

# Exclusive Right of Burial (Ownership)

## 1. At Time of Booking

Establish if there is a risk to the funeral being delayed due to 'Ownership' issues.

### a. **New Graves:**

If the applicant purchases the Exclusive Right of Burial for a new grave, and signs to say they consent to the deceased being interred there-in the interment can go ahead. This is done as part of the Interment Application form.

### b. **Re-Opened Graves:**

If the deceased is the owner, or one of the named owners, they have automatic right to be buried in the grave. The interment can go ahead.

*If they are not a named owner, then consent **MUST** be obtained from the named owner(s) before the grave can be broken. **This could cause a delay in the interment.***

*If the last owner is already deceased, and no inherited owners were identified at that time, then research will be needed to identify the owners before the grave can be broken. Depending on the complexity, **this could cause a delay in the interment.***

## 2. Administering change of ownership to new owners (at or after time of booking)

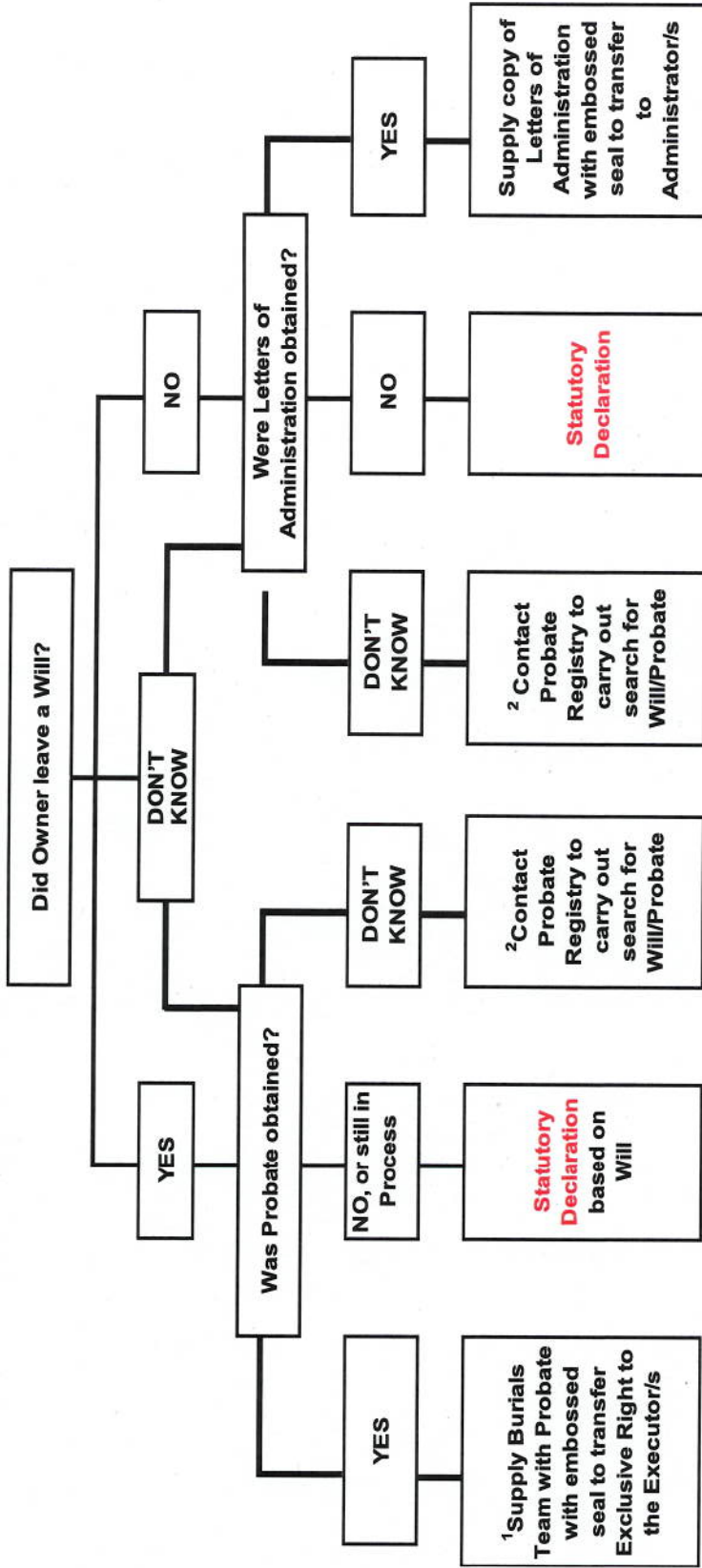
a. **Live owner:** If the current owner(s) is alive, they can transfer ownership at any time to other person(s) by using the Form of Assignment

