



EXCLUSIVE RIGHTS OF BURIAL EXPLAINED

Many people mistakenly believe that if they possess a Plot Deed of Grant this means that they are the Plot Owner. However, the Waddesdon Cemetery is owned by Waddesdon Parish Council and Plot Deeds are purely a recognition that the owner of the Deed has purchased the exclusive right of interment in that plot for a fixed period of time. The Deed owner does not own the land nor have any automatic right to place anything on that land, but only has the exclusive right, during the period stated on the Deed, to say who can be buried in the plot.

An Exclusive Right of Burial can only be held in one name. Transfer of ownership can be undertaken but there will be a charge for this service. However, if the Exclusive Right of Burial is willed to another person, there is no charge for Transfer of Ownership.

The number of persons buried in any plot is dependent upon the depth of the first burial and whether or not cremated remains will be interred. Generally, a full sized, double depth plot will give sufficient space for the interment of 2 full-sized coffins and/or up to 6 sets of cremated remains.

A grant of exclusive right of burial is always issued to the plot Deed owner. The Deed is an important document and should be kept in a safe place as it will be required should there be a further interment in the plot at some point in the future. Where the Deed cannot be produced, this could delay the funeral. No interments or changes to memorials can be authorised without the permission of the rightful owner of the Deed. It is important that Deed owners advise the Clerk of a change of address in order to keep our records up to date and to allow us to contact you should the need arise.

In accordance with the Local Authorities Cemeteries Order, exclusive interment rights are normally for a fixed period of 99 years, although this period can be extended when nearing expiration. The number of years the rights have been granted for is shown on your Plot Deed. At, or nearing, the end of this period you may apply to the Council to extend those rights on a pro-rata basis.

The Exclusive Rights of Burial may be transferred at any time. However, this transfer must be carried out by the council and no other form of transfer can be recognised. There are two forms of transfer.

The Council may also grant the Erection of a Memorial on the plot subject to it meeting the cemetery regulations in force at the time.

Transferring an exclusive right of burial whilst the owner is alive:

If you wish to, you can transfer the exclusive right of burial to another person and the documents that we will require from you are detailed below.

If you wish to transfer the ownership during your lifetime, you must complete a Form of Assignment and submit it to the Clerk. Transferring the ownership once the owner has died can be a little more complicated, but it is vital that it is done correctly. The following sections

describe the information required to enable us to properly process transfers of exclusive rights.

If the Deceased Owner Left a Will:

If the deceased owner left a Will stating who the Grant of Exclusive Right of Burial should be passed to and you are that person we will require:

1. The original Grant of Exclusive Right of Burial
2. The Grant of Probate
3. An Assent from the Executor(s) of the Will giving the Grant of Exclusive Right of Burial to you.

If no Assent is provided, we will automatically transfer the Rights to the Executor. Unfortunately, we must take instruction from the Executor and not any beneficiaries that maybe named in the Will.

If the deceased owner left a Will of insufficient value to merit application to be made for Grant of Probate and you claim the exclusive right of Burial, we will require:

4. The original Grant of Exclusive Right of Burial
5. The Death Certificate
6. A Statutory Declaration detailing the relationship of the person claiming the Right of Exclusive Burial to the deceased owner.
7. A Form of Renouncement from all other people who would be entitled to claim the Grant of Exclusive Right of Burial. Where there is no Renouncement we will automatically transfer the Rights to all possible owners.

When there is No Will

If the owner dies without leaving a Will we will require:

8. The original Grant of Exclusive Right of Burial
9. The Grant of Letters of Administration
10. A Form of Assent from the Administrator(s) giving the Grant of Exclusive Right of Burial to you.

If the estate is of insufficient value to merit application for Letters of Administration we will require:

11. The original Grant of Exclusive Right of Burial
12. The Death Certificate
13. A Statutory Declaration detailing the relationship of the person claiming the rights to the registered plot owner.
14. A Form of Renouncement from all other people who would be entitled to claim the Grant of Exclusive Right of Burial

Family Disputes

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot be transferred. The various next of kin reaching an agreement between themselves, possibly through the agency of solicitors, can only resolve this.

Please note, however, you may wish to consider having your own independent legal advice regarding your circumstances and completing of the forms. You are responsible for ensuring that the proper form has been completed and all details contained in it are correct. Unfortunately, although we may give guidance, we are unable to complete forms.

Explanation of forms to be used for transferring deed ownership:

References to Wills in this leaflet are references to Wills recognised as valid by the laws in England and Wales and all Statutory declarations must be witnessed by a Commissioner for Oaths or a Magistrate.

Form of Assent (available from the Clerk)

Used to transfer ownership from an executor or administrator after ownership has been transferred into their name by production of Probate or Letters of Administration.

Form of Assignment (available from the Clerk)

Used by a living owner to transfer or change the ownership of the exclusive Rights of Burial ie to transfer to new owner or add an additional owner.

Grant of Probate

Granted to the executor/s of a Last Will and Testament once a document has been proven in Court. To be legally acceptable we can only accept sight of a "SEALED" Grant, ie it must bear the embossed seal of the court.

Letters of Administration

When a deceased person dies intestate then the next of kin can apply to the Courts to be made Administrator of the estate. An Administrator receives the same powers to administer the estate of the deceased as an executor.

Statutory Declaration

Used to transfer ownership from a deceased owner when no official documents have been issued. Declarations can be either based on a Will that did not go to probate, claiming ownership by the executor or by the Next of Kin if the deceased left no will.

Certificates

All certificates supplied with transfer applications must be originals or certified copies (NB birth certificates supplied for identification in a Deed Transfer must be a full birth certificate and not a short birth certificate).

Useful information to help you transfer the ownership of a grave

How to get a copy of a Death Certificate:**The National Archives**

You will need to know the full names, date and place of death. If this is not known, you can search the index of deaths from 1837 until the present day, <http://www.nationalarchives.gov.uk> for useful information. From 1984 you search by a year and then alphabetically by surname. Prior to 1984 the search is by quarters of each year.

The Register Office

If the death was within the last 18 months, you can ask for a copy death certificate from the Register Office for the area in which the death occurred. You can get a copy certificate from 1836 to the present day from The General Register Office (GRO).

How to get a copy of a Will, Probate or Letters of Administration:

The National Archives

If you need to find out if a Will was made, you can search the index to all Wills at the National Archives at Kew <http://www.nationalarchives.gov.uk> Their index is from 1858 to 1943 on microfiche. You could visit their website for help and information.

The Probate Service

To get a copy of a Will, Grant of Probate or Letters of Administration, you can write to The York Probate Sub Registry, First Floor, Castle Chambers, Clifford Street, York YO1 9RG. There is a small fee and any cheque should be made payable to HMCS. A copy is usually provided within 21 days of your request. The full name of the deceased, date of death and last known address must be provided. You cannot request a copy of any Will, Grant of Probate or Letters of Administration by telephone.

You can also get a copy of any document in person by visiting First Avenue House, 42-49 High Holborn, London WC1V 6NP. The offices are open from Monday to Friday, from 10am until 4.30pm.

Telephone 020 7947 6000/6939 or visit the Probate Service website at: <http://www.justice.gov.uk>

Please note that any document produced for a transfer of grave ownership should show the embossed area of the seal or be a certified copy of the original.

Further useful information can be found at www.direct.gov.uk