

Curry Rivel Cemetery

Grant of Exclusive Rights of Burial and transfer of the same

This document explains which forms are required to manage and transfer Exclusive Rights of Burial and Memorials. All of the documents referred to are available for download on our website.

Please contact the clerk if you have any difficulty in finding the correct information to add to a form. Completed forms are to be returned to the clerk for filing in the cemetery records.

1. Grant of Exclusive Rights

Grants of Exclusive Rights are purchased for a period not exceeding 100 years.

A Grant of Exclusive Right of Burial was often purchased for a fixed number of people in a grave space. However, space may still exist in a plot if even if those burials have already taken place. This will be dependent on a number of factors, including the size and position of previous interments. The most common request is for additional ashes to be accommodated.

The Exclusive Right of Burial entitles the owner to determine who may be buried in the grave. The registered owner has an automatic right for burial in the plot (subject to space).

The Exclusive Rights do not give any form of ownership over the land itself which remains the property of Curry Rivel Parish Council. At the end of the term purchased the grave ownership reverts to Curry Rivel Parish Council.

- At present this means that graves with remains will be undisturbed and that no further burials will take place in the plot. (Future regulations may be different over time).
- If the grave is unused, then the Parish Council may offer it to another person.

2. Memorials

Permission for the erection of a memorial must be sought from the Parish Council in advance. The registered owner of the grave is responsible for its maintenance, upkeep and safety.

If the last known registered owner is deceased, then the grave ownership will pass to their heirs who are then responsible for it for the remainder of the term.

Please see our advice for memorial works.

3. Transfer of Rights

Any transfer of ownership must be notified and evidenced to the Council and shall be for the remainder of the term originally granted. Transfer may take place in the following ways:

3.1 By a living owner to additional person(s)

Managing a transfer of Rights at short notice (and before a funeral) can add to a family's distress, so we recommend that burial rights are considered whenever the opportunity presents itself.

Exclusive Rights may be transferred by the owner to another person at any time without the need for legal representation. Please use the Form of Assignment.

3.2 On decease of the owner

If a grave owner passes away without arranging for the transfer of Rights then they have an automatic right to be buried in the grave, but the Council is then unable to grant further burials (or memorial inscriptions) until a change of ownership has been evidenced. This may be done in the following ways:

3.2.1 Via a Will

If the original owner left a valid Will the Executor is responsible for identifying who the beneficiaries of the grave will be prior to interment.

If there are more than two beneficiaries, then they must agree between themselves who should accept the ownership of the grave. Any others must Renunciate their Rights using the Form of Renunciation.

Executors and Administrators should ensure that they are not left as owner of a grave.

- Once Probate is granted the Executor may need to complete the transfer of the grave using the Form of Assent.
- If Probate is not required, transfer may be made using the Statutory Declaration.

3.2.2 If Intestate

The Executor/Administrator is responsible for identifying who the beneficiaries of the grave will be prior to interment.

If there are more than two beneficiaries, then they must agree between themselves who should accept the ownership of the grave. Any others must Renunciate their Rights using the Form of Renunciation.

Executors and Administrators should ensure that they are not left as owner of a grave.

- Once Letters of Administration are obtained the Administrator or Executor may need to complete transfer of a grave using the Form of Assent.
- If Letters of Administration are not obtained, transfer may be made using the Statutory Declaration.

3.3 By Statutory Declaration

In all other cases it will be necessary for a Statutory Declaration to be made. This is a legal document which must be signed in the presence of a Magistrate or Commissioner for Oaths.

The Statutory Declaration form will need to be completed with the known facts regarding the original purchase of the Exclusive Rights of Burial and the death of the registered owner. The original Deed or Grant should accompany the Declaration, if available. The applicant will also need to state the relationship between themselves and the deceased.

Disagreement

If a multiple number of grave owners cannot immediately agree which one or two of them shall have a transfer of Rights then the Parish Council will withhold all works in abeyance (including further burials or memorial work) until agreement is reached.

We strongly recommend that parties seek independent legal advice when dealing with a deceased estate.