



## **Enderby Parish Council**

# **Burial Rules & Regulations for the Maintenance of Enderby New Cemetery**

### **1. INTRODUCTION**

Enderby Parish Council is the 'Burial Authority'. Every care is taken to log the identity of each grave space, and keep Cemetery plans and registers up to date.

### **2. FEES**

Fees are reviewed annually and charges apply for: -

- The purchase of Exclusive Right of Burial,
- Each individual interment,
- The right to erect a memorial,
- The right to add an additional inscription to a memorial,
- The transfer/renewal of exclusive right of burial,
- Searches in registers,
- Copies of entries in registers.

The current fees can be found on the Enderby New Cemetery Table of Charges

#### **Parishioners**

Single fees apply when the person to be interred, or in respect of whom the right is granted is, or immediately before his/her death was, an inhabitant or parishioner of Enderby or, in the case of a still-born child, where the parents (or one of them) are, or at the time of interment were, such inhabitants or parishioners.

**Non-parishioners** are charged at a rate ten times the charge made to parishioners. (A non-parishioner is a person who immediately before his or her death was *not* an inhabitant or parishioner of Enderby. In the case of a still-born child, that child will be considered to be a non-parishioner if neither of the parents was an inhabitant or parishioner of Enderby at the time of interment).

#### **Waiver**

The Clerk has discretion to waive increased fees for non-parishioners in the case of parishioners of long standing who have been obliged to reside outside the parish during their declining years in order to receive nursing or other residential care.

#### **Children's Funeral Fund (CFF) Claims**

The Children's Funeral Fund provides practical support to bereaved parents with fees arising from their child's burial or cremation.

To be eligible for the CFF, a child must be under 18 at the time of death or stillborn after the 24<sup>th</sup> week of pregnancy, and the burial or cremation must take place in England.

Fees charged by Enderby Parish Council as the Burial Authority are: -

- a) Where the deceased is buried/cremated:
  - (i) The fees for obtaining a burial/cremation plot and a right of interment for the deceased in that plot whether or not the right is exclusive.

- (ii) The fees levied in respect of an interment, in a burial or cremation plot, and the provision and maintenance of cemeteries for the area where the burial takes place.
- b) The fees levied for the scattering of ashes.
- c) The fees levied in respect of obtaining permission to erect a memorial.

Enderby Parish Council will reclaim fees, as applicable, from the Children's Funeral fund for England.

### 3. GRAVES

#### Burial Plots

A grave is 9' x 4' and may contain a maximum of 2 interments. A grave in which there have been two interments may be re-opened for the burial of cremated remains at the Council's discretion.

For interments of coffins (caskets) larger than 6' 6" x 2' 4" two single plots, side by side, must be purchased, at the appropriate fee.

A child's grave measures a maximum of 6' x 3' and is for the interment of a single coffin only.

#### Cremation Plots

A cremation plot measures 2' x 2' and may contain a maximum of 2 caskets, side by side.

### 4. BUYING A GRAVE

It is important to understand that when you buy a grave what you are purchasing is the **Exclusive Rights of Burial** for a grave for an agreed period of time. You are not purchasing any land and no ownership of land is transferred to you. A Deed of Grant of Exclusive Right of Burial is issued by the Burial Authority in respect of every exclusive right purchased. Any person who purchases the exclusive right of burial for a grave space/cremation plot, shall not convey, assign or transfer such right without the consent of the Burial Authority.

The Deed grants you the right to:

- be buried in a designated grave if space is available (includes cremated remains);
- authorise further burials in the grave where space is available, or for the interment of cremated remains;
- apply for a permit to place an inscribed memorial on the grave or give permission for an additional inscription to be added.

By law, a purchased grave may only be opened for the burial of the Deed owner or for the burial of another person with the written permission of the Deed holder. The Deed must be transferred by legal process should somebody else wish to arrange a further burial in the grave or add a memorial/additional inscription. You should keep your Deed safe as it forms part of your estate.

