

Guidance Notes on Practices and Regulations within Mid Devon District Council's Cemeteries.

These notes are for the guidance of those purchasing (or receiving by transfer or inheritance) the Exclusive Right of Burial in a grave. We understand that at such a distressing time rules and regulations are far from your mind however they are necessary to enable the Council to maintain the cemetery in a condition that is acceptable to all visitors. This information may be of assistance to you in the future, so we suggest keeping these notes with your grave deed for reference.

Rules and regulations

The Right of burial which you have purchased gives you control over the burials in the grave space for a period of 30/75 years. Before April 2003 the Rights may be valid for 100 years. The ground itself remains in the ownership of Mid Devon District Council, as burial authority, which is empowered to set out regulations for the proper management of the cemetery.

- a) No planting of shrubs or trees is permitted on a grave.
- b) No mounds or raised turf areas are permitted on any graves in the new extension at Tiverton, or any re opened / new plots at Tiverton & Crediton.
- c) The council has the right to remove from any grave any items (such as fences or gravel etc) that may interfere with the grounds maintenance of that area after serving notice to the registered grave owner. Any items causing an immediate hazard (such as glass) will be removed immediately without notice.
- d) The Council reserves the right to remove any unauthorised items left on or around a grave space after the grave has been turfed or grass seeded. The owner of the grave will be informed in writing and the items will be retained at the cemetery for collection for 1 month. If the items are uncollected or they have to be removed on more than one occasion, the Council reserves the right to dispose of these items at its discretion without further consultation.
- e) The Council has the right to remove and dispose of any floral tributes, plants etc that have withered or died or have become unsightly on any grave. Christmas wreaths will normally be removed by the beginning of February.
- f) No burials shall take place without the consent in writing of the owner/applicant for the Exclusive right of burial, except for the burial of the owner of the right of burial.
- g) All burials shall take place in accordance with the statutory requirements laid out by the Local Authorities Cemeteries Order 1977 or any subsequent legislation that comes into force.

Information following the burial

After the burial has taken place, the floral tributes will remain on the grave for around 14 days, after which they will be removed by the cemetery staff. After this period the grave bed should be kept clear at all times. **Small** floral tributes only can be placed on the base (plinth) of the headstone, or close to it, or where a headstone would be if one has not yet been placed on the grave. This allows time for the ground to settle before a permanent memorial can be fixed. After six months the Council reserves the right to remove these plants.

The grave will be turfed or grass seed sown, depending on the season and conditions, 4 to 6 months after the burial has taken place. It is normal for the grave to subside during the first months after a burial as the soil settles, especially after periods of heavy rain, and staff regularly check the graves and reinstate them as necessary.

Lawn type grave sections

The lawn type grave sections are laid out to enable mowing to take place easily between the rows of memorials. Kerbs are permitted in such a layout, especially in the older areas of both cemeteries, however, will not be permitted in the new extension plots EB onwards in Tiverton. In order to keep the graves neat and tidy and to avoid accidents to the cemetery staff, **no items such as, glass containers, plastic surrounds, stone chippings or plants / tributes should be placed on the main area of the grave, this could result in Grounds Maintenance removing these items. These items will be left in the compound area of the Tiverton cemetery or storage area in Crediton whilst waiting collection.**

Edwardian graves

The regulations for these graves are same as for the Lawn graves. These sections are located in the older areas of the cemetery so while mowing of the grave areas will be of a similar frequency as Lawn type areas, adjacent areas may be mown less frequently as they are managed to encourage biodiversity.

The Memorial Stone

If you wish to place a memorial upon a grave you must first purchase the Exclusive Right of Burial and Memorial Rights to the grave. Normally as from April 2003 this would have happened when the first interment took place, however before this date only the Exclusive Rights would have been purchased so a fee for the memorial would be applicable to Mid Devon District Council. Your Memorial Mason should be able to provide you with more information regarding this.

A memorial stone may be erected if you wish, from six months after the burial. This time should be allowed for the ground to settle. All memorials must be constructed and fixed to the requirements of BS 8415 by a NAMM registered mason or one

registered with the Council. Your memorial mason will be able to advise you on the styles/colours of memorial that can be placed in our cemeteries, as this will vary depending where in both cemeteries the plots are located.

All applications to place a memorial require the signature of the owner of the Exclusive Right of Burial on the form and the appropriate fee if applicable. Having received this, a permit to place the memorial will be issued to the memorial mason.

The memorial stone remains the property of the deed holder and they are responsible for the maintenance of the memorial, keeping in a good and safe condition.

If the memorial is found not to be in a safe condition then the owner of the memorial will need to organise its repair by a registered mason. If repairs are not carried out within a reasonable period it will be deemed that the right has been terminated and the Council will remove the memorial to storage.

