



To all on the attached list

www.justice.gov.uk

Via email

29 March 2010

Dear all

FUNERAL PYRES – COURT OF APPEAL JUDGMENT IN THE CASE OF *GHAI*

You will no doubt be aware that the Court of Appeal ruled in Mr Ghai's favour on the issue of funeral pyres. The media coverage of the Court's judgment was, however, misleading. Mr Ghai has not won the right to have an outdoor open air funeral pyre.

At the hearing, Mr Ghai fundamentally changed his position from that which he had argued in the Administrative Court. He conceded that his religious requirements could be potentially met by conducting a cremation within the scope of current cremation law. Mr Ghai argued that cremation could take place on a pyre in some sort of building that would be permitted under the 2008 Regulations.

The Court of Appeal acknowledged that Mr Ghai had changed his position and accepted his position on the meaning of a 'building'; on this basis it allowed his appeal. The Court also stated that the difficulties which may arise from planning and public health legislation, should an application to hold a pyre be submitted, had not been considered as part of the judgment.

Consequently, the way is not now open automatically for funeral pyres to be held. Burning bodies anywhere other than in a crematorium notified to the Secretary of State for Justice remains a criminal offence. There are still regulatory issues to be considered, such as planning permission, air pollution and obtaining any relevant licences.

The Ministry of Justice is already in discussions with Defra and CLG about the implications of the judgment. Consideration is being given to issuing formal guidance.

In the meantime, in the event of an application being made to hold a funeral pyre, enquiries about environmental issues should be addressed to Mike Etkind (the Head of Local Authority Pollution Control) at Defra. Contact Mike.Etkind@defra.gsi.gov.uk; telephone 07979 530863.

Enquiries about planning issues should be addressed to Robert Segall (Planning System Improvement Division) at CLG. Contact robert.segall@communities.gsi.gov.uk; telephone 030344 41717.

Copies of the Court of Appeal's judgment and Order are attached for information, if you have not already seen them.

Judith Bernstein

Head of Current Coroner Policy

List of those receiving this letter

Rick Powell: Secretary, FBCA

Tim Morris: Secretary, ICCM

Roger Arber: Secretary, Cremation Society

Richard Barradell, APCC

Liz Hobson, LGA

Nigel Lymn Rose, NAFD

Alun Tucker, SAIF

Dr Roy Palmer, Coroners' Society

André Rebello, Coroners' Society

Simon Bennett, Dept of Health