#### Period of Exclusive Right of Burial

Exclusive Rights of Burial give an exclusive right to burial in the ground for a period of 99 years which may be extended for a further period not exceeding 99 years.

The payment of a single fee in the case of a parishioner does not automatically mean that only single fees will be charged upon interment and/or other services if the purchaser becomes a non-parishioner in the intervening years.

#### Pre-purchase

Graves and cremation plots may be purchased in advance, at double the price set at the time of purchase.

#### Transfers

The owner of the Exclusive Rights of Burial may assign these rights to another person during their life time if they so wish by completing a Form of Assignment. After the death of the owner, rights may need to be transferred to the person(s) entitled to the rights and this can be done by following the correct legal process. **For full details of the Deed Transferral process please refer to Appendix 1.**

## 5. INTERMENTS

Notice of interment is to be made to the Burial Authority at least 4 days in advance. Such notice shall be given in the form prescribed by the Burial Authority (Interment Notice). If an exclusive right of burial has already been granted in respect of a grave space to be used for the interment, the original Deeds must be produced to the Funeral Director who will sign the Interment Notice to the effect that they have been produced. A copy must accompany the Interment Notice. If, for any reason, the Deeds are not available please contact Enderby Parish Council for further advice.

### Times of Interment

Burials may take place on weekdays only, not including Bank Holidays, between the hours of: -

**January, February, November, December: 9.00 a.m. - 3.00 p.m.**

**March, April, September, October: 9.00 a.m.-3.30 p.m.**

**May, June, July, August: 9.00 a.m. - 4.00 p.m.**

These times may be varied slightly, in special circumstances, at the discretion of the Clerk.

### Interment of Caskets

Deed-holders must be aware that some disruption may occur to the surface of a grave if an adjacent grave is opened. This may be unavoidable. Disruption will be kept to a minimum and the grave will be tidied afterwards, as much as possible.

### Interment of Cremated Remains

Ashes are usually, though not necessarily, interred in small caskets or urns.

### Scattering of Ashes

Not currently available.

## 6. MEMORIALS

Older existing graves/cremation plots may have larger/additional memorials. This is historical and is not considered to have set a precedent for memorials.

### No work may be carried out on a memorial without:

- The authority of the person who holds the Exclusive Rights of Burial to the grave
- The Memorial Mason submitting an application form and fee to the Council
- The Council issuing a permit (permits may be refused and memorial stone masons are advised to await receipt of the memorial permit prior to commissioning any work).

All memorials will be in line. Plans and inscriptions for memorials must be submitted to the Clerk to the Council for approval before the memorial is sited.

Memorials (monuments) may only be placed on graves/cremation plots for which an exclusive right has been granted and only by the purchaser of that right. The fee incurred will be dependent on whether or not the deceased was an Enderby parishioner; it is not dependant on the address of the purchaser of the burial right. This will apply to any additional inscription also.

Only one fixed memorial is allowed per grave/cremation plot. One small, moveable memorial vase of no more than 10" x 10" x 10" may be sited on graves, in addition to a fixed memorial. These must not be fixed down and must be easily moveable to allow any necessary grounds maintenance to be carried out. A fee is charged for the placing of a memorial vase on a grave. Enderby Parish Council defines memorial vases as: *a vase of marble, granite, slate or stone construction bearing a carved personalised inscription*. Memorials remain the responsibility of the grave owner and must be maintained in good order at all times. The Council is not liable for damage, however caused, and it is the grave owner's responsibility to organise insurance, if required.

All fixed memorials shall be securely fixed to the concrete bases provided. The Council only allow masons who work to industry standards and are registered with either the National Association of Memorial Masons (NAMM) or the British Register of Accredited Memorial Masons (BRAMM) to work in Enderby New Cemetery.

