

Transferring the Exclusive Right of Burial – Initial Information

The Exclusive Right of Burial is a legal Right under the Local Authorities Cemeteries Order and is granted by City of Lincoln Council as the Burial Authority for our Cemeteries.

The Right of Burial allows the holder the following:

- To be buried in the Grave named on the Deed of Grant
- To authorise burials in the Grave
- The Right to Erect a memorial, or make changes to an existing memorial, on the Grave (all applications must be made via a registered Memorial Mason through our Memorial Permit Scheme)

At any point during the Grant Period, the Right of Burial may be transferred. This is a formal procedure, and the documentation required depends on the relevant situation.

There are 4 possible situations, the processes for each are listed below.

1: Transferring the Right of Burial whilst the Holder is still Living

During the Grant Period, the holder of the Right of Burial may choose to transfer the ownership to any other person(s) that they wish.

Firstly, the holder should contact the Bereavement Services Office to request a **Deed of Assignment**. This document contains the formal wording required to transfer the Right of Burial.

In order to produce the Deed of Assignment, the Office will need to know the following information:

- The Full Name and Address of the Holder (this will also be used to check against the Register to ensure the details match)
- The Amount (in £s) to be paid to the holder by the new owner in exchange for the Right of Burial (if no fee is to be paid, £0 will be written on the Deed of Assignment)
- The Name of the new owner
- The Address/Contact Details of the new owner (**this must be given by the new owner personally due to Data Protection Regulations by contacting the Office directly**)

The Deed of Assignment will then be sent to the current holder for witnessed signature (witnessing must be by someone over the age of 18 who isn't a relation or mentioned on the Deed of Assignment).

Once signed and returned to the Bereavement Services Office, the new owner will need to undergo a brief ID check appointment, either in person at the Office, or via a Microsoft Teams video call. During the appointment, they will need to show 2 forms of ID (1 x Photographic, and 1 x Proof of Address).

Following the ID Check, the Register will be updated, and a confirmation letter will be sent to the new owner confirming the transfer.

2: Transferring the Right of Burial where the Holder is Deceased, and Probate or Letters of Administration have been Granted

If the registered holder of the Right of Burial has passed away, and Probate or Letters of Administration have been Granted, the ownership may be transferred to the named Executor(s)/Administrator(s) stated on the Grant/Letters.

If only one person is named on the Grant/Letters, they should first provide a copy to the Bereavement Services Office, ensuring that the seal/hologram is present. Once received, the Executor/Administrator will need to undergo a brief ID check appointment, either in person at the Office, or via a Microsoft Teams video call. During the appointment, they will need to show 2 forms of ID (1 x Photographic, and 1 x Proof of Address).

Following the ID Check, the Register will be updated, and a confirmation letter will be sent to the new owner confirming the transfer.

If multiple people are named on the Grant/Letters, they should first provide a copy, ensuring that the seal/hologram is present. The Executors/Administrators will then need to decide whether they are all taking over the Right of Burial jointly (whereby any burial/memorial would need authorised by **all** owners), or whether one will take sole ownership, or if they decide that someone else should be nominated to take over the Right of Burial.

For joint ownership, the Executors/Administrators will each need to undergo a brief ID check appointment, either in person at the Office, or via a Microsoft Teams video call. During the appointment, they will need to show 2 forms of ID (1 x Photographic, and 1 x Proof of Address).

Following the ID Checks, the Register will be updated, and a confirmation letter will be sent to the new owners confirming the transfer.

For sole ownership, or to nominate another person, a **Form of Assent of Executor/Administrator** will need to be drafted by the Bereavement Services Office. This form will need to be signed (witnessed) by each Executor/Administrator and returned to the Office. In order to produce the Form of Assent, the Office will need to know the following information:

- Names and Addresses of the named Executors/Administrators (this information will be used in the Form of Assent, but also to check against the Grant/Letters for accuracy). **Details must be given/confirmed by each named person directly due to Data Protection Regulations**
- Name and Address of the Nominated Person (if applicable). **Again, directly from the nominated person.**

Once the signed Form of Assent is received by the Office, the chosen Executor/Administrator/Nominee will need to undergo a brief ID check appointment, either in person at the Office, or via a Microsoft Teams video call. During the appointment, they will need to show 2 forms of ID (1 x Photographic, and 1 x Proof of Address). Following the ID Checks, the Register will be updated, and a confirmation letter will be sent to the new owners confirming the transfer.

