



30 August 2022

§ 9(2)(a)

By email: § 9(2)(a)
Ref: H2022006573

Tēnā koe § 9(2)(a)

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) to Manatū Hauora (Ministry of Health) on 5 July 2022 for information regarding disinterment applications. Manatū Hauora will respond to each part of your request in turn.

Disinterment applications in New Zealand for the past 10 years. How many disinterment applications have been lodged in the past ten years in New Zealand. I could please get that broken down into the regions ie Northland, Auckland, Waikato, Bay of Plenty, Central etc

The information you have requested is provided below in Table 1.

Table 1. Number of disinterment applications between 1 July 2012 to 31 July 2022 in New Zealand.

Region	Number of Disinterments
Northland	18
Auckland	118
Waikato	31
Bay of Plenty/Lakes	16
Tairāwhiti	7
Taranaki	3
Palmerston North/Whanganui	13
Hawkes Bay	15
Wellington/Wairarapa	74
Nelson/Marlborough	14
Canterbury/West Coast	54
Otago/Southland	39

How many in the Waikato District Health Board region for the past 10 years? Where in the Waikato District Health region were the applicants for the past 10 years?

The Waikato region have had 31 disinterment applications in the past 10 years. There were 10 applications from Hamilton, three each from Matamata and Tokoroa, and the remainder throughout the region.

How many disinterment applications have declined in the Waikato and why for the past 10 years?

No disinterment applications were declined in the Waikato in the past 10 years.

How many disinterment applications in New Zealand have declined and why for the past 10 years?

One disinterment application was declined in New Zealand in the past 10 years. As only one application has been declined in the last decade, the reasons given by applicant that was declined for disinterment is withheld under section 9(2)(a) to protect the privacy of natural persons, including deceased natural persons. Where information is withheld under section 9 of the Act. I have considered the countervailing public interest in release in making this decision and consider that it does not outweigh the need to withhold at this time.

What are the reasons given by the applicant for the disinterment for applications that were granted?

The most common reasons why disinterment applications are granted is to move the deceased to allow for other family to be buried in the plot, to be with other family members, or to move to another plot. Occasional reasons are to check the correct person is in the plot, for forensic investigations, the burial ground is subject to flooding or erosion, or for archaeological investigations.

What are the reasons given by the applicant for the disinterment for applications that were declined? I am not requesting the sensitive information of the applicants or their address. Just information on the number disinterment's and reasons given by the applicants.

As only one application has been declined in the last decade, the reasons given by applicant that was declined for disinterment is withheld under section 9(2)(a) to protect the privacy of natural persons, including deceased natural persons. Where information is withheld under section 9 of the Act. I have considered the countervailing public interest in release in making this decision and consider that it does not outweigh the need to withhold at this time.

Who can apply for a disinterment application?

Who is involved in a disinterment application - family of the dead person-friends?

And how does the disinterment work - once an application has been granted?

And anything else you wish to add."

Manatū Hauora has identified two documents within scope of this part of your request. They are itemised in Appendix 1 and copies are enclosed. Both documents are released to you in full.

The guidelines for disinterment license applications are provided in Document 1 and is updated on an ongoing basis. General information about how the disinterment works is provided in Document 2 and has been prepared to answer your request. For further information, you will need to contact funeral directors or cemetery managers. The documents are updated regularly

I trust this information fulfils your request. Under section 28(3) of the Act, you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Manatu Hauorā website at: www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Dave Henderson', with a long horizontal flourish extending to the right.

Dave Henderson
**Group Leader, Intelligence, Surveillance and Knowledge
Public Health Agency, Ministry of Health**

Appendix 1: List of documents for release

#	Date	Document details	Decision on release
1	1 August 2022	Guidelines for Disinterment Licence Applications	Released in full.
2		Carrying our Disinterments	

GUIDELINES FOR DISINTERMENT LICENCE APPLICATIONS

1.0 Introduction

- 1.1 The Minister of Health's powers to issue disinterment licences under section 51, Burial and Cremation Act 1964 ("the Act") have been delegated to the Director of Public Health. Section 51 of the Act provides that:

It shall not be lawful to remove from its burial place any body, or the remains of any body, buried in any cemetery, Māori burial ground, or other burial ground, or place of burial, without licence under the hand of the Minister and except in accordance with such conditions as he may prescribe.