### **Burial Plots**

A headstone shall be no more than 3' 6" in height and a maximum width of 2' 6".

### **Cremation Plots**

Smaller memorials are allowed on cremation plots. These must be: a maximum height of 2' 1" and a maximum width of 2' 0".

### **Memorial Only Plots**

Graves or cremation plots may be purchased, at the current price, for the siting of memorials only, without having been or intending to be, for an interment.

### **Memorial Safety**

Enderby Parish Council has a statutory duty under the Local Authorities Cemeteries Order 1977 and Health and Safety at Work Act 1974 to ensure that risks within the Council's cemeteries are properly managed. In order to fulfil this requirement all memorials are subject to safety inspections.

Any memorial installed in the Council's cemeteries will be inspected and tested every 5 years to ensure that it is safe. This will include a test to ensure the memorial can withstand a reasonable pressure without falling over.

Where an inspection reveals a memorial to be unsafe, the Council is legally required to make safe any hazard. This may involve laying flat the headstone. Please note the Council will not carry out any repairs.

Owners of unsafe memorials will be notified in writing at their last known address of the situation. Owners are then responsible for contacting a qualified memorial mason in order to carry out any necessary repairs.

**Any repairs must be carried out by the purchaser on being informed of a problem by the Council. If repairs are not carried out within a reasonable period, the memorial may be removed by order of the Burial Authority.**

### **Unauthorised memorials**

In accordance with the Local Authorities Cemeteries Order 1977, the Council reserve the right to remove from the cemetery any unauthorised memorial. The Council may remove unauthorised items at any time without giving further notice.

## **7. FLOWERS, PLANTS AND ORNAMENTS**

### **Planting of Garden Graves (Burial Plots only)**

No planting or placing of objects is allowed to the rear or the sides of a memorial. Items may only be sited to the front of memorials and must not encroach onto adjacent plots.

Turf may be removed from a grave space by the holder of the deeds, or his/her relative, to enable planting of flowers to take place. The "garden area" so created must not exceed a maximum width of 2' 0" or a length of 4' 0" (6' from the rear edge of the memorial base.) This is to ensure there is sufficient space between the graves to allow for grounds maintenance.

The planting of trees, bushes, shrubs (including roses) is not permitted directly into the ground. Such plants may be sited in pots within the garden area. Cut flowers may be placed in a suitable container on the grave.

Bark/wood chippings may be used on garden graves but must be kept within the confines of the garden area. Similarly, artificial grass may be used within the garden area.

### **Cremation Plots**

There is not sufficient space on cremation plots to have a garden area, however pot plants and cut flowers in suitable containers may be placed on the grave as long as they are sited within the area allocated to the cremation plot (2' x 2').

### **Placing of Ornaments (Burial and Cremation Plots)**

Grave owners are welcome to site small ornaments within the garden area of a grave or within the area allocated to a cremation plot (2' x 2'). Bottles, jars and jugs or other unsightly ornaments are only permitted on a temporary basis. Broken bottles, ornaments, etc. will be removed immediately if it is considered that broken edges constitute a danger to users of the cemetery.

If no memorial is present, the same boundaries for the siting of vases/planting must be assumed.

### **Adornment of Trees, Shrubs and Hedges**

No item may be pinned on, attached to or hung from trees. This includes string lights. These will be removed immediately.

### **Unauthorised Objects**

Footstones, kerbs or other surrounds are not permitted. No stones, gravel, slate, stone chippings or pebbles may be used on cremation plots or burial plots.

## **8. UPKEEP OF GRAVES**

The Burial Authority cuts the grass on a regular basis and generally attempts to maintain the Cemetery to a high standard. The Council will make up ground, on grassed or garden graves, if sinking occurs, with top soil. If the area is not maintained by the Deed-holder and/or relatives, the Council will allow the grave to grass over naturally.

The Council reserves the right to remove unauthorised items or any object that poses a Health & Safety Risk to Cemetery workers or the general public.

