



Buntingford Town Council

Explanatory Leaflet on Exclusive Right of Burial, Right to Erect a Memorial and Deed of Grant Transferral

Ownership of a grave - what does this mean?

When buying an interment plot, it is important to understand what you are actually buying is the **Exclusive Rights of Burial** in a grave for a specified period of time. You are not buying the grave freehold: it is more like purchasing a lease. Buntingford Town Council retains ownership of the land at all times. All **Exclusive Rights of Burial** are for a period of 50 years

You have the right to:

- be buried in the plot if space is available (includes cremated remains);
- authorise further burials in the plot where space is available or for the interment of cremated remains;

It should be noted that Full Interment plots in Layston Cemetery will be “double depth” and only two “Full Interments” will be possible and one “Full Interment” and up to six “cremated remains” interments. Cremated remains must be interred in a suitable casket or urn.

In addition there are two areas available for cremated remains only, an area for Family Plot’s and an area for Single Plot’s.

Plot Owners, by purchasing the **Right to Erect a Memorial** as part of the **Exclusive Right of Burial**, gives them the right to place an inscribed memorial on the plot and gain permission from the council for an additional inscription to be added. The type and style of memorials is strictly controlled and the purchaser should refer to the Councils “**Memorial Standards**” information. The memorial must only be erected by a **BRAMM** or **NAMM** registered Stonemason.

The Plot Owner is responsible for ensuring the memorial is in a safe condition and pay for any repairs required. The Council will carry out regular “topple tests” on the memorial and will notify the **Plot Owner** of any problems found.

Burial Law (Local Authorities Cemeteries Order 1977) states that no burial may take place in a plot and no memorial may be placed on a plot without the written permission of the plot owner during the period of the Exclusive Rights of Burial, excluding the burial of the plot owner. The Exclusive Rights may be renewed for a further term towards the end of the lease. The Council’s Statutory Registers contain the details of the registered grave owners. It is important that plot owners keep safe their **Deed of Grant** as this is a legal document containing the plot details. The Council issues this document when the plot is first purchased

and it should be produced for each Interment. Possession of the Deed does not in itself signify ownership of the plot.

A situation often arises where registered owner(s) are deceased and other family members want to arrange a further burial to take place in the plot, or for an additional inscription to be placed on the memorial. In order for the interment or memorial request to proceed the **Exclusive Right of Burial** and the associated **Right to Erect a Memorial** needs to be transferred to the person(s) entitled to the rights.

Transfer of grave ownership

The grave owner can assign the **Exclusive Rights of Burial**, during their lifetime, to another individual on completion of an **Assignment of Rights of Burial** form. The procedure for establishing grave ownership when the original owner is deceased depends upon whether there is a will.

Deceased owner 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**, ownership of the grave can be transferred by the executor. The executor must produce a sealed copy of the **Grant of Probate** and complete an **Assent of Executor or Administrator** form. If the estate is not of sufficient value to obtain a **Grant of Probate**, ownership may be transferred by the executor named in the will by **Statutory Declaration** and the production of the will. It is the executor's responsibility to identify the correct person for the transfer of ownership.

Grant of letters of administration have 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. It is then the administrator's responsibility to identify the correct person for transfer of ownership and assent the transfer by completing an **Assent of Executor or Administrator** form.

Deceased owner dies 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 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 Declaration. Where the Deed has been lost, suitable wording should be incorporated within the declaration to the effect. It is essential that the written agreement of all the next of kin of the deceased owner to the transfer of ownership should also be obtained and attached to the Declaration.

