

Graves, memorials and maintenance: entitlements and obligations

1. Exclusive Right of Burial in a grave

i) What is a grant of Exclusive Right of Burial?

The grant is a deed which is issued on the payment of the appropriate fee. It contains the name of the person to whom the right to decide who may be buried in a specified grave plot has been given for a stated period of time. In Pickering cemetery the grant of exclusive right of burial lasts for sixty years from the date of issue.

It is important to retain the deed in a secure place, as it is the only legal document held by the owner confirming their entitlement to the burial right. It is also important to notify the council of any change of address.

ii) What is, and what is not, meant by the Exclusive Right of Burial?

The right allows the recipient to decide who may be buried within the grave. This means that

- the remains of two people may be buried and up to two containers of cremated remains or
- the remains of one person may be buried and up to three containers of cremated remains or
- up to four containers of cremated remains may be buried in the specified grave plot.

Where it is intended that a grave space is used to accommodate both human and cremated remains, the human remains must be interred first.

The right does not confer ownership of the grave plot or the right to carry out any particular activity on it. The land remains in the ownership of the council.

iii) Fees

The council reviews each year the fee for the exclusive right of burial and any increase in the fee comes into force on 1 April of the following year. Fees for non-parishioners are doubled.

iv) Renewal of grant of Exclusive Right of Burial

- a) A grant of exclusive right of burial can be extended beyond sixty years for a further thirty years only. The fee will be the rate for purchase applicable at the time.

It is the responsibility of the owner of the grant to apply to the council before the expiry of the term of the grant for an extended term; otherwise the grant will end.

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v) Transfer of the Right

At the time of purchase, the grant will be registered with the council in the name of the person given on the application form. Contrary to what many people believe, the possession of the grant deed does not in itself convey entitlement to the burial rights of the grave plot. In order for a transfer of ownership to be recognized by the council the possessor will need to prove legal entitlement to the grant:

- where a formal Letter of Assignment, signed by the former registered owner, has passed the ownership of the grant to the deed possessor;
- where the original owner of the grave rights has died, the person holding the deed 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's 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.

vi) Repurchase of the Right

The council will buy back a grant of exclusive right of burial but only at the price for which it was originally bought.

vii) Common graves

Any grave where the exclusive right of burial has not been purchased is known as a common grave. The council's policy on interment in a common grave is that parishioners only are entitled to be buried in them; non-parishioners will have to purchase exclusive rights of burial at double the parishioner rate.

Burial in a common grave does not confer any entitlement to the installation of a memorial.

Please be aware that the council retains the right, in these cases, to carry out further unrelated burials in that grave.

2. Grave maintenance

i) Grounds maintenance regime

The cemetery, more particularly the newer sections, is laid out in such a way as to enable council contractors to gain easy access to all graves thus allowing more effective maintenance of grave surfaces (and also simplifying the excavation of graves).

The council is responsible for maintaining the cemetery grounds and pays a contractor to do the work. The specifications are available from the council office.

Grant owners have no right to direct the contractor's employees in their work. Should they have a complaint about the employees, they should contact the clerk to the council. They should not deal directly with the employees themselves.

ii) Back-filling and settlement

In the period following a burial the grave surface will be subject to sinkage due to soil settlement. The initial settlement can take up to six months. The council will level new graves after the initial settlement has taken place. This will happen either at the back end of the year or in early spring weather permitting. From time to time the council will level up graves as further settlement takes place.

iii) The grave space

To allow for ease of maintenance the grave surface must be free from obstructions. The council welcomes the planting of early flowering bulbs such as crocus and narcissus in the grave space, but unfortunately cannot allow the planting of trees or shrubs or other plants. Full length gardens, memorials and mounds are not permitted. Nor are grooves demarcating the boundary of the grave.

Receptacles for holding flowers should be incorporated in the memorial to the deceased. Any other receptacle should be placed as closely as possible to the memorial. Flower containers should be made of material that will withstand time and weather conditions as materials such as glass or porcelain will often crack due to water freezing during periods of zero temperature. Similarly, plastic material becomes brittle due to prolonged exposure to sunlight. The council reserves 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. Tributes and memorials can constitute trip hazards.

Fresh and artificial flowers are allowed on the grave but should be removed before they became unsightly otherwise the council itself will have them removed from the cemetery.

The council allows wreaths to be placed on graves at festivals and anniversaries but, as with natural and artificial flowers, should be removed before they became unsightly otherwise the council itself will have them removed from the cemetery.