## **9. DONATIONS OF SEATS/TREES**

The Council will consider any reasonable donation when the offer has been made in writing to the Clerk, for the siting of donated trees, seats, etc. Any acceptance is made at the Council's discretion.

## **10. CODE OF SAFE WORKING PRACTICE FOR THE CEMETERY**

Refer to Enderby Parish Council's Health & Safety Policy (*Health & Safety at Work, Annex 5*).

## **11. BEHAVIOUR OF STAFF AND PUBLIC**

All employees involved with the disposal of the dead, at all times, conduct themselves in a discreet and reverent manner whilst engaged in duties on behalf of the Burial Authority.

The Council takes steps to ensure that whilst on the Cemeteries, no person creates a disturbance, commits any offence, wilfully interferes with any burial, grave, memorial or plant, plays any game or sport, or allows an animal to run free or foul any area.

Adopted: 9<sup>th</sup> October 2019

The Social Fund (Children's Funeral Fund for England Regulations 2019)

## **Exclusive Rights of Burial Ownership and Transferral**

### **Grave Ownership – Exclusive Rights of Burial**

When buying a grave, it is important to understand what you are actually buying is the Exclusive Rights of Burial in a grave for a specified period of time. You are not purchasing any land and no ownership of land is transferred to you. At Enderby New Cemetery, Exclusive Rights of Burial are granted for an initial term of 99 years which can then be renewed for a further term should this be required. Enderby Parish Council retains ownership of the land at all times.

A grave owner has the right to:

- be buried in the grave or plot if space is available (includes cremated remains);
- authorise further burials in the grave where space is available or for the interment of cremated remains;
- place an inscribed memorial on the grave or give permission for an additional inscription to be added.

A grave owner is responsible for:

- ensuring the memorial is in a safe condition and pay for any repairs required.

Burial Law (*Local Authorities Cemeteries Order 1977*) states that no burial may take place in a grave and no memorial may be placed on a grave without the written permission of the grave owner during the period of the Exclusive Rights, excluding the burial of the grave owner.

The Council's Statutory Registers contain the details of the registered grave owners. It is important that 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 and it should be produced for each burial. Possession of the Deed does not in itself signify ownership of the grave.

A situation often arises where registered owner(s) are deceased and other family members want to arrange a further burial to take place in the grave, erect a memorial on the grave or add an inscription onto an existing memorial. In order for the burial or memorial request to proceed the Exclusive Right of Burial needs to be transferred to the person(s) entitled to the rights.

### **Transferring the Exclusive Rights of Burial**

The grave owner can assign the Exclusive Rights of Burial, during their lifetime, to another individual on completion of a Form of Assignment. This form is available from Enderby Parish Council and must be signed by the owner and witnessed by the Parish Clerk / Deputy Clerk.

The procedure for establishing grave ownership when the original owner has died is as detailed below:-

#### **Deceased owner left a valid Will**

If the deceased grave owner has made a valid Will and left an estate of sufficient value to require the Grant of Probate, ownership of the grave can be transferred to the executor. The executor must produce a sealed copy of the Grant of Probate. If the Executor wishes to transfer the deed to someone else then an Assent of Executor or Administrator form must be completed. This form is available from Enderby Parish Council and must be signed by the Executor and witnessed by the Parish Clerk/ Deputy Clerk.

If the estate is not of sufficient value to obtain a Grant of Probate, ownership may be transferred to the executor named in the Will by Statutory Declaration (see below) and the production of the Will. If the Executor then wishes to transfer the deed to someone else then they can do so by completing a Form of Assignment.

## **Deceased owner did not leave a Will or the Will was not valid**

If there is no Will, or the Will is not valid, and the estate is of sufficient value as to require a Grant of Letters of Administration, ownership of the grave can be transferred to the personal representative of the deceased. The applicant must produce a sealed copy of the Grant of Letters of Administration Form. It is then the administrator's responsibility to identify the correct person for transfer of ownership and assent the transfer by completing an Assent of Executor or Administrator form. This form is available from Enderby Parish Council.