- 1.2 Because the Act does not specify an administrative procedure for making an application and for the issue of a licence for disinterment, the Ministry of Health ("the Ministry") has developed the following guidelines to assist in assessing applications consistently and transparently.

2.0 Applications for disinterment licences

- 2.1 An application form for the applicants to complete when applying for a licence for disinterment is attached. Applications must be in writing and are usually made by:
- person(s) related to the deceased;
 - the executor of the will of the deceased;
 - a funeral director acting on behalf of either of the above;
 - an iwi/Māori authority acting on behalf of the close relatives; or
 - a person acting for the family.
- 2.2 Applications should be submitted to the applicant's local District Health Board ("DHB") public health unit addressed to the health protection officer, who will assess the application and forward it, together with a report and recommendations, to the Director of Public Health, Ministry of Health, PO Box 5013, Wellington. If the proposed disinterment is urgent, details of the disinterment may be e-mailed or faxed to the applicant's local DHB public health unit.
- 2.3 Remittance advice showing the licence fee has been paid (see clause 3.5) and all supporting papers (see clauses 3.1 to 3.4) must accompany the application.
- 2.4 Please note that it is not usual to issue licences between one month and one year after burial because of decomposition during this period. If a body has been embalmed, this limitation may not apply, depending on the drainage of the site, likely state of the casket and recommendation of the health protection officer. Applications to disinter within one month of interment may be deferred if the deceased died of an infectious disease.
- 2.5 A licence is normally issued three working days after receipt by the Ministry of a complete application. Unless otherwise indicated, the licence is issued to the applicant and copied to the local DHB public health unit health protection officer who reported on the application.
- 2.6 These guidelines are to assist the Ministry, health protection officers, and applicants. Application of the guidelines may depend on the circumstances of an individual application.

3.0 Disinterment application requirements

- 3.1 *Assessment of the application by a health protection officer:* The health protection officer will assess the submitted documentation to ensure that it is complete, review the application and prepare a report for the Ministry.
- 3.2 *Next of kin of the deceased:* Before a disinterment licence is issued, the wishes of all next of kin (eg, spouse, parent(s)' children, sibling(s), guardian(s)) must be confirmed in writing. Each family or whānau member is required to:
- indicate their consent (or otherwise); and
 - note their respective relationship with the deceased.

Any given authority for a person to speak for other next of kin must be specified in writing and signed by the person giving the authority.

The Ministry usually only approves applications for disinterment licences where there is absolute agreement among next of kin. Where there is no absolute agreement, the Ministry will not act as a negotiator.

For Pacific families, an elder may have authority to speak on behalf of the deceased, even though the elder may not be a close relative of the deceased. A representative nominated in writing by the extended family is acceptable.

- 3.3 *Consent of cemetery operator, burial ground or Urupa trustees:* The consent of the cemetery operator or of the burial ground or Urupa trustee must be obtained, before a disinterment to proceed, regardless of whether a disinterment licence has been issued by the Ministry of Health. When obtaining consent, the applicant should ask the operator or trustees to confirm the burial site is not a historic or war grave under the care of the New Zealand Government.

For disinterments from an Urupa, the consent of the Trustees of the Urupa should be included. Consent from the Kaumatua/Kuia of the Urupa should be included after the consent of the Trustees has been obtained. . If the remains are to be re-interred in another Urupa, the consent of the Trustees and Kaumatua/Kuia of that Urupa should also be shown.

