



Grave Ownership and Deed Transferral

Ownership of a grave - what does this mean?

When buying a grave, 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. Ottery St Mary Town Council ('the Council') retains ownership of the land at all times.

You have the right to:

- be buried in the grave or plot if space is available (includes cremated remains);
- authorise further burials in the grave where space is available or for the interment of cremated remains;
- Place an inscribed memorial on the grave or give permission for an additional inscription to be added.

A grave owner is responsible for ensuring the memorial is in a safe condition and for paying for any repairs required.

Burial Law (Local Authorities Cemeteries Order 1977) states that no burial may take place in a grave and no memorial may be placed on a grave without the written permission of the grave owner during the period of the Exclusive Rights, excluding the burial of the grave 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 grave owners keep safe their Deed of Grant as this is a legal document containing the grave details. The Council issues this document when the grave is first purchased and it should be produced for each burial. Possession of the Deed does not in itself signify ownership of the grave.

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 grave, or for an additional inscription to be placed on the memorial. In order for the burial or memorial request to proceed the Exclusive Right of Burial 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 has died 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.

Grants of letters of administration have been obtained

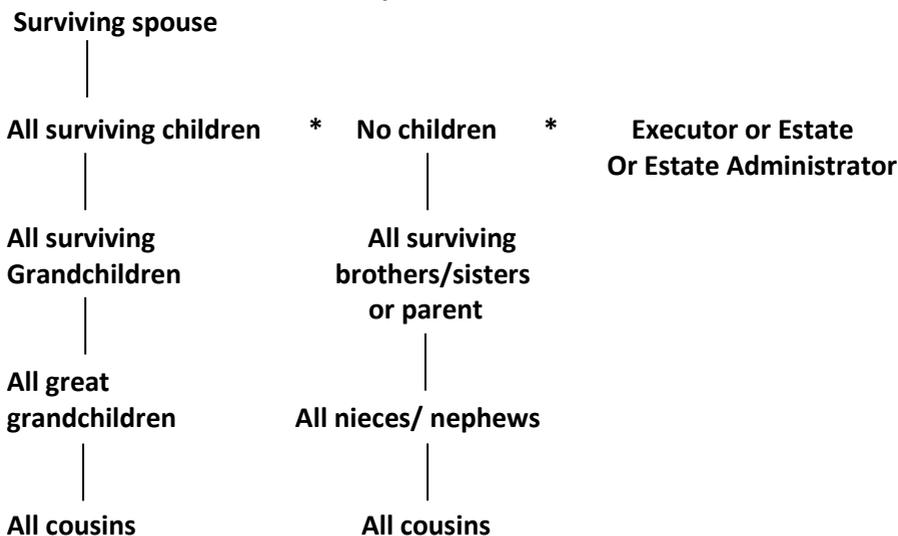
If there is no will, or the will is not valid, and the estate is of sufficient value as to require a Grant of Letters of Administration, ownership of the grave can be transferred to the personal representative of the deceased. The applicant must produce a sealed copy of the Grant of Letters of Administration 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. **See Family Tree Flow Chart.** 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 Tree Flow Chart



NB. If there are no surviving children the entitlement will go to the grandchildren.

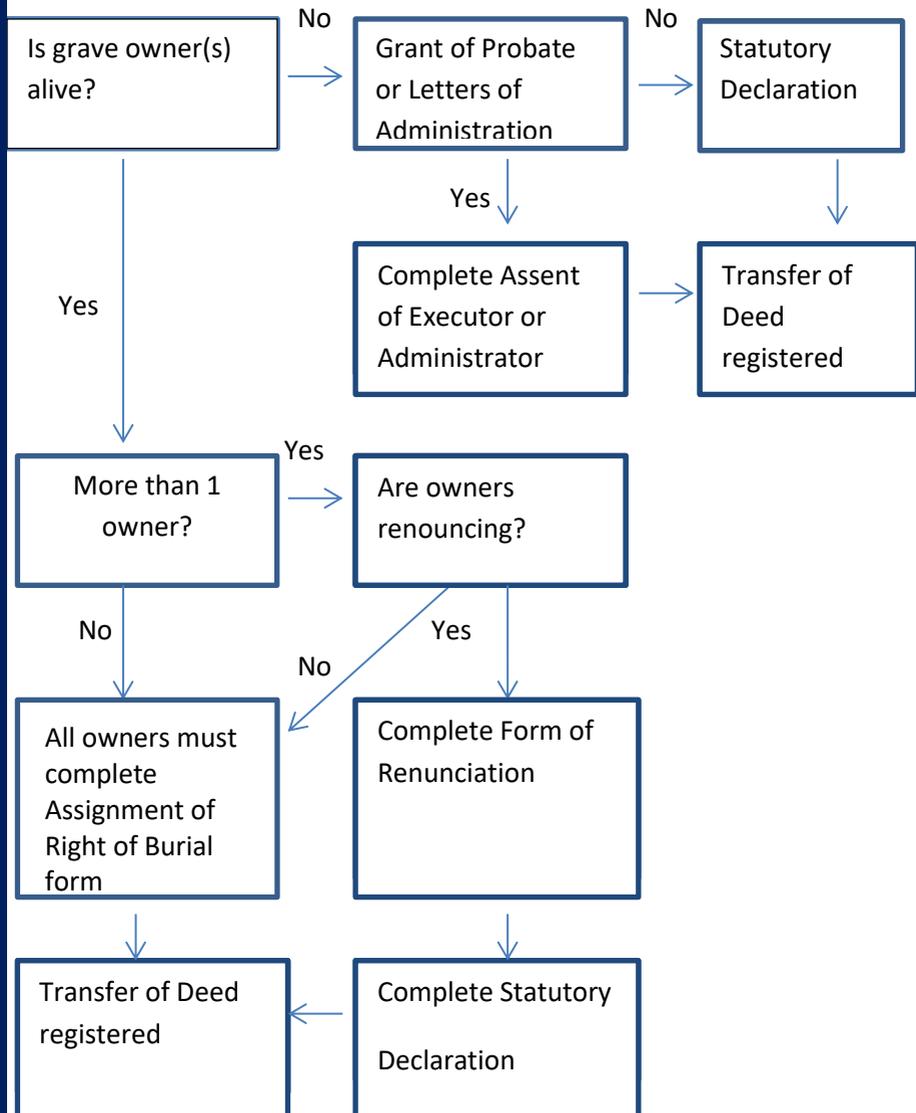
Family Disputes

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 or Executors of the will, reaching an agreement among 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 complete and is available from the Council Offices.

Transferring grave deed ownership



Forms for transferring deeds ownership

Form of Assignment Used by a living owner to transfer or change the ownership of the Exclusive Rights of Burial ie to transfer to new owner or add an additional owner. This is at the discretion of the Council.

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 ie 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 of 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 ie 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 Council and there is a fee payable.

Surrender of the Exclusive Rights of Burial If the owner of an Exclusive Right of Burial no longer requires the grave and it has not been used for burial he/she can surrender the Exclusive Rights of Burial. The owner should complete a Deed of Surrender form. The surrender value is the original purchase price as specified on the Deed of Grant, less the administration fee. Please contact us for guidance about surrendering rights. The owner must not sell on the grave or brokerage for profit

Contact us:

Address

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Council Offices,
8 Broad Street
Ottery St Mary
Devon EX11 1BZ

Telephone

01404 812252

Answerphone for out of hours - your call will be responded to on the next working day

Email

Or

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