

FILLONGLEY PARISH CEMETERY

Nuneaton Road, Fillongley, Warwickshire



EXCLUSIVE RIGHTS OF BURIAL

Information about Grave Ownership and Transferring Grant of Exclusive Rights

EXCLUSIVE RIGHTS OF BURIAL

Many people believe that if they possess the Grave Deed (the Grant or EROB) document itself, this means they are the Grave Owner, but for the burial authority (Fillongley Parish Council) to recognise the owner, that person must be specifically named on the Deed, and registered with the Cemeteries Office as Owner.

When a grave is 'purchased' this refers to the purchasing of the exclusive right of burial in a grave space and not the purchase of the land itself. This means that you do not own the land nor have any automatic right to place anything on that land, but only have the exclusive right, during the period stated in the Grant of Exclusive Right of Burial, to say who can be buried in the grave. Also, provided that you do not, during your lifetime, transfer the right to another person, and provided that the period stated on the Grant of Exclusive Right of Burial has not expired, you can choose to be buried in the grave yourself.

Legally, a number of people can jointly own the right of burial. This may be sensible in some circumstances, but you should bear in mind that before a grave can be opened for a burial, or a memorial placed or altered, all owners must agree in writing. This could cause problems if one or more of the joint owners are unavailable – perhaps on holiday, or there is a family dispute – and this permission cannot then be obtained.

All grave owners have a legal right to be buried in the grave, and in such situations permission from any other owner is not required.

When there are a number of grave owners and one dies, the rights are shared by the remaining owners. The last surviving owner only can pass on the rights at death.

The number of persons buried in any grave is dependent upon the depth of the first burial and whether or not cremated remains will be interred. In Fillongley, a full sized double depth grave, when initially requested for 2, it will give sufficient space for 2 full burials and 8 cremated remains interments.

A grant of exclusive right of burial is always issued to the grave owner(s). This should be kept in a safe place, as it will be required should there be a further burial in the grave at some point in the future. Where the grant cannot be produced, this could delay the funeral. No burials or changes to memorials can be authorised without the permission of the holder(s) of the exclusive right of burial.

Please advise us if you change your address. This is most important to enable us to keep our records up to date and contact you should the need arise.

The Council may also grant the Erection of a Memorial on the grave, subject to it meeting the cemetery regulations in force at the time.

In accordance with the Local Authorities Cemeteries Order all grave rights are sold for a fixed period (70 years - although these periods can be extended when nearing expiration). The number of years the rights have been granted for is shown on your Grave Grant. At, or nearing, the end of this period you may apply to the Council to extend those rights.

The Exclusive Rights of Burial may be transferred at any time. However, this transfer must be carried out by the council and no other form of transfer can be recognised. There are two forms of transfer (see below).

Transferring an exclusive right of burial whilst the owner is alive

If you wish to, you can transfer those rights to another person and the documents that we will require from you are available from Fillongley Parish Council.

If you wish to transfer the ownership during your lifetime you must complete a Form of Assignment and submit it to Fillongley Parish Council together with the Grant of Exclusive right of Burial.

Transfer an exclusive right of burial when the owner has died

Transferring the ownership once the owner has died can be a little more complicated, but it is vital that it is done correctly. The following sections describe the information required to enable us to properly process transfers of grave ownership.

2.1 If the Deceased Owner Left a Will

If the deceased owner left a will stating who the Grant of Exclusive Right of Burial should be passed to and you are that person we will require:

1. The original Grant of Exclusive Right of Burial
2. The Grant of Probate
3. An Assent from the Executor(s) of the Will giving the Grant of Exclusive right of Burial to you. If no Assent is provided, we will automatically transfer the Rights to the Executor. Unfortunately, we must take instruction from the Executor and not any beneficiaries that may be named in the Will.

If the deceased owner left a will of insufficient value to merit application to be made for Grant of Probate and you claim the exclusive right of Burial, we will require:

4. The original Grant of Exclusive Right of Burial
5. The Death Certificate
6. A Statutory declaration detailing the relationship of the person claiming the Right of Exclusive Burial to the deceased owner.
7. A Form of Renouncement 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.

2.2 When there is No Will

If the owner dies without leaving a will we will require:

8. The original Grant of Exclusive Right of Burial
9. The Grant of Letters of Administration
10. A Form of Assent from the Administrator(s) giving the Grant of Exclusive Right of Burial to you.

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

11. The original Grant of Exclusive Right of Burial
12. The Death Certificate
13. A statutory declaration detailing the relationship of the person claiming the rights to the registered grave owner.
14. A Form of Renouncement from all other people who would be entitled to claim the Grant of Exclusive Right of Burial.

NOTES;

1. ***Insufficient Value: This currently means that if the estate is below £5,000, and doesn't contain any land, property or shares, it may be possible to deal with it without a grant. A grant might not be needed if the whole of the estate is held in joint names and passes automatically to the surviving joint owner.***
2. ***References to Wills in this information are references to Wills recognised as valid by the laws in England and Wales and all Statutory declaration must be witnessed by a Commissioner for Oaths or a Magistrate.***

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 themselves, possibly through the agency of solicitors, can only resolve this

Please note, however, you may wish to consider having your own independent legal advice regarding your circumstances and completing of the forms. You are responsible for ensuring that the proper form has been completed and all details contained in it are correct. Unfortunately, although we may give guidance, we are unable to complete forms.

The forms to be used for transferring deeds ownership

Blank copies of the forms used by Fillongley Parish Council may be obtained from The Clerk, The Crooked Stile, St Mary's Road, Fillongley, CV7 8EY, or from the FPC website; fillongleyparishcouncil.co.uk

1. ***FPC Form of Assent*** Used to transfer ownership from an executor or administrator after ownership has been transferred into their name by production of Probate or Letters of Administration.
2. ***FPC Form of Assignment*** Used by a living owner to transfer or change the ownership of the exclusive Rights of Burial i.e. to transfer to new owner or add an additional owner.
3. ***FPC Form of Renunciation*** Used together with a Statutory Declaration when grave is being claimed by more than one person i.e. the deceased may have three children and next-of-kin, and one or more of those children wishes to give up their Rights to the ownership. NB Fillongley Parish Council advises that due to Administration Restrictions we only accept a maximum of ONE owner.

Grant of Probate

Granted to the executor/s of a Last Will and Testament once a document has been proven in Court. To be legally acceptable we can only accept sight of a “SEALED” Grant; i.e. it must bear the embossed seal of the court.

Letters of Administration

When a deceased person dies intestate then the next of kin can apply to the Courts to be made Administrator of the estate. An Administrator receives the same powers to administer the estate of the deceased as an executor.

Statutory Declaration

Used to transfer ownership from a deceased owner when no official documents have been issued. Declarations can be either based on a Will that did not go to probate, claiming ownership by the executor or by the Next of Kin if the deceased left no will.

Certificates

All certificates supplied with transfer applications must be originals or certified copies (NB Birth certificates supplied for identification in a Deed Transfer must be a full birth certificate and not a short birth certificate

Useful information to help you transfer the ownership of a grave including information on how to get copies of certificates can be found at www.direct.gov.uk.

For further information please contact Fillongley Parish Council, The Crooked Stile, St Mary's Road, Fillongley, Warks, CV7 8EY. 01676 549193 or email: clerk@fillongleyparishcouncil.co.uk

