



# Grave Ownership or Deed Transferral

**Great Aycliffe Town Council**



## Contents

Grave Ownership or Deed Transferral .....	1
Exclusive Right of Burial.....	3
Transfer of Grave Ownership .....	3
Deceased Left a Valid Will .....	3
Grant Letters of Administration Have Been Obtained .....	3
Family Disputes.....	4
Deceased Dies Intestate .....	4
Forms of Transferring Deeds Ownership .....	7
Form of Assignment.....	7
Grant of Probate .....	7
Letters of Administration .....	7
Form of Assent .....	7
Statutory Declaration .....	7
Form of Renunciation .....	7
Certificates.....	7
Useful information to help you to transfer the ownership of a grave.....	7
How to get a copy of a Death Certificate .....	7
Fees.....	8

## Exclusive Right of Burial

When you buy a grave at Stephenson Way or West Cemetery, what you are actually buying is the Exclusive Right of Burial for a specific period of 99 years. You are not buying the grave freehold; it is more like purchasing a lease. No burial may take place in the grave and no memorial may be placed on the grave without the written permission of the grave owner during the period of the Exclusive Rights. A fee is payable for the digging and preparation of a grave at the time of burial and a fee is also payable for the installation of a memorial.

Ownership of the Exclusive Right of Burial is therefore a very important matter. Ownership can be transferred either during the owner's lifetime or after their death. The procedure for transferring the ownership is detailed below. There is a charge for processing the transfer of ownership of the Exclusive Right of Burial.

The Council's records contain the details of the registered grave owners. However, it is important that the grave owners keep safe their Deed of Grant. The Council issues this document when the grave is first purchased, and it should be produced for each burial. Possession of the Deed does not in itself signify ownership of the Exclusive Rights.

## Transfer of Grave Ownership

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

**Note:** The Council will not accept an assignment of Exclusive Right of Burial where the intention is to avoid non-parishioner charges.

The owner can surrender the Exclusive Rights of Burial if the grave has not been used for burial, on completion of a Surrender Form. The surrender value being the original purchase price as specified on the Deed of Grant.

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 Transfer – Grant of Probate 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 Form.

### Grant Letters of Administration Have Been Obtained

If there is no will, or the will is not valid, and the estate is of insufficient 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. It is then the applicant's responsibility to identify the correct person for transfer of ownership and assent the transfer by completing an Assent Form.

## Family Disputes

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot be transferred, and no further burials will be allowed. Only the various next-of-kin reaching an agreement between them, possibly through the agency of solicitors, can resolve this.

## Deceased Dies 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; forms are available from the Council Offices. Statutory Declarations are legal documents, produced by this office, and must be signed and sworn in the presence of a Magistrate or Commissioner for Oaths. There is usually a cost associated with this service.

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 Declaration.

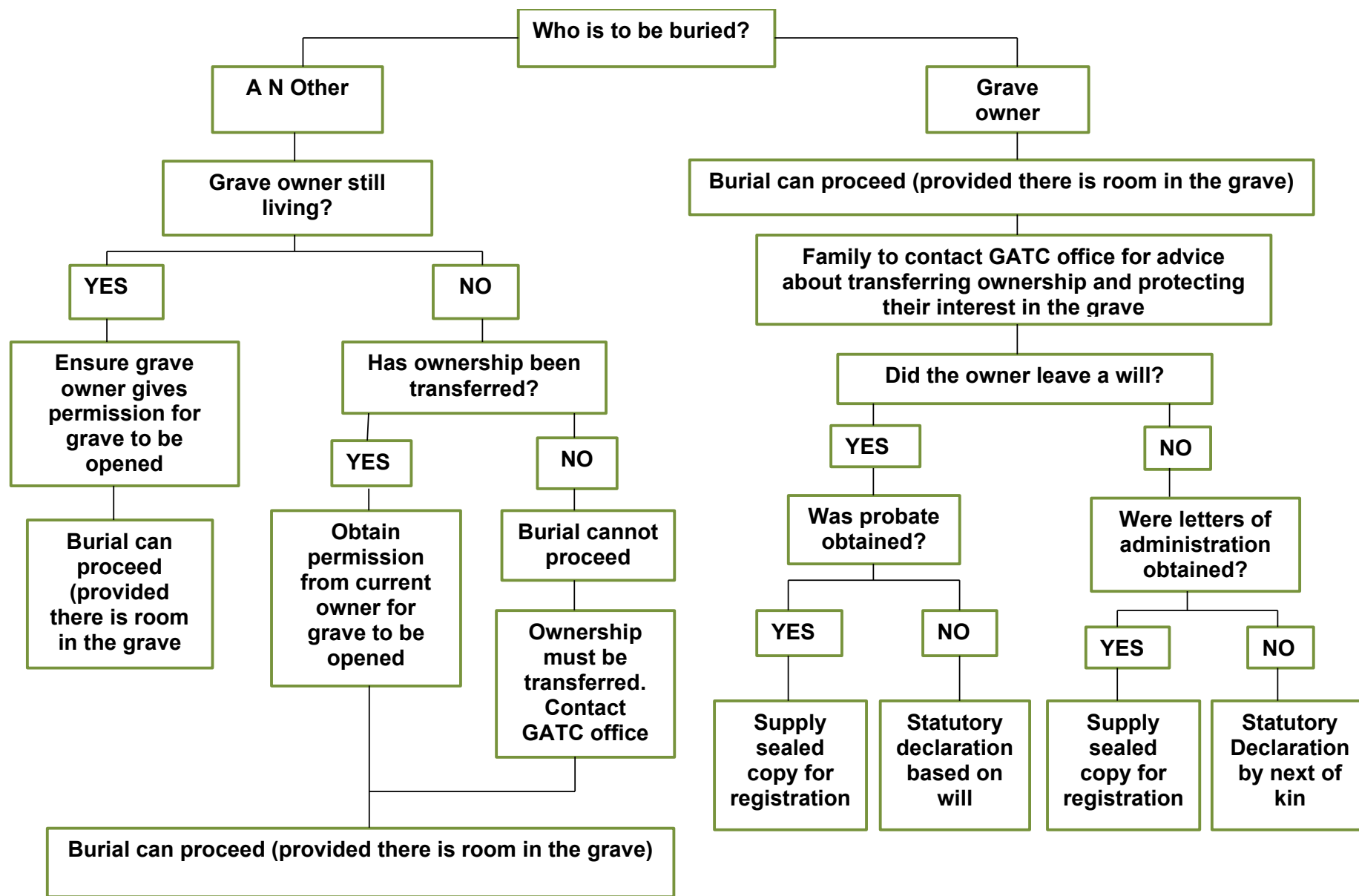
Where the Deed has been lost, suitable wording should be incorporated within the Declaration to this effect. It is essential that the written agreement of all the next-of-kin of the deceased owner to the transfer of ownership should also be obtained and attached to the Declaration. The following are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