3. Memorials

i) Owners of exclusive rights of burial are entitled to apply for permission to have a memorial erected upon a grave plot.

Because a memorial is a monument and a tribute to a person's life, perhaps a final gift to someone dearly loved, it is important to choose it carefully. Hasty decisions made while still in great distress can result in later regrets so it can be sensible to wait and to spend time on selecting a suitable design.

ii) Application to the council for permission to erect a memorial

There are two aspects to the application:

- the owner of the grant seeks permission from the council to erect a memorial;
- the monumental mason (who has been instructed by the owner of the grant to provide and install a memorial) sends details to the council of the design, material and its colour and inscription for approval.

The council charges the owner of the grant a fee for permission to erect a memorial and another fee should, subsequently, an additional inscription be required. The right to erect a memorial is for thirty years only but it can be extended for a further thirty years

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subject to the agreement of the council and on the payment of the fee applicable at the time of application.

Those who are given the right to erect a memorial will have to keep the council informed of change of address.

The council advises all applicants to ensure tenure that the monumental mason neither begins work on the memorial nor inscribes it before permission and approval have been given.

iii) Restrictions

- a) There are no restrictions upon the design of a memorial other than considerations of public safety, the prevention of offence to cemetery visitors and the upright part, on which is the inscription is usually engraved, being no more than 19 inches in height though, in exceptional circumstances, the council will consider requests for larger memorials.
- b) There are no restrictions on the material used to make the memorial other than it should complement the material of other memorials in that section of the cemetery in which it is to be located.
- c) There are no restrictions on the wording inscribed on a memorial other than it should not give offence to other members of the public.
- d) The council will not allow the installation of
 - kerbs or any memorial which will cover or part cover the grave, eg, a granite slab, save in exceptional circumstances;
 - fencing or railings or hedging or a groove to be dug around the grave as a boundary, on the grave plot.

The council will remove memorials which have not been authorised, do not comply with its regulations or are considered to be a danger or offensive to other members of the public.

iv) Fees

The council reviews each year the fees for permission to erect a memorial and additional inscriptions and any increase in the fee comes into force on 1 April of the following year. Fees for non-parishioners are doubled.

v) Responsibility for memorials

- a) The owner of the grant is responsible for ensuring that any memorial masonry installed on the grave plot has been properly constructed, and has been installed in accordance with the standards laid down by the National Association of Memorial Masons.
- b) It is recommended that all memorials should be insured against theft, loss, or damage.
- c) It is important to remember that it is the owner of the grant and not the council that is responsible for the maintenance of the memorial and its foundation. It is strongly

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recommended that the owner of the grant should have the stability and condition of the memorial checked and whether the foundation is level at least annually and make good at his or her own expense any defect or defects that is identified. Failure to do so may result in the owner of the grant being held liable for any injury or death caused to a third party if the injury or death is shown to be due to the condition of the memorial or the manner in which it was installed.

- d) Owners (or their agents) of kerbed graves are required to dismantle them, irrespective of whether they are rafted or not, prior to a new interment taking place; however, kerbed graves without rafts will not have to be dismantled prior to caskets of ashes being buried in them but kerbed rafted graves might have to be. The decision will be at the discretion of the Clerk and gravedigger. Owners (or their agents) will be responsible for removing the kerbs to a place where they will not be a hazard to members of the public and removing the raft fragments from the cemetery. The dismantling of a kerbed grave and the removal of the raft fragments from the cemetery is to be effected three days before the interment takes place.
- e) Owners (or their agents) of memorials which take the form of a slab or chest covering part or all of a grave are responsible for their removal from a grave, prior to a new interment taking place. The work is to be effected three days before the interment.
- f) The council has a duty of care towards cemetery visitors. In order to comply with this duty, the council will carry out safety inspections of memorials.

In the event that a memorial is identified as being a potential hazard, the council is duty bound to take action to reduce the risk to visitors. If the memorial is unstable, and liable to fall, the memorial has to be laid down onto the ground to reduce the risk of injury to others. The council will attempt to contact the owner of the grant, at their last known address, to inform them of the reason for taking action. Regular memorial inspections arranged by the owners of the grant themselves will avoid the need for such action.

4. Soil boxes

The council reserves the right to place soil boxes on graves next to those which are being opened without notice. The soil box will be removed immediately after the interment and the grave will be left as it was previously.