b. **Deceased Owner:** Contact the Cemetery Office to discuss action required. If the last recorded owner of a Right is deceased, then the legal inherited owner needs to be established, by sight of legal documents. If it is not straightforward, this investigation is probably best handled by the family visiting and speaking to the Burial Team direct. However, if Funeral Directors are aware of what is needed, and work together with the Council it will certainly help facilitate the process and avoid a funeral having to be delayed.

Please see the enclosed flow chart of what papers will be required.

If a Statutory Declaration (Transfer of Ownership Form) is required, it will be produced by the Burials Team, and will need to be checked by the applicant and duly signed and witnessed by a Commissioner for Oaths. This means a Solicitor or Legal Executive.

**TRANSFER OF OWNERSHIP WHEN OWNER IS DECEASED**



**Notes:**

- <sup>1</sup> When transferring the Right from an Executor, to the heir(s), use form of Assent.
- <sup>2</sup> An application form and information regarding Probate/Will searches can be found on the following web site:  
<http://www.hmcourts-service.gov.uk/cms/1211.htm>  
 In some cases, information may also be available from the local Probate Registry Office:

**NOTICE OF INTERMENT: AVENUE / LONDON ROAD / DEVIZES ROAD\* CEMETERY**

*\*Please delete as appropriate.*

Day & Date of Interment: \_\_\_\_\_ Time: \_\_\_\_\_

Full Names of Deceased: \_\_\_\_\_

Address of Deceased: \_\_\_\_\_

Place of Death: \_\_\_\_\_

Aged: \_\_\_\_\_ Date of Death: \_\_\_\_\_

Occupation or Description: \_\_\_\_\_

**GRAVE DETAILS**

**IMPORTANT**

**EXTERNAL SIZE OF COFFIN/ CASKET (Including Handles). LENGTH: \_\_\_\_\_ WIDTH: \_\_\_\_\_ DEPTH: \_\_\_\_\_**

**Total number of interments intended in the grave\*: \_\_\_\_\_**

*\*(Up to 3 Coffins in a Full Earth Grave and up to 2 interments in a Cremated Remains Plot):*

*\*Please also complete section 3 & 4 of the reverse side of this form.*

**NEW PURCHASED GRAVE**

Section: \_\_\_\_\_ Number: \_\_\_\_\_

Full Name & Address of Purchaser(s):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*\*Please also complete the reverse side of this form.*

**RE-OPENED GRAVE**

Section: \_\_\_\_\_ Number: \_\_\_\_\_

Previous Interment: \_\_\_\_\_

Date: \_\_\_\_\_

Authority for Re-opening:

**DEED ATTACHED/INDEMNITY/WRITTEN CONSENT\***

*\*Please delete as appropriate*

**FUNERAL DIRECTOR:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Telephone: \_\_\_\_\_

**THIS NOTICE ALONG WITH ALL THE NECESSARY PAPERWORK MUST BE DELIVERED TWO WORKING DAYS BEFORE THE DATE OF INTERMENT. WHERE APPLICABLE THE REVERSE OF THIS FORM MUST BE COMPLETED AND DELIVERED TO:**

**THE CEMETERIES OFFICE  
 SALISBURY CREMATORIUM  
 BARRINGTON ROAD  
 SALISBURY. WILTSHIRE. SP1 3JB**

**Important information on reverse  
 Re-Opened Private (Purchased Graves/ Cremated Remains Plots)**

## Re-Opened Private (Purchased Graves).

Purchased graves refer to graves where the Burial Authority (Salisbury City Council) has granted Exclusive Right of Burial to an applicant or next of kin who desires the deceased to be buried. There is a set fee for this request and upon payment of the specified fee the applicant will be issued a deed. Salisbury City Council does not offer pre-purchased burial plots or public graves in either The London Road or Devizes Road Cemeteries. In the past public graves were available for burials by the Burial Authority. Public graves are not available and will not be re-opened for interments of current cremated remains or full burials in connection with deceased interred within these graves.