Should a memorial be found to be unsafe at anytime the Council has a legal right and obligation, under the Local Authority Cemetery Order 1977, to remove any danger immediately. This is usually done by cordoning off, use of a temporary support or laying down. We will then contact the owner to inform them of the action that has been taken and giving them the opportunity to organise the repairs necessary to the memorial.

Should an additional inscription or any other alteration to the memorial be needed in the future, an application, signed by the holder of the right, will need to be submitted by your memorial mason with any fee applicable. We will then issue a permit for the work to your memorial mason.

As holders of the rights, you have responsibility for the maintenance of the memorial, you are encouraged to take out **insurance** on memorials against damage or vandalism etc, as this is not the responsibility of the Council. Your memorial mason will be able to advise you on insurance options.

Opening of adjacent graves

When a grave is re-opened the excavated soil is placed to one side of the grave. If there is unused land to either side of the grave then the soil will be placed there. However when opening a grave between two existing graves, it will be necessary to place the soil on two of the used adjacent graves. If the effected plots to be covered are in ownership then The Council will attempt to inform the owners in writing if our latest contact information is correct. The surface of the grave will be protected by boards / soil box and the soil placed in / on them, and after the burial has taken place the whole area will be cleared and left in a neat and tidy state.

Occasionally a memorial will be needed to be removed for health and safety reasons and/or access for excavation. The Council will attempt to contact the holder of the

Rights in these circumstances to inform them and we fund the removal and re-fixing of the memorial after the burial has taken place.

Exclusive Rights of Burial

What is an unpurchased grave?

An unpurchased grave represents the least expensive burial option; all you pay for is the cost of the funeral. The grave itself remains the property of Mid Devon District Council and we can use it to bury other unrelated people who want an unpurchased grave. You may not place any memorial upon the grave and should not expect to be able to bury another relative in the same grave.

What are 'Exclusive Rights of Burial'?

Purchasing the Exclusive Rights of Burial / Rights to erect a memorial means that the grave may not be reopened for interment nor have any cremated remains interred in it without your written permission. You may initially purchase this right for a period of 30/75 years. At the end of this time you may extend the Right, at a cost, for a further period. This process can be repeated as many times as is required. Should the Rights have lapsed grave ownership reverts to Mid Devon District Council and we may reuse or resell any space remaining. Depending upon the depth at which the grave was originally dug, it may be possible to inter up to three coffins and many sets of cremated remains. However all new graves at both cemeteries are now double depth only (2 Coffins).

What happens if the owner of these Rights dies?

If the owner of the Exclusive Rights dies, it is assumed that they gave permission to have themselves interred in the grave. After this the Rights become part of their estate and may be left in a will, or assigned by their executors to someone else. If the Rights are not specifically mentioned in the will, they will form part of the 'residue' of the will, usually willed as 'and all my other worldly goods' at the end of the will.

Whoever inherits the Rights will need to contact our office and arrange a transfer of ownership before the grave can be opened again. It is not possible to place a new monument or alter an existing one without the permission of the owner; unless it was the owner who was interred. So it is in the interests of the family to resolve ownership issues as soon as possible after a funeral especially if another interment is needed. Please contact Bereavement Services who can provide advice on transferral.

Can two people own these Rights?

Legally there can be many owners of the Rights. However this can complicate matters in the future. We can only permit the opening of the grave, or the placing of,

or alteration to, a memorial with all of the owners' permissions. With this in mind The Council will ask families to decide who wants the Rights, and all the others will be asked to renounce their Rights to the grave. Where there are several owners, ownership can only be inherited by the heirs of the last surviving owner. All owners have an automatic right to be interred in the grave on a first come first served basis. The last survivor may find themselves with responsibility for a grave in which there is no remaining space.

Transferring the Exclusive Rights of Burial

Any transfer of rights must be registered with the Bereavement Services Office or it will not be deemed valid.

The legal transfer of ownership of rights can be carried out by the following methods;

- 1) If the current holder of the rights is still alive but wishes to transfer ownership to another person please contact the office and we can supply a Form of Assignment which should be completed and returned to the office.
- 2) Transfer of ownership where the registered grave owner is deceased can be completed by:
 - a) Supplying an original sealed grant of Probate along with instruction from the Executor.
 - b) Letters of administration along with instruction from the administrator.
 - c) If there is a will that has not gone to Probate, a Statutory Declaration based upon the will
 - d) If none of these are available a Statutory Declaration.

Please note that there is a fee applicable for the transfer of rights.

It is important that an official transfer of Rights takes place as it may cause problems or delays should a further burial be needed in the grave, especially as the owner of the Exclusive Right of Burial has an automatic right to be buried in the grave, however no further burials may take place or memorial placed/alterd in or on the grave without the legal transfer of the right to the appropriate living person to authorise them.



For further help and advice

If you need any further help and advice please contact:

Bereavement Services
Mid Devon District Council
Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP

Telephone: 01884 234343 / 255255 (Switchboard).

Email: Bereavementservices@middevon.gov.uk

Website: www.middevon.gov.uk / Bereavementservices.