- 3.4 *Reason for the disinterment:* The application must state the reason for the disinterment. Examples of reasons may include cultural reasons, burial in the wrong plot, relatives who have moved to another area, or mental anguish. Each reason will be assessed on its own merits. Frivolous reasons will not be accepted.
- 3.5 *Cause of death:* The original certificate of death or a certified copy (eg countersigned as a true and accurate copy by a Justice of the Peace or a health protection officer) is required with each application, so that the cause of death and other details can be confirmed to assist with determining the licence application. In cases where a death certificate cannot be obtained in time to submit with the application (eg the certificate has not yet been issued), the Ministry will accept a statement from the cemetery or burial ground authority identifying where the deceased is buried and a statement describing the cause of death.
- 3.6 *Licence fee:* A \$90.00 fee (including GST) made payable to the Ministry of Health is required for each licence applied for. Usually one licence is required for each body that is to be disinterred, although exceptions would include a common grave. The fee may be waived where special reasons make it appropriate to do so (for example compassionate or hardship grounds). Any request for a waiver should be supported by documentary evidence of hardship or alternative justification. Payments for Disinterment License Fees are to be made by Direct Credit / online banking / bank deposit to the Ministry of Health's bank account: Westpac account 03-0049-0001805-00. The payer must include details in the online

payment reference fields as follows: **[name of payer] / Disinter Lic / [surname and initials of deceased]** When payment has been made, the payer or public health unit handling the application should email details of the remittance advice to receivables@moh.govt.nz and include the details with the application for licence.

- 3.7 *Application to be made under oath:* The licence application must include a sworn statement from the applicant that the information contained within it is true and correct, and be witnessed by a Justice of the Peace, serving Police Officer or Court official. An example of statutory declaration is attached.

4.0 Supervision of Disinterments

- 4.1 Disinterment occurs whenever a casket (or body) is uncovered, even if only partially uncovered. A health protection officer must supervise the disinterment unless that requirement is specifically waived in the issued licence. Supervision of the disinterment by a health protection officer is to ensure that the disinterment is carried out with due respect to the deceased and in a sanitary manner so as to prevent any public health risk arising or any offence being created to the body and any family/next of kin that may be present. The licence will be copied to the health protection officer to whom the application was first lodged.

- 4.2 The person(s) undertaking the disinterment are responsible for ensuring that the disinterment is legally, safely and properly carried out, with decency and due respect to the deceased and adjacent burial sites.

- 4.3 WorkSafe New Zealand has published good practice guidelines for excavations that provide practical guidance to manage excavation health and safety risks. The Excavation Safety - Good Practice Guidelines' can be found at <http://construction.worksafe.govt.nz/guides/excavation-safety/#03-managing-risks>

5.0 Registrar to be notified when body removed or disposed of

- 5.1 Where the body is not returned to the same plot, the licence holder must give full details as to where and how the body was disposed of to the Registrar for Births, Deaths, and Marriages at the Department of Internal Affairs (as required by section 51 of the Births, Deaths, Marriages and Relationships Registration Act 1995).

Annex 1: Application for Disinterment Licence

Application for Disinterment Licence	
<p>This application form must accompany all applications for a disinterment licence and is to be sent to the health protection officer at the District Health Board public health unit. Also ensure the following are included with the application form:</p> <ul style="list-style-type: none"> • Original certificate of death or a certified copy (eg countersigned as a true and accurate copy by a Justice of the Peace or a health protection officer) • Declaration of support from next of kin • Declaration under the Oaths & Declaration Act • Remittance advice showing the Licence Fee (\$90.00 includes GST) has been paid by Direct Credit / online banking / bank deposit to the Ministry of Health's bank account Westpac account 03-0049-0001805-00. When payment has been made, email details of the remittance advice to receivables@moh.govt.nz and include the details with this application for licence. 	
Name of applicant or agent	
Relationship to Deceased	
Postal Address	
Street address (if different from above)	
Phone number	
	
Email	
Full name of deceased	
Cause of death	
Date of death	
Burial location	
Payment of Fee (\$90) (insert remittance advice)	
Consent of cemetery operator or Urupa Trustees or burial ground trustees	

(Sight documentation showing appointment as Trustee)		
Did cemetery operator or Urupa Trustees or burial ground trustees confirm the burial site is not a historic or war grave?		
Burial date		
Reason for disinterment		
Next of kin	Name	Relationship
	1.	
	2.	
	3.	
	4.	
	5.	
	6.	
Kaumatuā/Kuia (if deceased is buried in an urupa)	Name	Authority

Dated at _____ this _____ day of _____, 20____

Signature of applicant/agent: _____

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Annex 2 Next of Kin Declaration of Support for Disinterment

