

# Transfer of Exclusive Right of Burial (Grave Ownership)

Read this document carefully before submitting your application

Burials in any East Riding of Yorkshire Council Cemetery are not permitted until grave ownership has been satisfactorily established by the Cemeteries Office. Memorial placement or inscription likewise, will not be permitted. **Possession of the Deed does not in itself signify ownership of Exclusive Rights.**

## Family Disputes

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot be transferred. The various next of kin should aim to reach an agreement between them, possibly through the agency of solicitors. **The Cemeteries Office or Council do not become involved in, or try to resolve such matters.**

## Order Appointing Joint and Several Deputies for Property and Affairs

A deed owner who lacks capacity to make decisions independently in relation to matters regarding their property or affairs may be subject to the Mental Capacity Act 2005. **Advice from a solicitor would be required.**

## Legal Terms

### Executor

A person appointed by a Will to act in respect of the estate of the testator upon his/ her death.

An executor is the legal personal representative of a deceased person's estate. The appointment of an Executor is only effective following the death of the Will maker. Once he/she has died then the person appointed by the Will as executor should decide very quickly whether or not to accept the position. There is no legal obligation to do so. If they don't want to act as an Executor they will need to "renounce probate" at the court probate registry.

Executors represent the deceased and have similar rights and powers to wind up the personal affairs of the decedent. This may include continuing or filing lawsuits to which the decedent was entitled to bring, making claims for wrongful death, paying off creditors, or selling or disposing of assets not particularly gifted in the Will, among others.

### Administrator

When a person dies without a Will then the legal personal representative is known as the Administrator.

This is commonly the closest relative, although that person can renounce their right to be Administrator in which case the right moves to the next closest relative. This often happens when parents or grandparents are first in line to become the Administrator but renounce their rights as they are old, don't have knowledge of estate law and feel that someone else is better suited to the task.

Appointment of an administrator follows a codified list establishing priority appointees. Classes of persons named higher on the list receive priority of appointment to those lower on the list. Although appointees named in the Will and relatives of the deceased frequently receive priority over all others, creditors of the deceased and 'any other citizen of that jurisdiction' may act as an administrator if there is some known reason or relationship to the estate.

Alternatively, if no other person qualifies or no other person accepts appointment, the court will appoint a representative from the local public administrator's office.

### Probate

The legal process whereby a will is "proved" in a court and accepted as a valid public document that is the true last testament of the deceased.

The granting of probate is the first step in the legal process of administering the estate of a deceased person, resolving all claims and distributing the deceased person's property under a will. A probate court decides the legal validity of a testator's (person's) will and grants its approval, also known as granting probate, to the executor. The probated will then becomes a legal instrument that may be enforced by the executor in the law courts if necessary.

A probate also officially appoints the executor (or personal representative), generally named in the will, as having legal power to dispose of the deceased assets in the manner specified in the testator's will. However, through the probate process, a will may be contested.

### Letters of Administration

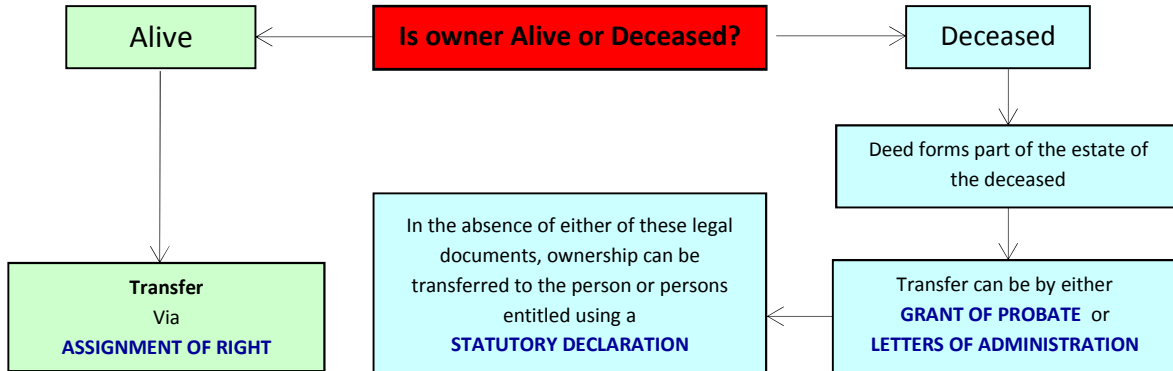
Are granted by a Surrogate Court or probate registry to appoint appropriate people to deal with a deceased person's estate where property will pass under Intestacy Rules or where there are no executors living (and willing and able to act) having been validly appointed under the deceased's will.