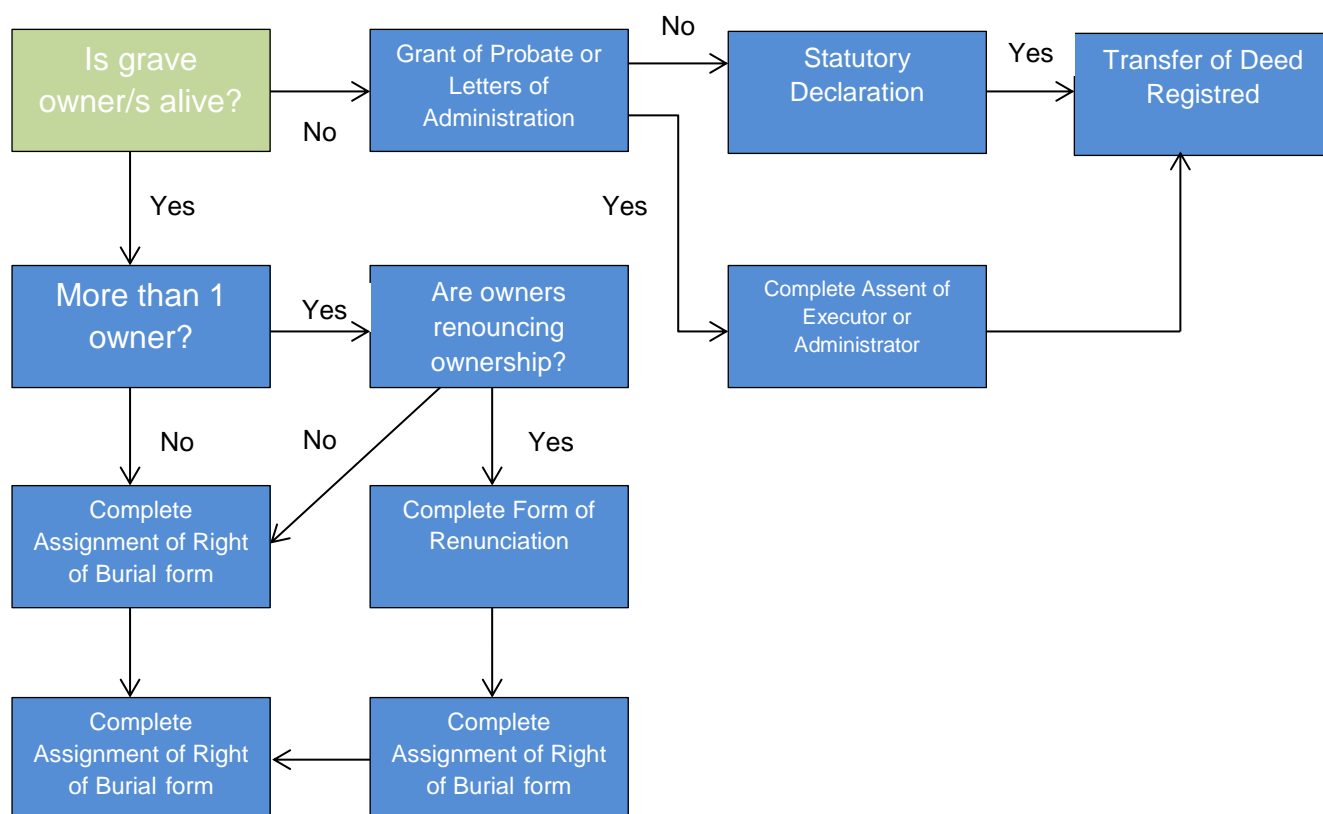
Family disputes

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot be transferred and no further burials will be allowed. The various next of kin reaching an agreement between themselves can only resolve this.

Renunciation - what does this mean?

Renunciation is when a registered owner or someone entitled to the Burial Rights does not wish to retain their 'rights'. A **renunciation** form needs to be completed and is available from the Town Council office.

Transferring grave deed ownership



Forms of transferring deeds ownership

Form of Assignment

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

Grant of Probate

Granted to the executor(s) of a Will 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.

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.

Form of Assent of Executor or Administrator

The form 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

The form 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.

Form of Renunciation

Used together with a Statutory Declaration when grave is being claimed by more than one person 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.

Certificates

All certificates supplied with transfer applications must be originals or certified copies.

Fees

The transfer of Grave Ownership is handled by the Town Council Office, and there is a fee payable. Payments are made payable to Buntingford Town Council. (Please refer to our table of fees)

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