

DRAYCOTT CEMETERY, HOPWELL ROAD, DRAYCOTT

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

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 Draycott and Church Wilne 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
Draycott and Church Wilne Parish Council
The Parish Rooms
Elvaston Street
Derby
DE72 3PY
clerk@draycott-pc.gov.uk

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

May 2025

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 Draycott Cemetery, Hopwell Road, Draycott	
Which was granted to the deceased by Draycott and Church Wilne 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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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 Draycott Cemetery, Hopwell Road, Draycott 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	

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