

BREASTON CEMETERY, LONGMOOR LANE, BREASTON

When do you need to transfer ownership of the Exclusive Right of Burial?

In the following circumstances transfer of the ownership will be required:

- The registered owner decided to assign the grave to someone else
- An application is made for a burial in the grave, but the registered owner is previously deceased
- An application to place a memorial/additional inscription on the grave is made but the registered owner is previously deceased
- If the registered owner has recently died. This makes future arrangements easier if there is a living registered owner

Guidance on Transfer of Grave Ownership

The Council must obey the law relating to ownership of graves and burials.

When considering transferring ownership of a grave, it is important to be aware that it is against the law to open a grave for burial including a burial of cremated remains or to place cremated remains upon the surface of a grave without the written permission of the registered owner, unless the burial is for that of the grave owner. Where the owner has previously been buried, then without exception a new owner must first be registered to re-open a grave for burial or place a memorial or additional inscription upon a memorial.

The grave owner can assign the Exclusive Rights of Burial, during their lifetime, to another individual on completion of an Assignment of Exclusive Right of Burial form.

The procedure for establishing grave ownership when the original owner has died depends upon whether there is a will.

Deceased 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 to executors, ownership of the grave can be transferred to the executor. The applicant must produce a sealed copy of the Grant of Probate and complete the Assent of Executor or Administration form.

If the estate is not of sufficient value, ownership may be transferred to the executor named in the will by Statutory Declaration and the production of the will. It is then the executor's responsibility to identify the correct person for the transfer of ownership and assent the transfer by completing an Assent of Executor or Administration form.

Grant 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 and complete the Assent of Executor or Administration form. It is then the applicant's responsibility to identify the correct person for transfer of ownership and assent the transfer by completing an Assent of Executor or Administration form.

Family disputes

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot be transferred. The various next of kin reaching an agreement between them, possibly through the agency of solicitors, can only resolve this.

Deceased dies in 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 produced by this office 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 Statutory Declaration.

Where the Deed has been lost, suitable wording should be incorporated within the declaration to that effect. It is essential that the written agreement of all the next of kin of the deceased owner must also be obtained for the "transfer of ownership" and attached to the Statutory Declaration. The following are examples of many of the possible circumstances:

Deceased owner survived by	Application made by	Consents needed
Spouse	Spouse	None - Transferred to spouse
Spouse	Son or daughter	Transferred to spouse - then can be assigned to Son/Daughter
No spouse but four children	Son	All children - irrespective of legitimacy
No spouse or children - but three brothers or sisters	Brother	Both other brother / sisters

The statutory declaration exists to ensure that burial and memorial rights are exercised by the rightful person when there is no owner available or if the deeds have been lost. This helps to protect both the owner of those rights and the council. The declaration should be completed by the one person who will be granted permission to arrange a burial and/or memorial in/on the grave and should be signed in front of a Justice of the Peace or Commission of Oaths and to whom exclusive right of burial can also be granted subject to no other person(s) subsequently producing evidence to the council of their legal entitlement to such rights.

Please complete the form that fits your circumstances

ASSIGNMENT OF EXCLUSIVE RIGHT OF BURIAL FORM

To be used to transfer exclusive right of burial when there is a living owner to a new owner

I (print title and own name)			
Of (full address and postcode)			
Do hereby assign unto the said (print title and full name of the person to transfer the ownership rights i.e., new owner of burial rights)			
The exclusive right of burial of (deceased information)	Grave Reference	Full Name	
Hereby transfer all of my estate and title, interest therein, including the right of placing a memorial thereon of the nature and in the position approved by Breaston Parish Council to hold the same unto the said (end of date of grant) of			
End date of grant of burial		End date of licence for memorial	
Subject to the conditions on which I held the same immediately before the execution hereof			
Witness my Hand this date		Signature (present owner)	
Witness (print full name)		Witness (signature)	
Witness (full address and postcode)			
Signature (new registered owner)			
Witness (print full name)		Witness (signature)	
Witness (full address and postcode)			

Please send this completed form to:

The Clerk
 Breaston Parish Council
 Parish Council Meeting Rooms
 Blind Lane
 Breaston
 Derbyshire
 DE72 3DW

Please contact the clerk for any assistance in completing this form.

Transfer of ownership of burial rights must be completed prior to any requests for burial, memorial, or licence renewal of a memorial.

