOL has difficulty putting forward any positive solution to resolve this issue apart from engaging in further consultation with specific faith communities. MBCOL believes that the exceptions identified at question 31 should be subject to further consultation with faith communities at local level in the manner indicated earlier.

Question 32:

The Government would find it helpful to learn what importance ought to be attached to the introduction of good cemetery practices prior to any adoption of a re-use regime.

Response:

MBCOL believe that good cemetery practices can be formulated in the manner indicated earlier in that guidelines can be drawn up by a National Burial Authority and a locally appointed Burial Board working with the local authority implementing them.

Question 33:

The Government would welcome views on: whether there is a need for additional regulatory arrangements before any reuse schemes might be introduced; what such arrangements might require (for example, regular inspection of cemeteries to assess general compliance with burial legislation or one-off inspections to determine suitability or competence to operate a re-use scheme); whether they might need to cover all burial bodies (including churches and private cemetery owners); and how best they might be put in place (for example, a new Government inspectorate, self-regulation, or the development of other regulatory bodies for the purpose).

Response:

MBCOL would refer to the response given earlier with the suggestion of the development of a National Burial Authority working with a locally appointed Burial Board with the local authority.

Question 34:

The Government proposes that, were it to be persuaded that the re-use of graves should be established, it would be right to leave decisions about whether to use such graves entirely to the individuals and families concerned. However, it would seem appropriate to ensure that the public was properly informed about the nature of any grave or grave space that might be purchased, both as to the fact that the grave had been previously used, and that it would be expected to be re-used again in due course. It would also be important to

ensure that information about the availability of any virgin burial facilities was also provided in response to enquiry's or applications to purchase a grave.

Response:

MBCOL believe that for the future development and sustainability of limited resources the re-use of graves should be something that needs to be managed, explored and if possible to be established. However the decisions about whether such graves are to be re-used should be left to individuals and families concerned. MBCOL hope that there will be an understanding of the rationale which hopefully would lead people to be more willing to agree to a re-use.

Question 35:

Should the practice of closing Church of England churchyards which are full by Order in Council be changed? If so, in what circumstances should decisions be made? Where a churchyard is full, on what criteria should it be decided whether it should be closed or provision made for reuse? In particular, what weight should be attached to the importance of the churchyard as an open space and the conservation of its character, including existing monuments? Should there be a procedure for declaring a churchyard full without formally closing it, so that special steps may be taken for its future use? Where a churchyard is full, should the Church of England and Church in Wales authorities be given statutory power to require the relevant local authority to provide for the cost of preparing the ground for reuse? Should there be provision for reopening closed churchyards at the request of the church authorities? If so, in what circumstances should such decisions be made and on what criteria?

Response:

MBCOL believes that statutory changes would mean that Church of England church yards would have to be subject to the statutory regulations that MBCOL envisage and that this land would have to come under the control of the proposed National Burial Authority.

Question 36:

To what extent should special provision be made on theological, pastoral or other grounds for the reuse for burials of land, which has been consecrated for Christian burials by the Church of England or Church in Wales but which is part of a municipal or private cemetery rather than a churchyard, or for reuse of land set aside for burials according to any other particular religious tradition?

Response:

MBCOL believe that the issue of re-use for burials of land which has been consecrated by other faiths is not necessarily an obstacle so long as there is agreement between the various sections of the faith community that such re-use would be acceptable in accordance with faith and belief. The point that MBCOL would make on this issue is that it will insist on separate sections of land devoted for the burial of Muslims and that Muslims are not to be buried alongside non-Muslims. This is a requirement of Muslim law. The cemetery at Saffron Hill in Leicester is divided along such lines whereby Muslims are buried in separate sections from other non-Muslims.

Question 37:

The Government takes the view that unauthorised disturbances of human remains is, and should remain, a serious matter, that there is a continuing need for buried remains to be protected within the criminal law, and that there is widespread public support for such protection. Views on whether the re-use of graves would be likely to undermine respect for the dead and, if so, suggestions as to how this might be mitigated would be welcome.

Response:

MBCOL shares the view that the government express that unauthorised disturbances is a serious matter and should give rise to criminal liability and does undermine the rights of the dead and indeed the rights of those living who are direct relatives.

Appendix

Trustees of the Muslim Burial Council of Leicestershire:-

Muhammad Muneer: - Chair.
Yakoob Dassu: - Vice Chair
Adam Y. Sabat: - Secretary
Zubeir Hassam: - Treasurer
Hashim Bahadur
Iqbal A. Sattar
Suleman Nagdi MBE

Personal message from our Chairman

I hope and pray that all the different faith communities' work together to bring about a cohesive workable system that is both acceptable and sensitive to our individual faith needs.

Muhammad Muneer
Chairman

The trustees join me in extending their sincere thanks and gratitude to the assistance given by its two legal advisors namely Faizal Essat and Rafique D Patel. Their contribution and hard work is recognised in preparation of this document.

Suleman Nagdi MBE
Legal Affairs Committee
June 2004

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