Declaration in support of disinterment	
I, _____, have been consulted on this application <small>(Insert your full name)</small>	
to disinter my _____, <small>(insert relationship to deceased) (insert name of deceased)</small>	
and I hereby advise I support this application.	
Signed:	Date:

Declaration in support of disinterment	
I, _____, have been consulted on this application <small>(Insert your full name)</small>	
to disinter my _____, <small>(insert relationship to deceased) (insert name of deceased)</small>	
I hereby advise the application is supported.	
Signed:	Date:

(Make as many copies of the declaration form that are needed for all next of kin to complete)

Note: Any given authority for a person to act for other next of kin must be specified in writing and signed by the person giving that authority. For Pacific families, an elder may have authority to act on behalf of the deceased, even though the elder may not be a close relative of the deceased. A representative nominated in writing by the extended family is acceptable

Annex 3 Statutory Declaration

Declaration – Oaths & Declaration Act 1957	
<p>I, _____, _____,</p> <p style="text-align: center; font-size: small;">(insert full name of applicant/agent/authorised person) (insert occupation)</p> <p>of _____, and _____,</p> <p style="text-align: center; font-size: small;">(insert location where you reside) (insert relationship to deceased)</p> <p>do solemnly and sincerely declare that the statements made in the accompanying application are true and correct.</p> <p>I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.</p> <p>Declared at _____ this _____ day of _____, 20____</p> <p style="text-align: center; font-size: small;">(insert location) (insert date) (insert month) (insert year)</p> <p>_____</p> <p>Signature of Applicant</p>	
<p>Declared before me:</p> <p>Name: _____</p> <p>A person authorised under section 9 Oaths and Declarations Act 1957 to take this declaration.</p> <p>Designation: _____ Stamp: (Optional)</p> <p>Signed: _____ Date: _____</p>	

A declaration made in New Zealand must be made before:

- a) A barrister or solicitor of the High Court
- b) A Justice of the Peace
- c) A notary public
- d) The Registrar or a Deputy Registrar of the Supreme Court
- e) The Registrar or a Deputy Registrar of the Court of Appeal
- f) The Registrar or a Deputy Registrar of the High Court or a District Court
- g) Some other person authorised by law to administer an oath
- h) A member of Parliament
- i) A person who is a fellow of the New Zealand Institute of Legal Executives and is acting in the employment of a practising barrister and solicitor of the High Court
- j) An employee of the New Zealand Transport Agency authorised for that purpose by the Minister of Justice or an employee of Public Trust authorised or an officer in the service of the Crown or of a local authority authorised for that purpose.

Disinterments

It is an offence to remove from its burial place any body (or the remains of any body) buried in any burial ground without a disinterment licence, and except in accordance with any conditions on the licence

A disinterment licence is required for the removal of the body from a cemetery, urupā, denominational burial ground, private burial ground, burial in a special place, or any burial site that is formally known as a place of burial (eg burial in a special place, historical burial ground, executed prisoners buried in prison yards).

A disinterment licence is required even when a casket will not be removed from a grave or is to be re-interred in the same plot. In other words, the unearthing of the casket is a disinterment.

A disinterment licence may not be granted if the deceased is in a historic or war grave, under the care of the Ministry of Culture and Heritage. The Ministry looks after historic graves and monuments in over 81 sites throughout New Zealand. It also cares for various national monuments erected by the New Zealand government that may contain deceased. Many of these commemorate former Prime Ministers such as Michael Joseph Savage, Richard Seddon and William Massey.

The Ministry of Culture and Heritage will provide its list of historic and war graves to Councils, denominational and trustee burial grounds and to Urupa trustees annually. When the applicant seeks approval from the cemetery operators or from the burial ground or Urupa trustees, they should also check with them that the burial site is not a historic or war grave under the care of the New Zealand Government.

Disinterment licences are not required for excavations that may uncover remains (eg archeological digs, roading or building excavations), or, as another example, where the Police may be searching for homicide victims that may have been allegedly buried by the offender. Disinterment licences are not required from areas that are not formal burial sites, even if remains are likely to be present, for example historical battle grounds. However, the person may still be subject to other legal obligations, for example, from the land owner, Police, Council, Historic Places Trust or other authorities. A disinterment licence is not required to unearth ashes unless it involves exposing a casket.

