

NORTON ON DERWENT TOWN COUNCIL

REGULATIONS IN RESPECT OF GRAVES, BURIALS AND MEMORIALS

NORTON CEMETERY

The Norton cemetery is owned and managed by Norton on Derwent Town Council. The council must meet certain legal requirements as a Burial Authority and must act in accordance with the Local Cemeteries Order 1977. These rules set out the obligations of those who own Exclusive Right of Burial or erect a Memorial in the cemetery and should be read carefully. For further information or explanation of the terms contained in this document please contact the Town Clerk who acts as Burial Officer for the council.

These regulations were created and agreed on 19th June 2023 and supersede any previous regulations that may have been agreed.

1. Exclusive Right of Burial in a grave

i) What is a grant of Exclusive Right of Burial?

The grant of Exclusive Right of Burial is a legal deed which is issued on the payment of the appropriate fee. It contains the name of the person to whom the right to decide who may be buried in a specified grave plot has been given for a stated period of time. In Norton cemetery the grant of exclusive right of burial lasts for ninety nine years from the date of issue.

It is important to retain the deed in a secure place, as it is the only legal document held by the owner confirming their entitlement to the burial right. It is also important to notify the council of any change of address.

Exclusive Right of Burial does not automatically transfer to any other person on the death of the holder. If it is not specified in the Last Will and Testament of the deceased who will take ownership of the Right upon the holders death then in most cases it will transfer to the Executor of the holder's Estate, or the Administrator of the Estate if a Grant of Letters of Administration has been obtained. Further information about this is given in section v) below, and in Appendix 1.

For this reason, it is important to consider carefully who will hold Exclusive Right of Burial for a burial plot, and the council can give further advice about this if necessary. Exclusive Right of Burial can be issued in up to four joint names, with each owner required to give written permission each time that the grave is used.

On expiry of an Exclusive Right of Burial, the grave plot reverts to the town council and the town council will decide whether to sell a new Exclusive Right for this plot or make any other decisions regarding this plot as it sees fit. Any fees charged in relation to the plot will be in accordance with the council's current schedule of fees.

ii) What is, and what is not, meant by the Exclusive Right of Burial?

The right allows the recipient to decide who may be buried within the grave. This means that

- the remains of two people may be buried and up to two containers of cremated remains or
- the remains of one person may be buried and up to three containers of cremated remains or
- up to four containers of cremated remains may be buried in the specified grave plot.

Where it is intended that a grave space is used to accommodate both human and cremated remains, the human remains must be interred first.

For a half sized grave plot, two sets of cremated remains may be buried within the grave.

The right does not confer ownership of the grave plot or the right to carry out any particular activity on it. The land remains in the ownership of the council.

iii) Fees

The council reserves the right to increase fees at its discretion and these are reviewed on an annual basis. Fees for non-parishioners are doubled. Where a long standing resident of Norton has moved away for care, fees charged will be at the Burial Officer's discretion, depending on individual circumstances.

iv) Renewal of grant of Exclusive Right of Burial

- a) A grant of exclusive right of burial can be extended beyond ninety nine years for a further twenty five years only. The fee will be the rate for renewal applicable at the time.

It is the responsibility of the owner of the grant to apply to the council before the expiry of the term of the grant for an extended term; otherwise the grant will end.

v) Use of Exclusive Right of Burial to Permit a Burial to Take Place

No burial shall take place, or any memorial placed related thereto, without prior permission of the council, including the interment of cremated remains. The town council does not permit the scattering of cremated remains in the cemetery.

Only the holder of Exclusive Right of Burial can give permission for a grave space to be used for a burial and will be required to sign a document giving permission for a burial to take place (unless the grant holder is the person to be interred into the grave), in accordance with Article 10(6) of the Local Authorities Cemeteries Order 1977.

If Exclusive Right of Burial is held in joint names, then all living persons named on the deed of grant must sign to give their consent.

When the council receives a request to arrange an interment the family member arranging the burial must identify the holder of Exclusive Right of Burial and obtain their permission. Any person wishing to arrange a burial in a grave plot where the holder of Exclusive Right of Burial is deceased and where the grant has not passed to another living person, or where the Exclusive Right has expired, will be asked to first transfer ownership using a Statutory Declaration form and this must be witnessed by a

Magistrate or Commissioner for Oath. The council may permit a burial to take place with the appropriate documents being provided after the burial, but this is at the council's discretion.

vi) Transfer of the Right

At the time of purchase, the grant will be registered with the council in the name or names of the person or persons given to the council. As explained under i) above the grant does not automatically pass to another family member on the holder's death. For a transfer of ownership to be lawful the possessor will need to prove legal entitlement to the grant:

- by way of a formal Letter of Assignment, signed by the former registered owner passing the ownership of the grant to the deed possessor,
- where the original owner of the grave rights has died, and the last Will and Testament specifically mentions the Exclusive Right of Burial and names the person or persons who will inherit this. The council will need to see Grant of Probate.
- where the original owner of the grave rights has died, and the grant has passed to the person or persons named as Executor or Executors on the last Will and Testament. The council will need to be supplied with a copy of Grant of Probate,
- where the deceased left no will, Grant of Letters of Administration was obtained, and the grant has passed to the person named as Administrator. The council will need to see a copy of the Grant of Letters of Administration.