If the estate is of insufficient value to require a Grant of Letters of Administration, the rules of intestacy apply as laid down in the Administration of Estate Act 1925. The applicant for transfer of ownership should complete a Statutory Declaration.

### **Statutory Declarations**

Statutory Declarations are legal documents and must be signed in the presence of a Magistrate or Commissioner for Oaths.

The Statutory Declaration should clearly set out the facts regarding the original purchase of the Exclusive Rights of Burial, the death of the registered owner, intestate or otherwise and the relationship of the applicant to the registered owner. The original Deed of Grant and a certified copy of the owner's death certificate should accompany the Declaration. Where the Deed has been lost, suitable wording should be incorporated within the declaration to the effect. It is essential that the written agreement of all the next of kin of the deceased owner to the transfer of ownership should also be obtained (see Renunciation below) and attached to the Declaration.

If a Statutory Declaration needs to be completed, Enderby Parish Council will provide the appropriate wording for the Declaration but it is the responsibility of the person making the Declaration to have it witnessed by a Magistrate or Commissioner for Oaths.

### **Renunciation - what does this mean?**

Renunciation is when a registered owner or someone entitled to the Burial Rights does not wish to retain their 'rights'. A renunciation form needs to be completed and is available from Enderby Parish Council.

### **Family disputes**

Where a family dispute results in a stalemate and relevant consents are withheld, the ownership cannot be transferred and no further burials will be allowed or memorial applications processed. The various next of kin need to reach an agreement.

Guide as to who is next of kin in succession order:-

1. The surviving lawful husband or wife
2. The children of the deceased
3. The grandchildren of the deceased
4. The father and mother of the deceased
5. Whole blood brothers and sisters of the deceased
6. Whole blood nephews and nieces of the deceased
7. Half blood brothers and sisters of the deceased
8. Half blood nephews and nieces of the deceased
9. Grandparents
10. Whole blood uncles and aunts of the deceased
11. Children of whole blood uncles and aunts of the deceased (full cousins)
12. Half blood uncles and aunts of the deceased
13. Children of half blood uncles and aunts of the deceased (half blood cousins)
14. Other persons with an interest in the estate may apply

## **Fees**

The transfer of Exclusive Rights of Burial is charged at £20 per hour or part thereof. There is a minimum charge of £20.

Where a Statutory Declaration is required this will need to be signed by a Magistrate or Commissioner of Oaths which will incur separate charges not determined by the Parish Council.

## **Forms of Transferring Deed Ownership**

### **Form of Assignment**

Used by a living owner to transfer or change the ownership of the exclusive Rights of Burial i.e. to transfer to new owner or add an additional owner.

### **Grant of Probate**

Granted to the executor(s) of a Will once a document has been proven in Court. To be legally acceptable we can only accept sight of a "SEALED" Grant; i.e. it must bear the embossed seal of the court.

### **Letters of Administration**

When a deceased person dies intestate then the next of kin can apply to the Courts to be made Administrator of the estate. An Administrator receives the same powers to administer the estate of the deceased as an executor.

### **Form of Assent of Executor or Administrator**

The form used to transfer ownership from an executor or administrator after ownership has been transferred into their name by production of Probate or Letters of Administration.

### **Statutory Declaration**

The form used to transfer ownership from a deceased owner when no official documents have been issued. Declarations can be either based on a Will that did not go to probate, claiming ownership by the executor or by the Next of Kin if the deceased left no will.

### **Form of Renunciation**

Used together with a Statutory Declaration when grave is being claimed by more than one person i.e. the deceased may have three children and next-of-kin, and one or more of those children wishes to give up their Rights to the ownership.

### **Certificates**

All certificates supplied with transfer applications must be originals or certified copies.