

 <b>NORWICH</b> City Council	<b>Transfer Of Exclusive Rights to Burial by Executor</b>  <b>Form 1 –Deceased left a Will</b>	Ref No	
		Date	

## Guidance Notes

The Local Authorities Cemeteries Order 1977 (“LACO”) gives Norwich City Council wide powers for the management of a cemetery.

The Council has the right to grant a person an “Exclusive Right of Burial” (“ERB”), which includes the following rights:

- a. To be buried in a specific grave plot.
- b. To apply for permission to erect a memorial on the grave plot.
- c. To decide additional persons who can be interred in that grave plot.

Under the LACO, the Council must keep a register of burials. This includes keeping plans of all graves, vaults, and graves spaces subject to burial rights. The Council’s Statutory Registers contain the details of all registered grave owners.

It is important the grave owners keep safe their Deed of Grant as this is a legal document containing the grave details. The Council issues this document when the grave is first purchased. The owner should also keep the Council updated with their contact details.

When the original registered owner dies, the person who has the final say over the funeral arrangements is the executor (if there is a Will) or the administrator (if there isn’t a Will).

When the current owner is buried, the ERB can be transferred in accordance with a Will or if the owner died intestate (without a Will), then in accordance with the rules of intestacy. Possession of the Deed does not in itself signify ownership of the grave.

If the owner’s family members wish to arrange a further burial to take place in the grave, or for an additional inscription to be placed on the memorial, then the ERB needs to be transferred to another individual. This guidance and the forms attached will assist the council with your request to transfer ownership of the ERB.

The Council’s Register of grave ownership will be updated following the transfer of ownership.

**There is a fee payable for the transfer of grave ownership. Please enquire at time of transfer for current fees.**

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**Terms and definitions in this guidance:**

Administrator	Where there is no Will, the person appointed to deal with the deceased's estate.
Assignee	The nominated person who the Assignor wishes to transfer their ERB to.
Assignor	Current registered living owner of the ERB that wishes to transfer their ERB to another person.
Beneficiary	The person who is entitled to receive the whole, or part, of the estate.
Death Certificate	Official document certifying the death of a person.
ERB	Exclusive Rights of Burial.
Estate	Everything a person owns.
Executor	The person appointed, in the Will, to deal with the estate.
Grant of Probate	Official document, supplied by the Probate Registry, confirming the executors appointed in the Will has authority to act and it validates the Will.
Letters of Administration	Official document, supplied by the Probate Registry, confirming the person appointed to distribute the deceased's estate. This document is required if there is no Will, or there are no executors willing to act.
Intestate	Where a person dies without leaving a Will.
Probate	<p>The legal process of administering a deceased's estate. This involves organising their money, assets and possessions and distributing them, after paying any taxes and debts.</p> <p>If the deceased has left a Will, they will appoint an executor to do this and the estate will be distributed in accordance with the Will.</p> <p>If the deceased died intestate (without leaving a Will), then someone can apply for this role, and they will be called an administrator and distribute the estate in accordance with the Rules of intestacy.</p>
Statutory Declaration	A Statutory Declaration is a typed sworn statement explaining the registered owner of a grave/plot is deceased and names who is entitled to the Exclusive Rights of Burial and why. This statement must give names of all those persons entitled to the Rights, whether they wish to be owners or not. This has to be signed in the presence of a solicitor, commissioner of oaths or notary public.
Will	Legal document setting out who is appointed to distribute the estate (called an executor) and who is entitled to benefit from the estate (called a beneficiary).

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### Form 1 - Transfer of ERB by Executor(s) (Deceased left a WILL)

Form 1 covers situations where the deceased has left a Will and it is clear who the ERB will be transferred to.

If there is more than one entitled beneficiary, then the other beneficiaries may agree that one person should inherit the ERB. In this case, the other beneficiaries will have to renounce their claim. If this is the case, please also complete **Form 4**.

#### **Guidance for completing Form 1:**

Box 1 – Fill in the name of the deceased and details of the Deed of Grant.

Box 2 - Fill in the name of the beneficiary (the person who will now be the new owner of the ERB). You should briefly describe which clause of the Will shows the beneficiary is legally entitled to inherit the ERB.

Boxes 3– 6 – Fill in the details of each Executors. There may be up to 4 executors.

Box 7 – All executors should read the fine print and sign this box.

What documents you need to include with Form 1:

- ☐ **The Will**
- ☐ **Death Certificate of the registered owner**
- ☐ **Copy of the Grant of Probate<sup>1</sup>**
- ☐ **Form 4 – Renunciation Form (only required, if there is more than one beneficiary is entitled)<sup>2</sup>**

If a grant of probate is not required (for example, the deceased left their entire estate to their spouse in the Will, or there is a Will but the estate has insufficient value and does not require a Grant of Probate), then a Will and Death certificate will suffice.

<sup>1</sup> You may provide the original “SEALED” Grant, which will be returned to you, or you may provide a photocopy of the Grant, which will be checked against the Government probate records website for validity. If there is any doubt as to the Grant’s validity, the Council will request you provide the original Grant.

