

NEWPORT PARISH COUNCIL

GRANT OF EXCLUSIVE RIGHT OF BURIAL

This booklet attempts to answer the most commonly asked questions by members of the public. However, if you have any questions regarding the contents of this booklet, please do not hesitate to contact the Clerk to Newport Parish Council on Tel: 07928 815242 or Email clerk@newportpc.org.uk

WHAT IS AN EXCLUSIVE RIGHT OF BURIAL (GERB)?

When a grave is 'purchased' this refers to the purchasing of the exclusive right of burial in a designated grave space and not the purchase of the land itself which remains the property of the council. This means that you do not own the land but have the exclusive right, during the period stated in the Grant of Exclusive Right of Burial, to say who can be buried in the grave and apply for a permit to place an inscribed memorial on the grave or give permission for an additional inscription to be added. Also, provided that you do not, during your lifetime, transfer the right to another person and provided that the period stated in the Grant of Exclusive Right of Burial has not expired, you can choose to be buried in the grave yourself.

A grant of Exclusive Right of Burial will be issued to the grave owner and can be purchased in advance for yourself or another person. This is a legal document and should be kept in a safe place, as by law a purchased grave may only be opened for the burial of the Deed owner or for the burial of another person with the written permission of the Deed holder. The council's Statutory Registers contain the details of all registered grave owners.

PLEASE NOTE THAT:

UPON THE DEATH OF A PERSON OWNING BURIAL RIGHTS, THE RIGHTS DO NOT AUTOMATICALLY TRANSFER TO THE NEXT OF KIN. NO BURIALS, ERECTION OF A MEMORIAL OR CHANGES TO A MEMORIAL CAN BE AUTHORISED WITHOUT THE PERMISSION OF THE OWNER OF AN EXCLUSIVE RIGHT OF BURIAL.

In accordance with the Local Authorities Cemeteries Order 1977 all grave rights are sold for a fixed period. The number of years the rights have been granted for is shown on your Grave Deed. You may apply to the Council to extend those rights.

Please advise us if you change your address. This is most important to enable us to keep our records up to date.

CAN I TRANSFER AN EXCLUSIVE RIGHT OF BURIAL?

If you have purchased an Exclusive Right of Burial, you can transfer the ownership rights to another person during your lifetime. If you wish to do this, you must complete a Form of Assignment and submit it to the Clerk to Newport Parish Council, together with the Grant of Exclusive Right of Burial which was issued in your name.

WHAT DOCUMENTS ARE REQUIRED TO TRANSFER AN EXCLUSIVE RIGHT OF BURIAL WHEN THE OWNER HAS DIED?

It is assumed that if you have purchased an Exclusive Right of Burial, you have the right to be buried in a named grave space which is stated on the Deed document. However, the Grant of an Exclusive Right of Burial must be transferred to a living person, preferably before the burial takes place

although we recognize that this is not always possible. Without the transfer, it will not be possible to erect a memorial, or add an inscription to an existing memorial because only the owner of the Grant has the legal right to do this. The following sections describe the information required by Newport Parish Council to enable us to properly process transfers of grave ownership. References to Wills in this leaflet are references to Wills recognised as valid by the laws in England and Wales.

If the 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, a completed Assent of Executor or Administrator form and the original Grant of Exclusive Right of Burial.

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 a Form of Renunciation from all other people who would be entitled to claim the Grant of Exclusive Right of Burial is attached to the Statutory Declaration.

Family Disputes

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot legally be transferred, and no further burials will be allowed, nor will the erection of memorials or changes to inscriptions be permitted. The various next of kin reaching an agreement between themselves are the only persons able to resolve this.