ASSENT OF EXECUTOR OR ADMINISTRATOR FORM

To be used to transfer exclusive right of burial when the owner is deceased

I (print title and full name of 1 st executor)			
Of (full address and postcode)			
Telephone number	Email		
I (print title and full name of 2 nd executor) if applicable			
Of (full address and postcode)			
Telephone number	Email		
Being the (a) executor of the will of (title and full name of deceased)			
Proved in probate registry (location of probate office)		On the (date)	
OR Being the (b) the administrator of the Estate of (title and full name of deceased)			
Under the letters of Administration granted by the registry (location of the probate office)		On the (date)	
Do hereby Assent to the transfer to (title and full name of new owner)			
Of (full address and postcode of new owner)			
Email (of new owner)			
Signature (of new owner of burial rights)			
The exclusive ownership of right of burial in grave number		At Breaston Cemetery, Longmoor Lane, Breaston	
Which was granted to the deceased by Breaston Parish Council which will now be subject to the conditions on which were held the same immediately before the execution hereof			
Witness my Hand this date			

Signature of 1 st Executor			
Signature of 2 nd executor (if applicable)			
Witness of 1 st Executor (print full name)		Witness of 1 st Executor (signature)	
Witness (full address and postcode)			
Signature (new registered owner)			
Witness of 2 nd Executor (print full name)		Witness of 2 nd Executor (signature)	
Witness (full address and postcode)			

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The Clerk
Breaston Parish Council
Parish Council Meeting Rooms
Blind Lane
Breaston
Derbyshire
DE72 3DW

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Transfer of ownership of burial rights must be completed prior to any requests for burial, memorial, or licence renewal of a memorial

GRAVE RENUNCIATION FORM

To be used to surrender any interest in a grave and memorial any person may have e.g., when only one child of the deceased is taking over the exclusive rights of burial and memorial licence responsibilities. This form must be signed by his / her siblings. This form should be attached to the statutory declaration before the declaration is made and reference to this form should be made within the declaration – please obtain legal advice on completing a statutory declaration.

Title and full name(s) of new registered owner(s)	
Full address and postcode(s)	
Telephone number(s)	Email(s)

I we the undersigned hereby renounce all my our interest in the Right of Burial and memorial licence described in the register as Grave Number: _____ Deceased Name _____

In Breaston Cemetery, Longmoor Lane, Breaston and desire that the said right of burial and remaining memorial licence shall be vested to the sibling(s) as listed above, as new registered owners.

Signature		Witness signature	
Title and full name		Title and full name	
Address		Address	
Postcode		Postcode	

Signature		Witness signature	
Title and full name		Title and full name	
Address		Address	
Postcode		Postcode	

Further siblings can sign and witness overleaf

Signature		Witness signature	
Title and full name		Title and full name	
Address		Address	
Postcode		Postcode	

Signature		Witness signature	
Title and full name		Title and full name	
Address		Address	
Postcode		Postcode	

Signature		Witness signature	
Title and full name		Title and full name	
Address		Address	
Postcode		Postcode	

Please send this completed form to:
The Clerk
Breaston Parish Council
Parish Council Meeting Rooms
Blind Lane
Breaston
Derbyshire
DE72 3DW

Please contact the clerk for any assistance in completing this form.

Transfer of ownership of burial rights must be completed prior to any requests for burial (unless the burial is for the current owner of the exclusive rights), memorial or licence renewal of a memorial

STATUTORY DECLARATION

Application to register an interest in a grave

Details of grave

Grave deed **must be** produced with this application, if deeds are not available, please complete section A

Name of Cemetery:.....Grave No:.....Grant No:.....

Grave Owner.....Purchase Date:.....

Applicant details

I the applicant (please print name): of

(print address):.....

..... Post code: Telephone no:.....

Do solemnly and sincerely declare as follows:

a. The grave deeds cannot be produced because

.....

b. I wish to be registered as the successor in title to the Exclusive Right of Burial appertaining to the above grave as the previous owner died on

.....

1. I hereby declare that I am entitled to be named as the successor (no person precedes me in the order of succession as overleaf) in title as the rightful person to arrange a burial and memorial in the above grave for the following reasons, I am the:

Spouse of the deceased grave owner

Only child of the grave owner

A child of the deceased grave owner.
All other siblings have signed (Form of Renunciation)

Other nearest next of kin
Please explain below

.....

.....

2. To the best of my knowledge and belief (name of grave owner) had never assigned the benefits of the grave rights to any other person or specified any reservation of the grave for any particular person in accordance with item 10(6) in the Local Authorities Cemeteries Order 1977.

3. I hereby declare that I will indemnify the Breaston Parish Council against all actions, proceedings, demands, costs, and expenses of any nature whatsoever (including the exhumation of any burial) should it be subsequently proved my claim as aforesaid is unfounded and that I have no title to exercise the rights in this grave.

4. And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory

Declaration

Declared at:.....on this date:.....

Signature of Applicant:.....before me
(name of J.P. or Commissioner of Oaths)

Signature:.....

Office Address.....