

# Saltash Town Council

## Guide to Grave Ownership and Deed Transfer

### **Grave Ownership – Exclusive Right of Burial**

When a grave is purchased a Deed will be issued giving the Exclusive Right of Burial to the grave owners named on it. This Deed is a legal document however possession of it does not signify ownership, please keep it in a safe place.

The Exclusive Right of Burial is a lease on the next available grave, which will be allocated by Saltash Town Council. It lasts for 10 years and gives the grave owners' burial rights providing there is sufficient space, please keep in a safe place.

The Town Council will usually put one name on a Deed. It is useful to note that before a grave can be opened, or a memorial stone put up or altered, permission needs to be given in writing by the named person on the Deed. Please remember to keep us informed when a Deed owner moves home.

The grave owner has a legal right to be buried in the grave space providing there is sufficient space. When the grave owner passes away, they still retain the right to be buried in the grave but ownership must be transferred before the headstone can be put up and altered.

### **Transferring Grave Ownership**

There are several types of grave ownership transfer; if the person transferring is living, they can choose who is put on the Deed. If the person on the Deed has died the Deed must be transferred to persons entitled to it:

#### **1. Living Transfer**

- a) A grave owner can transfer ownership during their lifetime to another person or add more names to the ownership using Form of Assignment.

A grave owner has passed away, the procedure followed depends on whether the owner left a Will.

#### **2. Grave Owner leaves a Will requiring Grant of Probate**

If the grave owner made a valid Will and left an estate of sufficient value to require Grant of Probate, ownership of the grave is to be transferred to the Executor. To be legally acceptable, the Town Council must have sight of the "sealed" Grant bearing the embossed seal of Court. Once it has been seen it will be returned.

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### **3. Grave Owner leaves a Will that does not require Grant of Probate**

If the grave owner made a valid Will but did not leave an estate of sufficient value requiring Grant of Probate, ownership of the grave is to be transferred to the Executor. To be legally acceptable, the Town Council must have sight of the Will showing the name of the Executor. If posted, once it has been seen it will be returned. A Statutory Declaration will then be prepared, based on the Will, the person making the declaration will be asked to sign it under Oath.

### **4. Grave Owner does not leave a Will but Grant of Letters of Administration was obtained**

If the grave owner did not leave a valid Will and Grant of Letters was not obtained, the rules of intestacy apply, for example;

- a) If the grave owner is survived by a married or civil partner, the partner is the entitled person
- b) If the grave owner has no living partner and is survived by children, all the children are the entitled persons
- c) If the grave owner has no living partner or children, all siblings are entitled persons.

The entitled person will be asked to sign a Statutory Declaration under oath; it is worth noting that one entitled person can make the declaration on behalf of other entitled persons.

If you do not know if the grave owners left a Will or obtained Grant of Letters of Administration, it is suggested that you contact the Office of Probate.

Because the transfer of Deeds is a legal process, the Town Council reserves the right to deny a transfer until satisfied that any persons wishing to take on the ownership are entitled to do so.

If you have any questions about grave ownership please contact  
Saltash Town Council, The Guildhall, 12 Lower Fore Street, Saltash. PL12 6JX  
Tel : 01752 844846 Email: enquiries@saltash.gov.uk

For further support or advice on bereavement please visit:  
<http://www.cornwall.gov.uk/advice-and-benefits/deaths-funerals-and-cremations/>