The requirements below are in accordance with the Local Authorities Order 1977 sect. 10 (6).

- (i) In all cases the Deed of Exclusive Right of Burial should be produced for endorsement and attached when sending the Interment Notice to the Cemeteries Office.
- (ii) Where the interment is not being arranged by the owner of the Exclusive Right of Burial, and where the deceased was not the owner, written consent for the interment from the owner must be attached to the Notice of Interment and a Transfer of Ownership form must be completed and attached to this form before the interment date. If the Burial Authority does not have this completed form two working days before the interment will not proceed.
- (iii) Where the deed cannot be produced, the whole form below should be completed.

▲ If more than one person wishes to be interred in the said grave please enclose their details on a separate piece of paper.(Maximum 3 interments)

The Burial Authority reserves the right on occasions where old grave plots cannot be located due to insufficient records and maps.

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**\*Where applicable the section MUST be completed and signed.**

1. I..... of .....

Declare that I am the holder/new holder of the Exclusive Right of Burial in:

Grave Number..... in Section..... of the ..... Cemetery.

2. The Deed of Exclusive Right of Burial has been mislaid and cannot be found, and in consideration of me being permitted to exercise the right of burial in the aforesaid grave. I hereby agree to indemnify and keep indemnified the Salisbury City Council or any of their servants or agents from and against any actions, costs or claims which may arise as a result of the exercise of the right.

3. I hereby authorise the interment of .....  
In the grave referred to above on (date).....

4. Signature of the owner/new owner of The Exclusive Right of Burial.....

Signature

of Witness.....

Full Name & Address of Witness.....

..... Date.....

### **IMPORTANT**

**\*If you are not the original owner, please attach brief details of how ownership was passed to you and also include a completed Transfer of Ownership form. This form is available from the cemeteries office. Tel (01722) 333632. Email: crematorium@salburycitycouncil.gov.uk**

#### **Guidance on Transfer of Grave Ownership**

*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 that of the grave owner. 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. The following documents may be required for the transfer of the ownership: Grant of Probate. Grant of Letters of Administration. The Will if Probate not obtained. Once the Exclusive Right of Burial has been purchased it becomes part of the registered owner's property.*

# The Exclusive Right of Burial

The effect of purchasing the Exclusive Right of Burial is that the grave becomes 'owned'. It may not be opened and no one may be buried there without the permission of the owner(s). It also entitles a memorial to be erected.

It does not mean that the actual land is purchased.

Salisbury City Council issues the Right for a period of 100 years.

▲ The Right can be purchased in joint names. It is also advisable to include the names of anyone who intends to be interred in the grave either full burial or cremated remains. By doing this it means that, when the time comes, they have automatic entitlement to be interred there.

If the deceased is not a named owner, consent will be required from all the named owners which may be difficult to arrange in the time available. The funeral may be delayed as a result.

When the last named owner dies, the Right forms part of their estate, and Ownership should be willed on as appropriate.

The Right can be transferred to another person(s) by a living owner at anytime. An owner can also ask to renounce their ownership at any time as long as there is at least one other person retaining ownership.

**IMPORTANT:** If Salisbury City Council records do not show a surviving Owner, and an interment application is received, the applicant will be asked to provide original legal documents to show that they are entitled to become the new owners, and that the deceased is entitled to be buried in the grave.

Please talk with your Funeral Director or the Burials Service if this situation arises.

Depending on the circumstances, you may be asked to provide one of the following documents (pertaining to the last known owner):

- A 'Sealed' Grant of Probate
- A 'Sealed' Grant of Letters of Administration
- A bespoke Statutory Declaration which must be duly signed by a Commissioner for Oaths.

### *Guidance on Transfer of Grave Ownership*

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 that of the grave owner. 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.

The following documents may be required for the transfer of the ownership:

- Grant of Probate
- Grant of Letters of Administration
- The Will if Probate not obtained.

Once the Exclusive Right of Burial has been purchased it becomes part of the registered owner's property.

When do you need to transfer ownership of the Exclusive Right of Burial?  
In the following circumstances transfer of the ownership will be required:

- The registered owner decides to assign the grave to someone else
- An application is made for a burial in the grave but the registered owner is previously deceased
- An application to place a memorial/additional inscription on the grave is made but the registered owner is previously deceased
- If the registered owner has recently died. This makes future arrangements easier if there is a living registered owner.