<sup>2</sup> If there is more than one beneficiary in the Will and the other beneficiaries wish to renounce their rights, then the **Form 4** (Renunciation Form) will need to be completed and submitted alongside Form 1.

1. Deceased – Owner of the Exclusive Rights to Burial (ERB)			
Full Name			
Cemetery			
Section & Plot Number		Grant Number	
Date of Death			

2. Name of person/beneficiary who is legally entitled to inherit the ERB			
Full Name			
Address			
Telephone Number		Email:	
Relationship to deceased			
Please explain how the Will proves the person/beneficiary is legally entitled to the ERB.			

3. Executor Applicant Details (1)			
Full Name			
Address			
Telephone Number		Email:	
Relationship to deceased			

4. Executor Applicant Details (2)			
Full Name			
Address			
Telephone Number		Email:	
Relationship to deceased			

5. Executor Applicant Details (3)			
Full Name			
Address			
Telephone Number		Email:	
Relationship to deceased			

## 6. Executor Applicant Details (4)

Full Name			
Address			
Telephone Number		Email:	
Relationship to deceased			

## 7. Applications & Certificates

I/We, the named executors, confirm and agree I am/we are:

- Authorised to act on the behalf of the deceased ERB owner and am legally entitled to administer their estate under the deceased owner's Will.
- Certify that under the Will the above named beneficiary is entitled to the exclusive right of burial. To the best of my knowledge and belief, the current owner has never assigned the exclusive right of burial deed to any person.
- Will indemnify Norwich City Council against all claims, proceedings and costs it may incur in the event of there being someone, other than the beneficiary, who is entitled to the exclusive right of burial.
- **Do hereby assent to the transfer of the rights of burial in the above-named grave, together with all the title and interest therein, subject to the conditions in which it was held immediately before the transfer hereof, to the beneficiary named above.**

**Signed by the Executors of the Will:**

Executor 1:	Executor 2:
Date:	Date:
Executor 3:	Executor 4:
Date:	Date:

**The completed form should be sent to**


Norwich City Council, Bereavement Services, St Peters Street, Norwich, Norfolk, NR2 1NH

**You should include with this form**

- The Will, Death Certificate, Copy of the Grant of Probate and, if relevant, Form 4 the renunciation form.

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Will Received	Yes	No	Date	ERB Granted	Yes	Charges	Date
Grant Received	Yes	No	Date	Documents Returned	Yes	Charges	Date
Grant Of Probate Received	Yes	No	Date	New Grant Issued Death Certificate	Yes Yes	Charges Documents Scanned	Date Yes

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Where the registered owner of the Exclusive Right of Burial (“ERB”) has died, the ERB should be transferred to one person that is entitled to inherit it (in accordance with the Will). This will give the new owner of the ERB the right to allow another burial to take place in the grave plot, make amendments to an existing memorial or place a new memorial on the plot.

If there is more than one person entitled to claim ownership of the deceased owner’s grave, then each person would need to give their consent for further burials. This can often lead to delays in arranging burials or family disputes and it often better for one member of the family to become the registered grave owner by transferring the grave ownership. To do this all those persons with a claim to ownership will need to renounce their entitlement in favour of one person.

This form should be completed when there is more than one eligible person, and the other eligible people will need to renounce their entitlement in favour of one person.

Form 4 - Transfer of ERB by Form of Renunciation
<p><b><u>Guidance for completing Form 4:</u></b></p> <p>Box 1 – Fill in the name of the deceased and details of the Deed of Grant.</p> <p>Boxes 2 – 5 – Fill in the details of the other people who has a claim to ownership of the grave rights and wish to renounce their rights. They must sign and date.</p> <p>Box 6– Fill in the Deed of Grant details here.</p> <p>Box 7 - Fill in the name of the proposed Grant Holder’s details (the person who will be the new owner of the ERB).</p> <p>Box 8 – Please sign this form in front of a witness and their details must be completed in this box.</p>

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1. Deceased – Owner of the Exclusive Rights to Burial (ERB)			
Full Name			
Cemetery			
Section & Plot Number		Grant Number	
Date of Death			

2. Person who has a claim to ownership of the grave rights – Renounce The Right to the ERB	
Full Name	
Address	
Signature	
Date	

3. Person who has a claim to ownership of the grave rights – Renounce The Right to the ERB	
Full Name	
Address	
Signature	
Date	

4. Person who has a claim to ownership of the grave rights – Renounce The Right to the ERB	
Full Name	
Address	
Signature	
Date	

5. Person who has a claim to ownership of the grave rights – Renounce The Right to the ERB	
Full Name	
Address	
Signature	
Date	

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## 6. Renunciation

I /We, hereby renounce all my / our interest and title in the Rights of Burial described as in the register as:

Earlham Rosary Cemetery

Grant Number		Section		Plot	
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And desire that the said Rights of Burial shall be vested in:

## 7. Proposed Grant Holder

Full Name	
Address	

**The completed form should be sent to**

Norwich City Council, Bereavement Services, St Peters Street, Norwich, Norfolk, NR2 1NH

**You should include with this form**

- Form 1 (Will)

For Office Use

					Charges	Date
ERB Granted	Yes		No			
Documents Returned	Yes		No			
New Grant Issued	Yes		No			