

Consultation on Amendments to the Environmental Permitting (England and Wales) Regulations 2016 as applied to Groundwater Activities and related Surface Water Discharge Activities

Response from the Society of Local Council Clerks (SLCC)

The Society of Local Council Clerks (SLCC), formed in 1972, is the professional body representing clerks to more than 5,000 city, town, parish and community councils throughout England and Wales. As part of their roles running first tier local councils, many of our members and their councils have responsibilities as burial authorities.

So, alongside principal authorities, town and parish councils are burial authorities too – towns often deal with medium to large sites and parish councils with much smaller ones. The vast majority of local council clerks are involved in running small sites, many in rural parishes.

Whilst appreciating the importance of groundwater as providing clean and reliable drinking water, its vital role across industry sectors and its support for eco systems, our members have raised a number of concerns about some of the regulatory proposals set out in the consultation. The changes suggested will especially affect smaller burial grounds, many with already limited space availability and little prospect of an extension or finding viable land for a new site.

It is clear that the draft General Binding Rules (GBRs) are designed to help smaller authorities with low-environmental risk burial grounds obviate the need for a permit. A chance to help shape these before implementation is welcomed.

The SLCC works closely with both the National Association of Local Councils (NALC) and the Institute of Cemetery and Crematorium Management (ICCM) and share the concerns highlighted in their own responses to this consultation.

Supported by the ICCM, Parish Online is building a National Cemetery Map (<https://www.iccm-uk.com/iccm/>) and is asking local authorities and the other cemetery managers (churches, natural burial sites, private cemetery operators, etc) to add information. However, there is an urgent need for DEFRA to produce and hold a national register/data base of all local authority cemeteries in England and Wales available free of charge to approved stakeholders. This could, coupled with better current and projected burial capacity data and with cross departmental sharing, help inform integrated planning policy frameworks helping to establish local priorities and operational functions at all local government levels.

In November, SLCC members were invited to join the ICCM for a helpful webinar with the Environment Agency about the consultation. The SLCC would like to offer a second webinar, inviting DEFRA and the ICCM to look at the practicalities for cemetery managers of implementing the new regulations following the consultation outcome. This can be arranged by us early in the new year.

RELEVANT CONSULTATION QUESTIONS:

Q3a: To what extent do you agree with the proposal to make General Binding Rules available for small-scale cemetery developments in low-environmental risk settings? If this question is not applicable to you, please select N/A.

- a. **Strongly agree**
- b. **Agree**
- c. **Neither agree nor disagree**
- d. **Disagree**
- e. **Strongly disagree**
- f. **N/A**

Response: Neither Agree or Disagree

Please provide details to explain your answer.

Whilst it is clear that General Binding Rules could be the alternative to onerous and costly permits whereby low risk sites would just need to be registered and not incur an annual fee, there are concerns. In their current form, the proposed exemption conditions listed at Annex B do not take into account established burial procedures at many sites and it is not clear if some of the proposals would meet the requirements of the Local Authorities Cemetery Order 1977. No consideration has been given to some religious practices around burials or the environmentally friendly alternatives (woodland and natural burials). There is no sizing definition for 'small- scale' cemeteries making the exemption criteria difficult to assimilate. Many small parish councils (burial authorities) will not have the maintenance resources or finances to ensure these conditions are met and costs are likely to be passed on thereby making burials unaffordable to many in our local communities.

Q3b: To what extent do you agree that the draft exemption conditions for small-scale cemetery developments in low-environmental risk settings in Annex B are appropriate? If this question is not applicable to you, please select N/A.

- a. **Strongly agree**
- b. **Agree**
- c. **Neither agree nor disagree**
- d. **Disagree**
- e. **Strongly disagree**
- f. **N/A**

Response: Strongly disagree

Please provide details to explain your answer.

In terms of exemption conditions 1 – 8 listed at Annex B our concerns mainly revolve around the following proposed exemption conditions:

A burial within a cemetery must not cause pollution of surface water or groundwater.

In principle, this is agreed. However, there is no detail included about evidence to indicate that there is pollution caused by burials. Has there been research into stopping pollution at source, including the possible prohibition of chemicals (e.g. those in embalming fluids), the construction and linings of coffins, etc?

A burial within a cemetery must not be within 10 metres of any field drain, including any dry ditch.

Many local council cemeteries sit within 10m of field drains and compliance with this proposed condition would jeopardise available burial space.

A grave must have at least 1 metre clearance between the base of the grave and the top of the water table and must not have any standing water in it when dug.

Insisting on a minimum 1m clearance between the base of the grave and top of the water table in all cemeteries irrespective of size or annual number of body burials would further decrease the number of double depth graves in many local council cemeteries. This would increase costs for married couples/partners having to be buried side by side in two separate graves whilst further depleting new grave stocks.