Traditionally, letters of administration granted to a representative of a persons estate are called "letters of administration with the will annexed" or "letters of administration *cum testamentis annexio*" or "CTA".

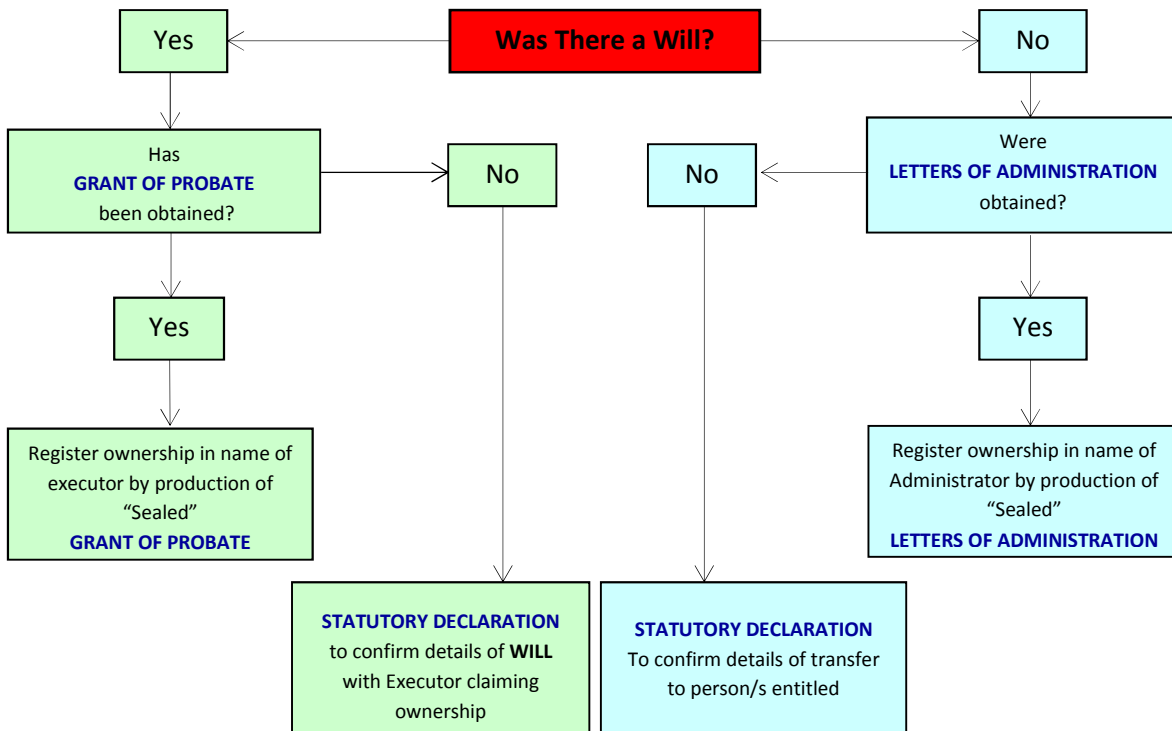
Essentially, this document is issued to the person who will administer the estate of someone who dies without a will.

The letters authorise the administrator to settle the deceased person's estate according to the state's intestate succession laws. Banks, brokerages, and government agencies often require a certified copy of the letters before accepting the administrator's authority to collect the deceased person's assets.

## Transfer Process Requirement



If the deed holder is to be buried and the grave is to be closed, there is no requirement for a Statutory Declaration.



\* Form required titles in **Blue**

# Exclusive Rights Procedures

All charges quoted for 2018/2019

## Grave Owner Alive

### 1. GRAVE OWNER WISHES TO TRANSFER GRAVE/DEED TO PERSON OF THEIR CHOICE.

**ASSIGNMENT OF RIGHT** required

- Grave/Deed Owner must have original Deed.
- Payment required (£65).
- Original Deed must be returned
- Issue new Grave Deed
- Must be signed by Solicitor

### 2. GRAVE OWNER WISHES TO SHARE GRAVE OWNERSHIP WITH ANOTHER PERSON.

**JOINT OWNERSHIP APPLICATION** required

- Original Deed must be returned if available
- Issue new Grave Deed
- Payment required (£65).
- Must be signed by Solicitor

### 3. GRAVE OWNER LOST ORIGINAL DEED (Issued by East Riding of Yorkshire Council)

**NO FORM** required.

- Applicants full name must correspond with held owner records
- Issue new Grave Deed
- Replacement Deed of Ownership marked "**Replacement Copy**"
- No Payment required.

