

AFTER DEATH LEGALITIES - DO YOU HAVE THE FACTS?

1. If someone dies in a hospice/hospital the most senior clinician has the authority to decide what happens with their body.	TRUE	FALSE
2. It is legal to take someone who has died in a vehicle, so long as it is a van.	TRUE	FALSE
3. You must tell the Police before transporting, in your own vehicle, someone who has died.	TRUE	FALSE
4. Anyone can be buried in their garden.	TRUE	FALSE
5. A death must be registered within 8 days.	TRUE	FALSE
6. A body can legally be kept at home for a maximum of 7 days.	TRUE	FALSE
7. A bereaved spouse/partner has a legal obligation to arrange a funeral.	TRUE	FALSE
8. It is possible to legally ensure how your funeral will be carried out.	TRUE	FALSE
9. It is possible to legally say who you want to arrange your funeral.	TRUE	FALSE
10. You need a funeral director to make arrangements for cremation.	TRUE	FALSE
11. People must be buried in coffins.	TRUE	FALSE
12. The average cost of a basic funeral in 2019 (no wake, flowers etc).	£2695	£3535 £4229
13. Cremation is cheaper than burial.	TRUE	FALSE
14. You need permission to scatter ashes.	TRUE	FALSE
15. Jane receives income support. She will receive a Funeral Support Payment to pay the funeral costs for a close member of her family.	TRUE	FALSE
16. If someone has registered on the Organ or Tissue Donor Register then their family cannot override their decision after they die.	TRUE	FALSE
17. There is an age limit for donation of corneas.	TRUE	FALSE

AFTER DEATH LEGALITIES – THE ANSWERS

1. False. Legally no-one owns a dead body but the next-of-kin (or in the future, nominated person) has the right to decide how it will be cared for. The doctor decides whether the death will be referred to the Procurator Fiscal, which may affect this. Hospitals have local protocols in the mortuary. Ultimately the local authority have responsibility.
2. False. Someone who has died can be driven in any vehicle so long as it does not cause public offence.
3. False
4. True with the landowners permission and permission from the local authority and the Scottish Environmental Protection Agency that groundwater will not be contaminated. It does not need to be put on the title deeds of the property – just a note kept with the title deeds detailing the position of the grave.
5. True
6. False There is no legal time limit.
7. False No one is legally obliged to arrange a funeral, but whoever arranges one is obliged to pay for it. The funeral can sometimes be paid directly from the deceased's bank account or always from their estate (before any other debts). Ultimately the local authority is responsible (and will claim the cost back from the estate if available.)
8. False You can state in your Will how you would like it to be but this part of a Will is not legally binding.
9. True The Burial and Cremation (Scotland) Act 2016 s65 gives a legal hierarchy of who can arrange a funeral and the ability to nominate someone to arrange a funeral. In this hierarchy, spouse/partner comes above children.
10. Depends Not a legal point but some private crematoria require it. Local authority crematoria do not require it and staff can provide information and signposting for people wanting to make arrangements themselves.
11. Partly true. There is no legal need to use a coffin but the burial authority can require a coffin to be used on their premises. It is not usually required at a natural burial ground where e.g. shrouds or sheets/blankets can be used.
12. £4229 (2019). This includes the funeral director, burial/ cremation, celebrant/ minister. Then add the average of £2,306 for the notices, flowers, wake etc. and £2, 771 in fees for administering the estate makes an average total cost of dying is £9,306 (2020 Sunlife Cost of Dying Report)
13. Depends on whether a lair is already available for burial. Prices vary between local authorities and with private companies. The cost of interment is usually similar to cremation. The cost of a lair usually approximately doubles the total cost of burial.
14. Depends You need permission to scatter ashes on land from the landowner. You do not need permission to scatter ashes at sea. (You do need permission to bury a body at sea – there are strict rules about this.)
15. Partly True. People receiving a qualifying benefit can claim a Funeral Support Payment but only <i>after a funeral has been arranged</i> . There are eligibility criteria e.g. no close family member not on benefits is able to pay. It covers burial/cremation, transport costs and up to £1,000 for other costs eg funeral director, coffin. The total average payout in 2020 is expected to be around £1,500. 10% of deaths are expected to be supported. www.gov.scot
16. Theoretically true but if a family is distressed/ opposed to donation then the transplant teams will not go ahead.
17. False.