Excavations to be notified A condition may be included that the licensee has notified the WorkSafe NZ of the excavation and/or met the requirements of the *Approved Code of Practice for Safety in Excavations and Shafts for Foundations*.

Excavations shallower than 1.5 m have been known to collapse. If someone is in the trench, and bending over at the time of the collapse, he or she may suffer serious injury. Employers are required to determine if special precautions or work methods are necessary.

Excavations greater than or equal to 1.5 m deep are particularly hazardous and must be shored unless the face is cut back to a safe slope, and the material in the face will remain stable under all anticipated conditions of work and weather, or shoring is impracticable or unreasonable, and safety precautions certified by a registered engineer to be adequate, have been taken. Such work may be notifiable under health and safety at work legislation.

Undertaking Disinterments:

- cemetery or burial ground policy may require their staff to exhume grave sites to ensure the correct site is disinterred, records are appropriately updated, appropriate equipment is supplied, and that storage, and disposal of remains is undertaken and completed in a desirable manner;
- the disinterment must not interfere with adjacent burials;

- those undertaking the disinterment must
 - understand the scale of the task, for example, disinterments require the removal of significant amounts of soil (3-6 cubic meters) and mechanical diggers are usually required. A truck may be required to temporarily relocate the soil.
 - Address health and safety issues including what state will the remains be found in, availability of appropriate equipment etc (eg spare casket, tarpaulins, etc), and safely undertaking excavations (eg shoring the sides)
 - consider when the disinterment would take place, managing queries or concerns from visitors to the cemetery or burial ground, and to managing the disinterment to prevent distress to whanau and others.

Before disinterment

- Confirm that a licence to disinter has been issued by the Ministry and a copy provided to the applicant.
- Ensure the sexton, or any other party involved in any preparation for a disinterment, is aware that any preparatory excavation must not uncover the casket. Preparatory unearthing is permitted provided 250 mm of soil cover is left on top of the casket. The casket must remain covered, and the casket and surrounding area secure if left overnight or until the actual disinterment.
- Confirm grave site is accurately identified and the right casket has been located, by checking surrounding graves and cemetery records.
- Find out about the water table which may make the disinterment unstable or unsafe, particularly with high rainfall.
- Liaise, as necessary, with family, sexton, funeral director, and any other interested party, to confirm the dates of proposed disinterment and contingency plans for bad weather.
- Ensure that all conditions are understood by the person to whom the licence is issued.
- Other matters which should be covered with the family may include:
 - ~ how many intend to be present (in general, this is to be discouraged because it may be very distressing if the family do not know what to expect or have preconceived views);
 - ~ appropriate/acceptable behaviour;
 - ~ barriers around the grave site;
 - ~ any cultural protocols;
 - ~ whether there are any items buried with the body. The health protection officer should ascertain how many and how large these are and advise the funeral director and sexton to make allowance for handling such items eg, a larger casket, a second casket, or plastic bags.
- Ensure there is an adequate supply of body bags.
- Ensure the casket or body bag, which the body is transferred to, is watertight to prevent leakage in transport.
- Vehicles intended to be used in transport should be lined with impervious materials (eg, plastic sheeting, tarpaulins) and arrangements made for thorough cleaning and disinfection after transport is completed.
- Ensure provision has been made for any contaminated materials to be safely disposed of after use.
- Check that those undertaking the disinterment have considered any health and safety issues with the excavation, handling of remains and so on.

During the disinterment

Ensure the process is carried out with decency and respect and in a sanitary manner. If any conditions arise that impede the health and wellness of the parties involved, delay the disinterment.

- Make sure unearthing and removal does not interfere with any adjacent grave site.
- Check the right casket has been located by viewing the name plate on the casket.
- Ensure the disinterment is carried out in a respectful and sanitary manner.
- Ensure all conditions on the licence are complied with.

After the disinterment:

The licence holder must notify the Registrar of Births, Deaths, Marriages and Relationships of the disinterment, if the body was not returned to the same grave.

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