### 4. GRAVE OWNER LOST ORIGINAL DEED (Issued by other Burial Authority)

**STATUTORY DECLARATION (Lost Deed)** required.

- Must be signed by Solicitor
- Issue new Grave Deed
- Must be signed by Solicitor
- Payment required (£62).

## Grave Owner Deceased

### 1. PERSON WISHES TO ASSUME OWNERSHIP OF GRAVE.

There is no **Grant of Probate (Court)** or **Letters of Administration (Solicitor)**.

**STATUTORY DECLARATION** required.

- Payment required (£62).
- Must be signed by Solicitor
- Original Deed must be returned if available
- Issue new Grave Deed

### 2. 2 OR MORE PERSONS WISH TO ASSUME OWNERSHIP OF GRAVE.

There is no **Grant of Probate** or **Letters of Administration**

**STATUTORY DECLARATION (2)** required.

- Payment required (£62). Charged as one transaction
- All forms must be signed by Solicitor
- Original Deed must be returned if available
- Issue new Grave Deed to all new owner

## **Estate Executors**

**1. GRAVE OWNER NAMED ONE PERSON AS ESTATE EXECUTOR**

Inherited by means of **Grant of Probate (Court)** or **Letters of Administration (Solicitor)**

**TRANSFER OF DEED TO EXECUTOR OR ADMINISTRATOR** required.

- No Payment required./No Solicitor required
- Original Grant of Probate/Letters of Administration must be seen by ERYC.
- Original Deed must be returned to this office if available
- Issue new Grave Deed to named Executor

**2. EXECUTOR WISHES TO PASS GRAVE OWNERSHIP TO ANOTHER PERSON.**

Inherited by means of **Grant of Probate (Court)** or **Letters of Administration (Solicitor)**

**ASSENT OF EXECUTOR** required.

- No Payment required/No Solicitor required
- Original Grant of Probate/Letters of Administration must be seen by ERYC.
- Original Deed must be returned to this office if available
- Issue new Grave Deed to Executors named owner

**3. EXECUTOR WISHES TO PASS GRAVE OWNERSHIP TO TWO OR MORE PERSONS.**

Inherited by means of **Grant of Probate (Court)** or **Letters of Administration (Solicitor)**

**FORM OF RENUNCIATION** required.

- No Payment required.
- Original Deed must be returned to this office if available
- Issue new Grave Deed to Executors named owners
- Original Grant of Probate must be seen by ERYC.

**4. JOINT EXECUTORS WISH TO ASSUME GRAVE OWNERSHIP**

Inherited by means of **Grant of Probate (Court)** or **Letters of Administration (Solicitor)**

**TRANSFER OF DEED TO JOINT EXECUTORS OR ADMINISTRATORS** required.

- No Payment required/No Solicitor required
- Original Grant of Probate/Letters of Administration must be seen by ERYC.
- Original Deed must be returned to this office if available
- Issue new Grave Deed to all named Executors

**5. JOINT EXECUTORS DELEGATE ONE PERSON TO ASSUME GRAVE OWNERSHIP**

Inherited by means of **Grant of Probate (Court)** or **Letters of Administration (Solicitor)**

**FORM OF RENUNCIATION** required.

- No Payment required/No Solicitor required
- Original Grant of Probate/Letters of Administration must be seen by ERYC.
- Original Deed must be returned to this office if available
- Issue new Grave Deed to Delegated Executor

## **Grant of Probate/Letters of Administration/Last Will & Testament**

To reduce the possibility of required legal documents being lost during the postal process, we would advise the following:

Any person required to produce any of the above legal documents during the process of transferring Exclusive Right of Burial (grave ownership), can produce the documents at any Council Customer Services Centre. The required document(s) will be verified by Customer Support staff, photocopied and sent to this office.

Applicants sending original legal documents by means of the postal service direct to this office must be aware that the Council cannot accept responsibility for any loss incurred.

**If you are unsure which form relates to your particular situation please contact:**

East Riding of Yorkshire Council, Cemeteries Office, Willerby Depot, Viking Close, Willerby HU10 6DZ

Tel: 01482 395 880 or 01482 395 587