



# **HOOK PARISH COUNCIL**

## **Guidance notes on Grave Ownership**

# Exclusive Right Of Burial

The following guidance notes briefly describe the Grave Owner's rights and responsibilities.

## Guidance Notes for Grave Owners about the 'Exclusive Right of Burial'

The ownership of a Grant of Exclusive Right of Burial<sup>1</sup> within a grave not only gives the owner certain rights, but also imposes a number of requirements and responsibilities.

The following guidance notes briefly describe the grave owner's rights and responsibilities. If you need clarification on any of the information provided, or if you need any information relating to cemetery matters, please do not hesitate to contact the Parish Council.

## Burial Rights

The Grant is a written document (grave deeds); the Parish Council issue this when the appropriate fee has been paid. The period for which any rights apply is stated on the deed. During this period you, as the person registered with the Parish Council as being the owner of the Grant, have the sole right to decide who may be buried within the grave.

### **Please note:**

The Grant does not convey any ownership of the land itself, as this will remain in the ownership of Hook Parish Council.

## Memorial Rights

The Exclusive Right of Burial includes the right to have a memorial installed on the grave. This must be approved by Hook Parish Council.

You, as the grave owner, must apply for permission if you wish to have a memorial erected, re-erected or altered on a grave. Normally, the application will be completed and submitted on your behalf by the Funeral Director or Memorial Stonemason appointed by you to carry out the work.

Only the instructions from the grave owner will be accepted.

### **Please note:**

The Parish Council will remove memorials which have not been authorised, do not comply with Memorial Regulations, or are considered to be a danger or offensive to other visitors.

## **Responsibility for Memorials**

It is important to remember that it is the grave owner and not the Parish Council that is responsible for the maintenance of the memorial, and any other items placed on the grave.

## **Memorial Maintenance**

If a burial is to take place in an existing grave you will need to ensure that the memorial, decorative items such as pot plants, artifacts, and so on are removed before the grave is opened (where required). This may be carried out by arrangement with the Funeral Director or Memorial Mason.

You are responsible for making sure that any memorial installed on your grave plot has been properly constructed, and has been installed in accordance with the best practices of the memorial industry. You should expect your memorial supplier to guarantee their work for a limited period.

If the memorial should become dilapidated or unsafe, steps may be taken to lay it down or remove it. It is therefore wise to arrange for it to be regularly maintained and inspected.

We recommend you insure the memorial against theft, loss, or damage. Most Memorial Masons can arrange for appropriate cover.

We strongly recommend that you have the stability and condition of the memorial checked each year. Failure to do so may result in you being held liable for any injury or damage caused to a third party, particularly if the injury or damage is shown to be due to the condition of the memorial or the way it was installed.

We have a duty of care towards cemetery visitors and we will carry out safety inspections of memorials.

If a memorial is identified as being unsafe or potentially dangerous we have to take action to reduce the risk to visitors. If the memorial is unstable, and liable to fall, the memorial may have to be laid down on the ground, or temporarily made safe to reduce the risk of injury to others and damage to the memorial. We will attempt to contact you at your last known address, to tell you why we are taking action. If you arrange for regular memorial inspections you could avoid the need for us to take this action.

## **Grave Maintenance**

In the period following a burial the grave surface will need to settle. This normally takes a minimum of 6 months. This period may extend depend on conditions. The undertaker is responsible until the grave settles.

If a grave is turfed, the Parish Council will regularly mow the grave. If the grave is not turfed, it is the responsibility of the grave owner to maintain the grave. See our Rules and Regulations of Hook Parish Cemetery

**Please note:**

We reserve the right to remove and dispose of items which prevent or interfere with the maintenance of the grave or which may be a safety risk to other visitors.

## General Notes

Please keep the Grant document in a safe place, as this is the only legal document you have which confirms your entitlement to further burials in the grave and your memorial rights.

Please also inform the Parish Council of any change of address.

## Assignment of Grant

At the time of burial, we will register the Grant in the name of the person given on the application form. In order for us to recognise a transfer of ownership<sup>i</sup> the proposed new owner will need to prove legal entitlement to the Grant:

- Where a formal Letter of Assignment or bequest in a will, signed by the former registered owner, has been given, which passes the ownership of the Grant to the new owner.
- Where the original owner of the grave rights has died, the person holding the Grant document has inherited the estate of the deceased and is therefore legally entitled to claim ownership of the Grant.
- If the estate of the original owner has been divided amongst surviving heirs, (for example, where the deceased left no will), all the deceased heirs of equal standing will have claim to the ownership of the Grant. In such circumstances, the person wishing to be registered as the new owner will need to provide written proof that the other legal claimants agree to relinquish any claim or entitlement to the ownership of the Grant.

Whether the new owner wants to exercise the rights of burial or not, the transfer is required in order to exercise any rights with regard to the memorial or grave maintenance.

**Please note:**

We reserve the right to amend these guidance notes from time to time without prior notice.

For information on current fees associated with Exclusive Rights of Burial and Transfers, please refer to our Table of Fees.

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<sup>i</sup> *The Transfer of Exclusive Rights of Burial is a legal process under Article 10(6) of the Local Authorities Cemeteries Order 1977.*