

WEST HALTON AND COLEBY PARISH COUNCIL

Transferring the Exclusive Right of Burial – Initial Information

The Exclusive Right of Burial in a grave in our cemetery is granted by West Halton and Coleby Parish Council. It allows whoever is granted the Right to be buried within the grave. It also permits them to cause other burials in the grave if that is their wish.

The Right of Burial can be transferred at any point during the grant period, either when the owner is living, or through their Estate if they have passed away.

The Right of Burial is granted under the law, and as such, must be assigned or transferred in the correct manner, dependant on the situation. Below are the 4 possible scenarios and the relevant procedures we must follow in order to conduct a legal transfer of the Exclusive Right of Burial.

1. Assignment of the Exclusive Right of Burial whilst the owner is living.

At any time during the Grant period, the owner of the Exclusive Right of Burial may choose to assign it to another person, thus relinquishing their interest.

This also applies if they wish to assign the Right of Burial back to West Halton and Coleby Parish Council as the Burial Authority.

In either case, the owner must inform West Halton and Coleby Parish Council of their intention to assign the Right of Burial and provide information regarding any funds they may be receiving for the assignment. They must also ask whoever is to be assigned the Right of Burial to contact West Halton and Coleby Parish Council to provide their consent, as well as their personal details required for the Register.

Once confirmed, a fee is payable as per the West Halton and Coleby published fees. This can be arranged with the West Halton and Coleby Parish Council

When payment has been received, a Form of Assignment is drafted which the existing owner of the Right will need to sign in the presence of a witness (someone over 18 years old who is not a relation).

Following this, an appointment will be held with the clerk. This appointment will be attended by both parties and will allow us to perform our final due diligence checks, answer any questions, and update the Burial Registers to reflect the assignment.

This process also applies for anyone who wishes to assign the Right of Burial back to West Halton and Coleby Parish Council

2. Transfer of Exclusive Right of Burial to named person(s) on Grant of Probate or Letters of Administration.

This process allows for a transfer to take place when the owner of the Right of Burial has passed away, and their Executors or descendants have been granted Probate or Letters of Administration.

Firstly, the Grant of Probate or Letters of Administration must be presented to West Halton and Coleby Parish Council. A copy will be taken for the Register and the correct person(s) to take over the Right of Burial will be identified.

Once confirmed, a fee is payable as per the West Halton and Coleby published fees.

Single person named on Grant/Letters: Where a single person is named on the Grant of Probate or Letters of Administration, the Right of Burial can be transferred to said person immediately by contacting the clerk.

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This appointment will involve checking 2 forms of identification and updating the Registers to reflect the transfer.

Multiple named persons on Grant/Letters: Where multiple people are named, they may choose to either; take over the Right of Burial jointly or complete a Form of Assent transferring the Right of Burial to the other named person(s) or anyone they wish. The Form of Assent will be provided by West Halton and Coleby Parish Council and must be signed by all in the presence of a witness (someone over 18 years old and not a relation).

Once decided, the Right of Burial can be transferred to said person(s) immediately by appointment with the clerk. This appointment will involve checking the Form of Assent (if applicable), checking 2 forms of identification for each person, and updating the Registers to reflect the transfer.

3. Transfer of the Exclusive Right of Burial to an Executor of a Will – Where there is no Grant of Probate.

Where the owner of the Right of Burial has passed away, left a Will, and Probate was not granted, the Right of Burial will be transferred to their named Executor(s). In order to confirm this, the original Will, or Certified Copy, must be shown to West Halton and Coleby Parish Council. A copy will then be taken for the Register.

If there is more than one Executor, they must decide whether the Right of Burial is to be held jointly between them, in sole ownership, or if they wish to renounce their interest entirely in favour of another person(s). Any renouncement of interest must be done using the Form of Renunciation provided by West Halton and Coleby Parish Council.

Once intentions have been confirmed, a fee is payable as per the West Halton and Coleby published fees.

Once payment is arranged, a Statutory Declaration will be drafted and given to whoever is to take over the Right of Burial. This document must be signed in the presence of either; a Solicitor, Commissioner of Oaths, or Justice of the Peace.

Please note, the fee payable to West Halton and Coleby Parish Council **does not** cover any fee that may be charged by the person witnessing the Declaration.

Following this, an appointment will be held with the clerk. This appointment will be attended by all parties and will allow us to perform identification checks, answer any questions, and update the Burial Registers to reflect the transfer.

4. Transfer of the Exclusive Right of Burial to a Direct Descendant of the Deceased Owner - where they passed away intestate.

Where the owner of the Right of Burial passed away intestate (where no Will was left, and no Letters of Administration have been granted), the Right of Burial can be transferred to their direct descendants following the Intestacy Rules (e.g.: if they were married at their passing, their Spouse would inherit the Right of Burial, if not married then it would fall to their children, etc.). This can be confirmed by providing the relevant family information to West Halton and Coleby Parish Council.

If there is more than one descendant that stands to inherit, they must decide whether the Right of Burial is to be held jointly between them, in sole ownership, or if they wish to renounce their interest entirely in favour of another person(s). Any renouncement of interest must be done using the Form of Renunciation provided by West Halton and Coleby Parish Council.

Once intentions have been confirmed, a fee is payable as per the West Halton and Coleby published fees.

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Please note, the fee payable to West Halton and Coleby Parish Council **does not** cover any fee that may be charged by the person witnessing the Declaration.

Following this, an appointment will be held with the clerk. This appointment will be attended by all parties and will allow us to perform identification checks, answer any questions, and update the Burial Registers to reflect the transfer.

Questions and Queries.

If you have any questions regarding the information within this document, or you wish to discuss a transfer of the Exclusive Right of Burial further, please contact West Halton and Coleby Parish Council via the web site, in person at any Parish council meeting (dates are published on noticeboards and the web site) or by email to clerk@westhaltonandcolebyparishcouncil.gov.uk