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

A fee is payable to Great Aycliffe Town Council for the transfer of grave ownership.



Please do not hesitate to contact Great Aycliffe Town Council: 01325 300700, if you require any further information or advice on how a transfer can be effected.



## **Forms of Transferring Deeds Ownership**

### **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.

### **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, ie it must bear the embossed seal of the court.

### **Letters of Administration**

When a deceased person died intestate then the next of kin can apply to the courts to be made administrator of the estate. An administrator received the same powers to administer the estate of the deceased as an executor.

### **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.

### **Statutory Declaration**

Used to transfer ownership from a deceased owner when no official documents have been used. 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.

### **Form of Renunciation**

Used together with a Statutory Declaration when grave is being claimed by more than one person, ie 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.

Note – Great Aycliffe Town Council wishes to advise that, due to administration restrictions, we can only accept a maximum of three owners.

### **Certificates**

All certificates supplied with transfer applications must be originals or certified copies.

Note – 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 to transfer the ownership of a grave**

### **How to get a copy of a Death Certificate**

#### **The National Archives**

You will need to know the full names, date and place of death. If this is not known, you can search the index of deaths from 1837 until the present day, at the National Archives at Kew, Richmond, Surrey, TW9 4DU. Telephone 020 8876 3444 or visit their website <http://www.nationalarchives.gov.uk> for information. From 1984 you search by a year and then alphabetically by surname. Prior to 1984, the search is by quarters of each year.

## **The Register Office**

If the death was within the last 18 months, you can ask for a copy death certificate from the Register Office for the area in which the death occurred. You can get a copy certificate from 1836 to the present day from The General Register Office (GRO). Copy death certificates can also be ordered online at:

<http://www.gro.gov.uk/gro/content/certificates>.

Further useful information can be found at [www.direct.gov.uk](http://www.direct.gov.uk)

How to get a copy of a Will, Probate or Letters of Administration

## **The National Archives**

If you need to find out if a will was made, you can search the index to all wills at the National Archives at Kew: <http://www.nationalarchives.gov.uk> Their index is from 1858 to 1943 on microfiche. You could visit their website for help and information.

## **The Probate Service**

To get a copy of a Will, Grant of Probate or Letters of Administration, you can write to The York Probate Sub Registry, First Floor, Castle Chambers, Clifford Street, York, YO1 9RG. There is a small fee and any cheque should be made payable to HMCS.

A copy is usually provided within 21 days of your request. The full name of the deceased, date of death and last known address must be provided. You cannot request a copy of any Will, Grant of Probate or Letters of Administration by telephone.

You can also get a copy of any document in person by visiting First Avenue house, 42-49 High Holburn, London WC1V 6NP. The offices are open from Monday to Friday, from 10am until 4.30pm. Telephone 020 7947 6000/6939 or visit the Probate Service website: <http://www.hmcourts-service.gov.uk/>

Please note that any document produced for a transfer of grave ownership should show the embossed area of the seal, or be a certified copy of the original.

## **Fees**

The transfer of grave ownership is handled by the Cemeteries officer and there is a fee payable. You can contact the Cemeteries Officer on 01325 300700 to enquire about the current fee applicable. Payments are made payable to Great Aycliffe Town Council.