

Exclusive Right of Burial

When you buy a grave at Sunningdale Cemetery, what you are actually buying is the Exclusive Right of Burial for a specific period which is **99 years for a coffin or cremation remains grave**.

You are not buying the grave freehold or the grave space; it is more like purchasing a lease. The ownership of the grave and the cemetery land remains with us. However, Exclusive Right of Burial will be issued to the named applicant stated on the interment or pre-purchase form and a Deed of Grant certificate will be issued at the same time.

Only the registered owner has the right to allow a burial to take place in the grave.

No memorial may be placed on the grave without the written permission of the grave owner during the period of the Exclusive Rights of Burial. If you are the registered owner, you have the automatic right to be buried in the grave. You may also allow others to be buried in the grave (space permitting).

Ownership of the Exclusive Right of Burial is especially important. Ownership can be transferred either during the owner's lifetime or after their death. The procedure for transferring the ownership is detailed below.

The Council's records as the cemetery burial authority contain the details of the registered grave owners. However, it is important that grave owners keep safe their Deed of Grant. The Council issues this document when the grave is first purchased, and it should be produced for each burial or memorial application. Possession of the Deed does not in its self-show ownership of the Exclusive Rights.

Transferring Ownership of The Exclusive Right of Burial

In the following circumstances transfer of the ownership will be needed:

- if the registered owner decides to assign the grave to someone else
- if an application is made for a burial in the grave but the registered owner is deceased
- if an application to place a memorial or additional inscription on the grave is made but the registered owner is deceased
- if the registered owner has recently died. This makes future arrangements easier if there is a living registered owner and The Council must obey the law relating to ownership of graves and burials. Where the owner has previously been buried, then without exception a new owner must first be registered to re-open a grave for burial or place a memorial or additional inscription upon a memorial.
- When considering transferring ownership of a grave, it is important to be aware that it is against the law to open a grave for burial including a burial of cremated remains or to place cremated remains upon the surface of a grave without the written permission of the registered owner, unless the burial is for the grave owner.

Transferring grave ownership when the current owner is still alive

The grave owner can:

- transfer the Exclusive Rights of Burial during their lifetime to another individual or add an additional owner

- surrender the Exclusive Rights of Burial if the grave has not been used for burial. The surrender value being the original purchase price as specified on the Deed of Grant

In both circumstances a Form of Assignment of Exclusive Right of Burial needs to be completed:

Deciding grave ownership where the owner has died

The procedure for establishing grave ownership if original owner has died depends upon whether there is a will.

Deceased left a valid will

If the deceased grave owner has made a valid will and left an estate of sufficient value to require the Grant of Probate to executors, ownership of the grave can be transferred to the executor. The applicant must produce a sealed copy of the Grant of Probate and complete the Assent of Executor of Administrator form:

If the estate is not of sufficient value, ownership may be transferred to the executor named in the will if they have a Statutory Declaration and can produce the will. It is then the executor's responsibility to identify the correct person for the transfer of ownership and assent the transfer by completing an Assent of Executor of Administrator form:

No or invalid will but a Grant of Letters of Administration has been obtained

If there is no will, or the will is not valid, and the estate is of sufficient value as to require a Grant of Letters of Administration, ownership of the grave can be transferred to the personal representative of the deceased. The applicant must produce a sealed copy of the Grant of Letters of Administration Form and complete the Assent of Executor or Administration form. It is then the applicant's responsibility to identify the correct person for transfer of ownership and agree to it by completing an Assent of Executor of Administrator form:

Family disputes

Where a family dispute results in a stalemate and relevant consents are withheld, ownership cannot be transferred. Transfer can only happen if the next of kin reach an agreement between themselves.

No will and no Letters of Administration: deceased dies in intestate

If there are no executors or Letters of Administration have not been granted, the rules of intestacy apply as laid down in the Administration of Estate Act 1925.

The applicant for transfer of ownership should complete a Statutory Declaration. Statutory Declarations are legal documents produced by us and must be signed in the presence of a Magistrate or Commissioner for Oaths.

The Statutory Declaration should clearly set out the facts regarding the original purchase of the Exclusive Rights of Burial, the death of the registered owner, intestate or otherwise and the relationship of the applicant to the registered owner. The original Deed of Grant and a certified copy of the owner's death certificate should accompany the Statutory Declaration.

Where the Deed has been lost, suitable wording should be incorporated within the declaration to that effect. It is essential that the written agreement of all the next of kin of the deceased owner must also be obtained for the "transfer of ownership" and attached to the Statutory Declaration. The following are examples of many of the possible circumstances:

Deceased owner survived by	Application made by	Consents needed
Spouse	Spouse	None - Transferred to spouse
Spouse	Son or daughter	Transferred to spouse - then can be assigned to Son/Daughter
No spouse but four children	Son	All children - irrespective of legitimacy
No spouse or children - but three brothers or sisters	Brother	Both other brother / sisters

Types of transfer

Assignment of Exclusive Right of Burial

Used by a living owner to transfer or change the ownership of the exclusive Right of Burial i.e. 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, i.e. it must bear the embossed seal of the court. An Assent of Executor of Administration form will need completing.

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.

Assent of Executor or Administrator

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.

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. Please contact the cemeteries office to discuss the Statutory Declaration.

Form of Renunciation

Used together with a Statutory Declaration when more than one person is claiming grave i.e. the deceased may have three children and next of kin, and one or more of those children wishes to give up their Rights to the ownership. NB The Council and the Cemetery Board wishes to advise that due to Administration Restrictions we only accept a maximum of TWO owners.

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, not a short one.)

Useful information to help you transfer the ownership of a grave:

- Did the owner leave a Will or were Letters of Administration issued? Use a search facility [here](#).
- Who is entitled to take over grave ownership? Find out about who inherits if no will is left [here](#).

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, at the:

National Archives Kew Richmond Surrey TVV9 4DU. Telephone 020 8876 3444

www.nationalarchives.gov.uk

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 (G.R.O). [Copies of death certificates can also be ordered online](#)

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 www.nationalarchives.gov.uk

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. 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. Telephone 020 7947 6000/6939

[HM Courts and Tribunals Service Website](#)

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

[Find a will \(GOV.UK website\)](#)