There is the issue of burials in standing water in graves due to fluctuating changes in water table levels. Different year round weather conditions impact on water in graves. So, it is possible that the water table height may change at different times of the year depending on the amount of rainfall. This may not be groundwater, but could be surface water that has collected in the grave. Where this occurs, it can be mitigated by pumping water from new graves (non-grey water) or limiting coffin burials to single rather than double/triple depth in areas of the cemetery where this a “permanent” problem.

A grave must be deep enough so at least 1 metre of soil will cover any part of the coffin or body.

Under the Local Authorities’ Cemeteries Order 1977, Sch 2, Part 1, para.2, requirements are that 3 feet of soil is left on top of the last coffin and the surrounding ground surface (or 2 feet where the soil is of a suitable character and the coffin is of perishable materials). It also appears to preclude the use of ‘bricked’ graves where it is not possible to achieve a minimum depth of soil of at least 1 metre above any part of the coffin. Again, specific provisions are made under Part 1 of Schedule 2 of the Order for the use of walled or bricked graves where the minimum depth of soil cannot be achieved. So, the proposed condition may conflict with legislation.

The reasoning behind this proposed condition is not explained. For example, no detail about how the depth of burial affects decomposition or how it will affect pollutant risk.

A grave plot must not be less than 5m² in area

A serious concern. The impact of increasing the grave plot area to a minimum of 5m² (it is not clear how this proposed size is calculated) compared with the traditional plot size of 3-3.5m² reduces the stock of new graves in smaller local council cemeteries many of which are running out of space and without room to extend (shortage of burial space is a problem not just in London, but nationally). In effect, it could reduce grave space at some sites by up to 50% and exacerbate the UK wide shortage. This regulation would also affect pre-purchased graves (reserved under Grants of Exclusive Rights of Burial), reopened graves and sites where grave numbers have been pre-calculated and already laid out.

General comment on conditions for new sites (conditions 9-15)

The proposal to increase the size of burial plots to 5m² would impact the search for and development of new burial sites in that fewer burial plots could be accommodated requiring an increase in land size to meet burial calculations so increasing overall purchase and maintenance costs for small local councils and, in turn, their communities.

EXEMPTION CONDITIONS FOR CLOSED LOOP GROUND SOURCE HEAT PUMP ACTIVITIES IN LOW-ENVIRONMENTAL RISK SETTINGS

Q3c: To what extent do you agree with the proposal to make General Binding Rules available for closed loop ground source heat pump activities in low-environmental risk settings?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Response: Neither agree nor disagree

Please provide details to explain your answer.

There is a risk that the proposed GBRs will discourage town and parish councils from using green energy tools such as ground source heat pumps. Though designed to provide exemptions from the requirement for costly permits, these could inadvertently hinder the appetite for green energy in the communities which have been working hard on climate change initiatives in the last 1-2 years.

Q3d: To what extent do you agree that the draft exemption conditions for closed loop ground source heat pump activities in low-environmental risk settings in Annex C are appropriate?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Response: Disagree.

Please provide details to explain your answer.

Conditions 3, 4, 5 and 7 restrict the installation of such closed loop heat pumps within certain distances of wells, SSSIs, Ramsar sites, watercourses or septic tanks. These may deter local councils considering renewable sources of energy.

Q3e: To what extent do you agree that the draft exemption conditions for closed loop ground source heat pump activities in low-environmental risk settings in Annex C should apply to all sizes of such activities?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Response: Neither agree nor disagree.

Please provide details to explain your answer.

Local councils should not be completely disincentivised from using green energy tools such as ground source heat pumps in spaces they own or manage.

Q3f: If you think that the draft exemption conditions for closed-loop ground source heat pump activities in low-environmental risk settings in Annex C should include a size threshold (energy in kWh per year), what size limit do you think is reasonable?

No specific size limit to offer as local councils have not provided specifics.

UPDATING EXISTING CONTROLS FOR GROUNDWATER ACTIVITIES AND SOME RELATED SURFACE WATER ACTIVITIES

Q6: To what extent do you agree with the proposal to add these new rules to the General Binding Rules for Small Sewage Discharges to ensure that multiple discharges should not be located in close proximity to each other?

- a. Strongly agree
- b. Agree
- c. Neither agree nor disagree
- d. Disagree
- e. Strongly disagree

Response: Neither agree nor disagree

Please provide details to explain your answer.

More information is needed relating to Small Sewage Discharges. There should be more restrictions on the large-scale sewage discharges made by large water companies.

For more information about this consultation response, please contact:
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