3: Transferring the Right of Burial where the Holder is Deceased, and a Will was left, but in the absence of Probate

Where the holder of the Right of Burial has passed away, and they have left behind a Will. Where Probate hasn't been applied for or Granted, the Right of Burial can be transferred to the proper person(s) through the Executor(s) named on the Will.

Firstly, the original Will, or certified copy, should be produced to the Bereavement Services Office. Once identified, the named Executor(s) of the Will should contact the Office to inform of their intentions for the ownership of the Right of Burial. This can be transferred directly to them, or to a nominated person(s) of their choosing in sole or joint ownership (joint ownership meaning that any burial/memorial must be authorised by **all** owners).

If any Executor does not wish to take over the ownership, they will be sent a **Form of Renunciation** to sign (witnessed) and return to the Office. This form allows them to formally renounce their interest and title in the Right of Burial, and nominate another person(s) to take over if they wish to do so (i.e. the other Executor(s) or nominated person(s)).

Once this decision is made, and all renunciations are received, a **Statutory Declaration** will be drafted by the Office. This Declaration is a legal document under the Statutory Declarations Act and must be signed by the remaining interested parties in the presence of either: a Solicitor, Commissioner of Oaths, or Justice of the Peace.

Once signed, the completed Declaration should be returned to the Office, whereby the prospective new owners will need to undergo a brief ID check appointment, either in person at the Office, or via a Microsoft Teams video call. During the appointment, they will need to show 2 forms of ID (1 x Photographic, and 1 x Proof of Address).

Following the ID Checks, the Register will be updated, and a confirmation letter will be sent to the new owner(s) confirming the transfer.

4: Transferring the Right of Burial where the Holder is Deceased, no Will was left, and no Letters of Administration have been applied for or Granted

Where the holder of the Right of Burial has passed away intestate (without a Will), and no one has applied for, or been Granted Letters of Administration, the Right of Burial can be transferred to their descendant(s), using the Intestacy Rules.

The Intestacy Rules provide a framework for who would inherit an Estate when someone passes away without a Will. The order of inheritance for the Right of Burial is as follows:

1. Spouse/Civil Partner - if the deceased holder was survived by a Spouse/Civil Partner when they died, that person would need to contact the Office to discuss the ownership of the Right of Burial. **If they have since passed away, the Right of Burial transfer would be based on their Estate, and would be dependent on the situation (i.e. Will, Probate, Letters of Administration)**
2. Children – If the deceased holder was not married/in a civil partnership when they died, any children would need to contact the Office to discuss the ownership of the Right of Burial. **If any children have passed away, the surviving children would be equally entitled to the Right of Burial.**
3. Grandchildren – If the deceased holder's children have all passed away, their grandchildren may be entitled to the Right of Burial. **This should be the children of the last child of the holder to pass away.**
4. If the above are all deceased, the person hoping to take over the Right of Burial should contact the Office to ascertain who would be the correct person(s) to inherit.

Once the descendants have been confirmed, they must decide whether they are taking over the Right of Burial in Joint ownership (meaning that any burial/memorial must be authorised by **all** owners), or Sole ownership.

If any descendant does not wish to take over the ownership, they will be sent a **Form of Renunciation** to sign (witnessed) and return to the Office. This form allows them to formally renounce their interest and title in the Right of Burial and nominate another person(s) to take over if they wish to do so (i.e. the other descendant(s) or nominated person(s)).

Once this decision is made, and all renunciations are received, a **Statutory Declaration** will be drafted by the Office. This Declaration is a legal document under the Statutory Declarations Act and must be signed by the remaining interested parties in the presence of either: a Solicitor, Commissioner of Oaths, or Justice of the Peace.

Once signed, the completed Declaration should be returned to the Office, whereby the prospective new owners will need to undergo a brief ID check appointment, either in person at the Office, or via a Microsoft Teams video call. During the appointment, they will need to show 2 forms of ID (1 x Photographic, and 1 x Proof of Address). Following the ID Checks, the Register will be updated, and a confirmation letter will be sent to the new owner(s) confirming the transfer.