### ***How to transfer the ownership of the Exclusive Right of Burial***

The Salisbury City Council must obey the law relating to ownership of graves and burials. Where the registered owner is alive the transfer will be a straightforward process. The registered owner, naming the new owner, will complete a Form of Assignment which is attached.

Where the registered owner has died the rights form part of the residual estate. It will be necessary to establish who has the legal right to deal with the estate. This will normally be:

- The executor(s) if the registered owner died leaving a Will
- The Administrator(s) appointed if Letters of Administration were obtained
- The next of kin if there are no executors or administrators.

If the registered owner died recently it should be fairly easy to identify who has legal rights to deal with the estate. However if the registered owner died some time ago greater research may be needed.

### ***Obtaining the information required***

If a Grant of Probate or Letters of Administration have not been raised then a Statutory Declaration will be required, together with a Will. If probate was not obtained and there is no Will, a Statutory Declaration can still be made. The Statutory Declaration requires details of all next of kin. If tracing the next of kin proves difficult you may wish to contact the General Register Office Trace line Team on 0151 471 4811.

We recognise that getting this information together may be difficult and we will do all we can to try to help whilst ensuring all the legal requirements are met. For further assistance please call the Cemeteries Office, Salisbury Crematorium, Barrington Road, Salisbury. SP1 3JB. Telephone 01722 333632.  
E-mail: [crematorium@salisburycitycouncil.gov.uk](mailto:crematorium@salisburycitycouncil.gov.uk)

## **SALISBURY CITY COUNCIL CEMETERIES REGISTRATION DEPARTMENT**

Instruction sheet for completing the enclosed form for changing ownership of a private grave situated in either the London Road or Devizes Road Cemetery, Salisbury.

### **FORM OF ASSIGNMENT**

Where the owner(s) of the Exclusive Right of Burial wishes to assign that ownership to another person.

Please read the instruction sheet carefully before completing the form. The form should then be detached and returned with the appropriate documents to:

The Cemeteries Registrar Salisbury Crematorium, Barrington Road, Salisbury. SP1 3JB  
Telephone: 01722 333632

The form should be either typed or completed in BLOCK capitals, but in all circumstances it must be completed clearly, according to the following instructions:-

(The number in brackets refers to the corresponding section of the transfer form).

- (1) Enter here the full first names and surname of the original Exclusive Right of Burial.*
- (2) Enter here the full postal address of the original owner of the Exclusive Right of Burial.*
- (3) Enter here the full first names and surname of the person who is to become the new owner of the Exclusive Right of Burial.*
- (4) Enter here the full postal address of the person who is to become the new owner.*
- (5) Enter here the section and grave*
- (6) Enter the name of the cemetery here*
- (7) Enter here the deed of grant number (this will be found in the top left or right hand corner of the deed).*
- (8) The form of assignment should then be signed and dated by the person who is assigning the ownership of the Exclusive Right of Burial (i.e. the present owner of the Exclusive Right of Burial).*
- (9) The signature of the owner must be witnessed by two independent persons (excluding the person to whom ownership is to be assigned).*

*Upon completion the form should be returned to the Cemeteries Registrar, together with the Deed of Grant of Exclusive Right of Burial.*

If you have difficulty in completing the form you should contact the Cemeteries Office on 01722 333632.

**TRANSFER OF GRAVE OWNERSHIP FORM**  
(Statutory Declaration)



**SALISBURY CITY COUNCIL ASSIGNMENT OF EXCLUSIVE RIGHT OF BURIAL IN A PRIVATE GRAVE**

*UNDER THE PROVISIONS OF THE CEMETERIES CLAUSES ACT 1847*

- (1) I, .....
  - (2) of ..... In consideration to  
hereby assign to
  - (3) .....
  - (4) of ..... all my estate, interest  
and title in the Exclusive Right of Burial in
  - (5) Grave number ..... Plot/Section .....
  - (6) In the ..... Cemetery
  - (7) Which was granted by the Deed of Grant numbered ..... subject to the conditions on  
which I held the Exclusive Right of Burial immediately before the execution of this assignment.
  - (8) Signed ..... Dated .....
  - (9) Witness to Signature ..... Witness
- to Signature .....

When completed please detach this page and return to:

The Cemetery Manager  
Salisbury Crematorium  
Barrington Road  
Salisbury  
Wiltshire  
SP1 3JB