



# Sherborne Town Council

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## Sherborne Cemetery

### Transfer of Burial Rights

A single grave owner has the automatic right to be buried in that grave (space permitting). However, if after the burial of the grave owner has taken place an additional burial is requested, or a new memorial or additional inscription is required, a Transfer of Burial Rights will have to be carried out to establish a new legal grave owner.

It is a common misconception that, when the grave owner dies, the burial rights automatically transfer to the wife/husband or to the eldest child if more than one, who may also have possession of the Deed of Grant certificate. This is not the case. The eldest child has no more rights than the youngest and possession of a Deed of Grant does not give automatic entitlement to ownership of the grave.

The minimum legal age for entitlement to ownership of burial rights is 18.

Sherborne Town Council charges a fee of £40 (inclusive of VAT) for the transfer of burial rights unless the transfer requires a Statutory Declaration to be drawn up in which case the fee is £60 (inclusive of VAT).

For your information some scenarios regarding the transference of Burial Rights are given below but it is recommended that you contact the Facilities Officer at Sherborne Town Council to discuss your particular situation.

#### **If the deceased left a Will.....**

...then the person(s) responsible for the administration of the estate will be the Executor(s) named in the Will. The Executor(s) will be responsible for collecting the deceased person's

assets, distributing the estate and paying any debts. Before assets can be collected and the estate administered, the Executor(s) have to apply to the Probate registry for a legal document known as a Grant of Probate. So, if the deceased left a Will and an estate of sufficient value for which Grant of Probate has been issued, whoever is named in that Grant of Probate will be the person who is automatically entitled to the Burial Rights. In some cases this could be the solicitor who has been named as the Executor in the deceased person's Will to administer the estate on their behalf. A transfer of the Burial Rights can be immediately carried out to those named in the Grant of Probate upon Sherborne Town Council seeing the original Grant of Probate or a sealed copy.

In the situation where the Burial Rights have been transferred to a solicitor or other person not related to the family, the family often request that the Rights are transferred back to the family. It is the solicitor, or whoever was named on the Grant of Probate, who is responsible for establishing who is entitled to the Burial Rights because whoever is named on the Grant of Probate has become the new legal owner. In order to transfer the Rights to someone else, the solicitor or whoever was named on the Grant of Probate will be required to complete a Form of Assent to be submitted to Sherborne Town Council.

If the deceased has left a Will but the estate was **not** of sufficient value to go to Probate, then those named as the Executor(s) of the Will are entitled to the Burial Rights. The transfer can be completed via a sworn Statutory Declaration. The Facilities Officer at Sherborne Town Council can assist the Executor(s) in the drawing up of the Statutory Declaration if required.

**If the deceased did not leave a Will.....**

....., then the law states that the person died Intestate and the person's estate is distributed according to Intestacy Rules.

The person who administers the estate is called the Administrator and, as such, undertakes a very similar role to that of the Executor. To collect the various assets of the estate (including the Rights to a grave space), a legal document known as a Grant of Letters of Administration must be obtained from the Probate Registry. Once the Grant of Letters of Administration has been obtained, those named on the Grant are entitled to the Burial Rights. Sherborne Town Council will arrange the transfer on production of a sealed copy of the Grant of Letters of Administration.

If the estate is small, obtaining a Grant of Letters of Administration is not always required. In the circumstances where neither a Will was left nor a Grant of Letters of Administration was obtained, then the Burial Rights can be transferred to whoever it is established is/are entitled. In this situation, a Statutory Declaration is required. In some cases a Form of Renunciation is required to accompany the Statutory Declaration. A Form of Renunciation is used when the deceased has several children or next of kin and one or more of them wish to give up their Rights to the ownership.

**A surviving grave owner....**

..... can also transfer the ownership to someone else or include a son or a daughter. This can only be carried out using an Assignment of Right of Burial form, obtainable from Sherborne Town Council.

For further information or to discuss any of the above matters, please contact:

Judith Simpson, Facilities Officer, Sherborne Town Council: 01935 812807 or [j.simpson@sherborne-tc.gov.uk](mailto:j.simpson@sherborne-tc.gov.uk)