

## Introduction

This leaflet provides some information for Exclusive Rights of Burial (EROB) Owners, about their rights and responsibilities

## Burial 'Rights' – what are they?

The Exclusive Right of Burial gives a person the 'right' to say who can be buried in the grave. Burial 'rights' also include the right to erect a memorial.

If the owner of the Exclusive Right of Burial dies, they have the automatic right to be buried or have their ashes interred in the grave. After this the rights become part of the deceased's estate.

This permission cannot be transferred to another person without a formal procedure. The Council is unable to simply transfer deeds upon request but must be satisfied that any person receiving the deed is legally entitled to it.

Ownership of the Exclusive Right of Burial is therefore a very important matter. Ownership can be transferred either during the owner's lifetime or after their death.

When you buy a grave, what you are actually buying is the Exclusive Right of Burial for a specific period. You do not become the freehold owner of the plot but you own the 'right' to make any decisions affecting the plot, including who shall be buried in the plot.

**Horncastle Town Council grant the EROB for 20 years, renewable for 10 years to 100 years.**

## Who is entitled to the burial rights?

### Did the grave owner leave a Will?

If the answer is **Yes** the main beneficiary of the deceased's estate is entitled to the burial rights.

If the estate is divided equally between a number of persons they are all entitled to the burial rights.

If the answer is **No** the persons entitled to the rights are likely to be the direct next of kin following their blood line.

## How to transfer the Exclusive Right of Burial in a grave or cremation plot

A situation often arises where the registered owner is deceased and family members want to arrange for a further burial to take place or for an additional inscription to be placed on the memorial.

As stated, a living owner is required to give permission for a burial to take place or a memorial to be erected/alterd. In order for the burial or memorial request to proceed the Exclusive Right of Burial needs to be transferred to the person entitled to the rights.

If the registered owner is deceased but left a Will and their estate went to probate we will need to see this document. Photocopies are not acceptable.

Horncastle Town Council also requires a Form of Assent to be completed (available from our office) by the Executor named on the probate. The Executor is required to provide the name and address of the

person who is to be the registered owner of the grave/plot.

If the registered owner left a Will, but their Estate was insufficient to apply for Grant of Probate or Letters of Administration a Statutory Declaration will be required.

## What Is a Statutory Declaration?

A Statutory Declaration is a sworn statement explaining the registered owner of a grave/plot is deceased and names who is entitled to the Exclusive Right of Burial and why. This statement must give names of all those persons entitled to the rights, and whether they wish to be owners or not. If the registered owner is deceased and did not leave a Will a Statutory Declaration is required.

A magistrate or Commissioner for Oaths will need to witness the declaration, and Horncastle Town Council will make a charge for administering a declaration.

**Your Exclusive Rights of Burial Certificate is an important document so please keep it in a safe place. Please notify Horncastle Town Council of any address changes**

*Please read this leaflet in conjunction with the 'Care of Graves' document.*

## Memorials

Memorials are permitted in the cemetery, but may only be erected by a suitably qualified monumental stonemason. The right to erect a memorial is provided as part of the purchase of Exclusive Right of Burial.

Horncastle Town Council can only accept applications to erect a memorial from the person who owns the Exclusive Rights of Burial for the grave, and the grant certificate must be produced.

If you are not the grave owner, and would like to erect a memorial, you must arrange for the Exclusive Rights of Burial to be transferred prior to applying to erect a memorial.

Once a memorial is erected, the grave owner will be responsible for the maintenance and repair of it for the permit term granted. The initial term is 30 years, but this can be extended for 5 years at a time for as long as the owner wishes to remain responsible for the memorial.

When the permit has expired the memorial will be considered 'abandoned' and will come under the jurisdiction of Horncastle Town Council.

**For the full policy on memorials, please contact Horncastle Town Council.**

**Current fees for reservations, burials and memorials are available from Horncastle Town Council admin office**

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## Exclusive Rights of Burial and Memorials



**HORNCASTLE**  
TOWN COUNCIL