



# HILLINGDON

LONDON

## Guidance on the Transfer of Exclusive Rights of Burial

### Grave ownership

When someone purchases a grave, they do not own the freehold of land itself, but instead they own the Exclusive Right of Burial in the grave. This means that they have bought the right to decide who may be buried in the grave.

The Council grants exclusive rights for a period of 100 years and during this period the Council may only carry out a burial in the grave with the consent of the owner of the exclusive right. When the owner of the exclusive right dies, they have the automatic right to be buried in the grave, provided sufficient space remains.

The Council can only consider an application to erect or modify a memorial on the grave with the consent of the owner of the exclusive right, who is responsible for the maintenance of the memorial.

The law requires that the Council issue a formal 'Deed of Grant of Exclusive Right of Burial' to the purchaser and to record the details of this contract in its cemetery records. Possession of the Deed of Grant does not in itself signify ownership of the exclusive right, which belongs to the person registered as the owner in the statutory cemetery records.

It is important that the ownership of the exclusive right is properly transferred where the original owner wishes to pass it to another person, or following their death. The Council will record the details of the new owner in the cemetery records.

The new owner will retain ownership of the exclusive right for the period remaining from the date of its original grant and under the same terms and conditions as it was originally granted or modified by subsequent changes to the Cemetery Regulations.

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**Ruislip HA4 7SJ**

## **Transferring ownership**

In all cases, it is necessary for transfers of ownership of exclusive rights to be completed using the appropriate transfer forms issued by the Council and dealt with by the staff at the Council's Cemeteries Office. The staff at the Cemeteries Office will provide guidance and assistance on the completion of the various transfer forms detailed below.

As part of the transfer process, the Council will need to see appropriate documentary evidence to support an application. The Council make a charge for administering and recording any change of ownership of exclusive rights.

During their lifetime, the owner of the exclusive right may wish to transfer ownership to someone else. They can do this by completing the Council's **'Transfer of Exclusive Rights - Form of Assignment'**.

Upon the death of the owner of the exclusive right, it is important that the ownership be transferred to the person legally entitled to it, such as their executor or nearest surviving relative. The circumstances of each situation can vary greatly and the action required to transfer ownership of the rights is explained below.

If the deceased grave owner made a valid Will and left an estate of sufficient value to require the Grant of Probate to an Executor, ownership of the exclusive right will be transferred to the Executor on production of a sealed copy of the Grant of Probate using the Council's form, **'Transfer of Exclusive Rights – Probate'**.

If the Executor is not required to obtain a Grant of Probate, ownership of the exclusive right can be transferred to the Executor on production of a copy of the Will and completion of the Council's form, **'Transfer of Exclusive Rights –Statutory Declaration'**.

If the deceased grave owner left no valid Will, ownership of the exclusive right can be transferred to the personal representative who obtains a Grant of Letters of Administration, on production of a sealed copy of the Grant of Letters of Administration using the Council's form, **'Transfer of Exclusive Rights - Administrator'**.

It is the responsibility of the Executor or Administrator to identify the person who should have ownership of the exclusive right and, if not retaining it themselves, transfer it to someone else by completing the Council's form **'Transfer of Exclusive Rights – Assent of Executor or Administrator'**.

It is possible to search online for a will, Grant of Probate or Grant of Letters of Administration and obtain copies at <https://www.gov.uk/search-will-probate>.

If the deceased owner left no Will and no-one has obtained a Grant of either Probate or Letters of Administration, ownership of the exclusive right may be transferred upon completion of the Council's form '**Transfer of Exclusive Rights – Statutory Declaration**'.

In these circumstances, the applicant will need to provide documentary evidence to substantiate their claim to the ownership of the rights, such as copies of certificates of death and marriage etc. They will also need the written agreement of anyone else, such as family members, who is entitled to the ownership of the exclusive right. This agreement should be provided by their completion of the Council's '**Transfer of Exclusive Rights - Form of Renunciation**'.

In any case where a **Statutory Declaration** is required to transfer ownership of an exclusive right of burial, it will be necessary for the completed Statutory Declaration form to be formally witnessed by a Solicitor, Commissioner for Oaths, Notary Public or Magistrate. Please note that, under s.5 of the Perjury Act 1911, if you knowingly and wilfully make a statutory declaration that is false in a material particular, then you are guilty of an offence, and liable on conviction to a term of imprisonment for up to 2 years, or to a fine, or both. In the case of the other transfer forms, they should be signed in the presence of an adult witness.

Please note that, where a family dispute results in any relevant consents being withheld, the ownership of the exclusive rights cannot be transferred. Further burials may then not occur in the grave, a new memorial may not be erected or changes made to an existing memorial. In such circumstances, it may be necessary for the family to employ a solicitor or mediator to enable necessary consents to be issued. The Council does not provide a mediation service.