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## **TEMPLE BALSALL CEMETERY TRANSFERRING GRAVE OWNERSHIP**

The transfer procedure explained see **chart**

### **Please note:**

- It is a legal requirement to establish the grave ownership.
- Where there is a family dispute and relevant consents are withheld, the ownership cannot be transferred.
- There can be a maximum of two owners per grave. Other beneficiaries must sign a renunciation form to relinquish their rights to ownership.
- A fee is payable to transfer a grave ownership.

### **Grave Ownership**

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 on a leasehold basis for a period of 75 years. Rights purchased 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 discuss with the Clerk.

### **Exclusive Rights of Burial (EROB or Grave Deed)**

Permission must be given by the owner for any burials in, or memorials and additional inscriptions placed on, the grave.

If the owner of a grave dies, they have an automatic right to be buried in the grave (provided there is space to do so).

If there is no living owner, the parish council will need to establish who is legally entitled to the grave, and the "transfer of ownership" for the remaining time of the lease period must be completed before a burial or erection of a memorial can go ahead.

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.

### **Transfer of Grave Ownership**

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

On the **Deed of Assignment BPC01** form you must provide the full name and address of the person to whom the rights are to be assigned. You will have to sign the form in the presence of a witness and return to the Clerk of the Council.

If the grave is no longer needed, it can be surrendered by completing a **Deed of Surrender BPC02** form.

## Assigning Burial Rights of a Deceased Owner

There can be a transfer an exclusive right of burial when the owner has died. The way to do this will be different depending on if there is a will or not.

### If the deceased owner left a will

A. If the deceased owner left a will that requires a Grant of Probate and this has been obtained, ownership can be transferred to the executors.

- **Probate Form BPC03** completed
- a sealed copy of Grant of Probate

Further transfer to beneficiaries can be made using the **Deed of Assent BPC04** form.

B. If an application is to be made for Grant of Probate and you claim the Exclusive Right of Burial, we will need:

- **Deed of Assent BPC4a**
- the death certificate
- a copy of the deceased person's will
- a **Statutory Declaration** detailing the relationship of the person claiming the Exclusive Right of Burial from the deceased owner
- a form of **Renouncement Form BPC05** from all other people who would be entitled to claim the Grant of Exclusive Right of Burial. Where there is no Renouncement we will automatically transfer the rights to all possible owners according to the will.

C. If the estate is not of sufficient value for a Grant of Probate, ownership can be transferred to the executor by Statutory Declaration, and production of the will.

- **Statutory Declaration**
- Copy of the will

They are then responsible for identifying the rightful owner and complete the transfer by a **Deed of Assent BPC04** form.

D. If there is no valid will, but the estate is of sufficient value to need a Grant of Probate, ownership of the grave can be transferred to a personal representative of the deceased on production of a sealed copy of the Grant of Letters of Administration. Again is it then the responsibility of the representative of the deceased to identify the rightful owner and complete the transfer by Deed of Assent.

- **Deed of Assent BPC04** completed
- Grant of Letters of Administration

E. If the estate is of insufficient value to merit application for Letters of Administration we will need:

- the death certificate
- a **Statutory Declaration** detailing the relationship of the person claiming the rights to the registered grave owner
- a form of **Renouncement Form BPC05** from all other people who would be entitled to claim the Grant of Exclusive Right of Burial

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 you.

You will be provided with written confirmation of the assignment (transfer of the grave deed) upon receipt of these documents and upon payment of the appropriate fee.

## Statutory Declaration

A Statutory Declaration is required by the parish 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 bespoke legal document which you are advised to have drawn up by a solicitor of your choice. This **questionnaire** will help identify the information needed in the document and it must also contain the following:

- 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 parish council.

SHOULD YOU HAVE ANY QUESTIONS RELATING TO THE OWNERSHIP OF A GRAVE OR THE TRANSFER OF OWNERSHIP, PLEASE CONTACT THE CLERK ON 01676 535679 OR BALSALLPARISHCOUNCIL@GMAIL.COM

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