



## **TEMPLE BALSALL CEMETERY**

### **Transfer of Burial Rights (EROB)**

The ownership of the burial rights is as recorded in our registers and any owner of the burial rights has the automatic right to be interred in the plot provided there is space. It is possible to transfer the burial rights of any plot and a set procedure is used to do this.

Please note, upon the death of a person owning burial rights, the rights do not automatically transfer to the next of kin. Please see the information below if you wish to transfer burial rights.

### **A Guide to Transferring Burial Rights**

In accordance with the Local Authorities Cemeteries Order 1977, rights of burial can be purchased for Temple Balsall Cemetery, Temple Balsall.

These rights of burial are granted for a period of 75 years. Rights purchased for any of the above plots can have up to a maximum of two owners.

Rights of burial may need to be assigned (transferred) from one person to another for a number of reasons, for example:

- When a living owner of the rights wishes to pass them to another member of the family.
- Upon the death of the owner of the rights.
- Where there has not been an assignment of rights for some years and there is now a requirement to re-open the grave, erect, replace or change a memorial.

If you wish to discuss the assignment of burial rights, please telephone 01676 535679 to make an appointment with the Clerk. You will have to provide original documentation in order to substantiate your request. No burial rights will be assigned until original documents have been fully checked and verified.

The following procedures have been put in place to protect the rightful owners of burial rights.

### **Assigning Burial Rights from one Living Person to Another**

You must provide the full name and address of the person to whom the rights are to be assigned. You will then be given a letter which you will have to sign in the presence of two witnesses and return to the Clerk of the Council. You will be provided with written confirmation of the assignment upon receipt of the signed and witnessed letter and upon payment of the appropriate fee.

### **Assigning Burial Rights of a Deceased Owner**

You will need to bring with you the original copy of the grant of probate, (in cases where the deceased owner has left a will) or the grant of letters of administration (in cases where the deceased owner has not left a will).

If several generations have passed since the owner died, it will be necessary to see all documentation – beginning with the original grant of probate or grant of letters of administration – which establishes the passing of ownership of the burial rights to yourself.

You will be provided with written confirmation of the assignment upon receipt of these documents and upon payment of the appropriate fee.

### **Assigning Burial Rights from an Executor (appointed by probate) of a Will to a Family Member**

This will arise where the burial rights have vested in the executor of the deceased owner's will and the executor wishes to assign the rights to a family member.

You will be provided with written confirmation of the assignment upon receipt of evidence that the rights have been assigned to you by the executor and upon payment of the appropriate fee.

### **Assigning Burial Rights without Grant of Probate or Grant of Letters of Administration**

The Clerk of the Council is legally obliged to conduct the fullest possible inquiries in order to establish that burial rights have been correctly assigned. There will be situations where there is no acceptable evidence of assignment or where no grant of probate or grant of letters of administration is required. You will need to make a statutory declaration if any of these situations applies to you.

### **Statutory Declaration**

A statutory declaration is required by the Council as evidence of your ownership of burial rights belonging to a deceased person if a grant of probate or letters of administration is not required for their estate and you want those rights to be assigned to you.

A statutory declaration is a legal document which you are strongly advised to have drawn up by a solicitor of your choice. The following information should be included:

- The deceased's full name.
- Date of death.
- Location of their plot, i.e. cemetery, section and plot number, or garden of rest plot number.
- Your relationship to the deceased.
- An undertaking from you that you will indemnify the Council in respect to any claims made against it or any expense it may be put to in connection with your exercise of the burial rights you want to be assigned to you.
- If there are other possible applicants who do not wish to be included in the ownership of the burial rights, you should include written statements from (where appropriate) any siblings, the partner of the deceased and/or any other person with an interest in the plot, consenting to the assignment of the rights to you. Any such documents relied upon will need to be exhibited to the statutory declaration.
- If you are applying for joint ownership of a plot, details of all applicants (up to a maximum of 2) should be included in the statutory declaration.

The statutory declaration should be signed by all applicants in the presence of a magistrate, an authorised court official or a commissioner for oaths.

The requirement for a statutory declaration exists to ensure that burial rights are assigned only to the rightful owner(s) and serves to protect both the owners of those rights and the Council. It is a procedure used by most burial and crematoria authorities in England and is supported by the Institute of Cemetery and Crematorium Management.

PLEASE NOTE : there is a charge for the assignment of burial rights, this is in accordance with the Local Authorities' Cemeteries Order of 1977.

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