Transfer of the deed of Exclusive Right of Burial is an important legal transaction and must be done correctly if permission is to be granted for future burials to take place, or for a memorial to be erected. This can sometimes become very complicated and the council can advise on the correct process.

vii) Repurchase of the Right

The council will buy back a grant of exclusive right of burial but only at the price for which it was originally bought.

viii) Common graves

Any grave where the Exclusive Right of Burial has not been purchased is known as a common grave. The council's policy on interment in a common grave is that parishioners only are entitled to be buried in them; non-parishioners will have to purchase Exclusive Rights of Burial and pay the appropriate fee.

Burial in a common grave does not confer any entitlement to the installation of a memorial.

Please be aware that the council retains the right, in these cases, to carry out further unrelated burials in that grave.

2. Grave maintenance

i) Grounds maintenance regime

The cemetery, more particularly the newer sections, is laid out in such a way as to enable council contractors to gain easy access to all graves thus allowing more effective maintenance of grave surfaces (and also simplifying the excavation of graves).

The council is responsible for maintaining the cemetery grounds. The specifications are available from the council office and any queries or complaints about the cemetery manager's work should be directed to the council.

ii) Back-filling and settlement

In the period following a burial the grave surface will be subject to sinkage due to soil settlement. The initial settlement can take up to six months and the council may level new graves after the initial settlement has taken place. From time to time the council will level up graves as further settlement takes place.

iii) The grave space

To allow for ease of maintenance the grave surface must be free from obstructions. The council welcomes the planting of early flowering bulbs such as crocus and narcissus in the grave space, but unfortunately cannot allow the planting of trees or shrubs or other plants. Full length gardens, memorials and mounds are not permitted. Nor are grooves, edging or borders of any kind demarcating the boundary of the grave.

Receptacles for holding flowers should be incorporated in the memorial to the deceased. Any other receptacle should be placed as closely as possible to the memorial. The council does not permit any items such as edging, artificial turf, toys, solar lights, memorabilia or ornaments of any kind to be placed on the grave and surrounding area and reserves the right to remove and dispose of these items which may cause offence to other visitors, may interfere with the maintenance of the grave, and may be a safety risk.

Fresh and artificial flowers are allowed on the grave but should be removed before they become unsightly otherwise the council itself will have them removed from the cemetery. The council encourages natural and biodegradable tributes wherever possible for environmental reasons.

The council allows wreaths to be placed on graves at festivals and anniversaries but, as with natural and artificial flowers, should be removed before they become unsightly otherwise the council itself will have them removed from the cemetery. Natural wreaths placed on graves during the Christmas period will be removed and disposed of by the council after 1 March in the following year, unless the family specifically request otherwise.

iv Children's graves

The council allow special circumstances to graves for children in that toys and small cherished items can be placed close to the memorial stone but must not be excessive. Where items are in a poor state of condition, the council will inform the families to have them removed.

3. Memorials

i) Owners of Exclusive Rights of Burial are entitled to apply for permission to have a memorial erected upon a grave plot. In most cases the person who owns the Exclusive Right will be asked to give their consent to this, however, the council acknowledges that sometimes memorials are erected long after a person was interred, and it may be difficult to obtain such

permission. The council may accept evidence of a family connection when giving permission to erect a memorial, and such permission will be given on the understanding that if the original owner of the Exclusive Right comes forward and objects to the erection of any memorial, then the council has no responsibility for any remedial action or costs that may be demanded by the holder of the Exclusive Right.

Permission to erect a Memorial can be given at any time, including when the original Exclusive Right of Burial is purchased. In this case the design, style and inscription of the memorial will still need to be approved at the time that the memorial is erected.

ii) Application to the council for permission to erect a memorial

There are two aspects to the application:

- the owner of the grant or family member seeks permission from the council to erect a memorial,
- the monumental mason (who has been instructed to provide and install a memorial) sends details to the council of the design, material and its colour and inscription for approval.

The council charges the applicant a fee for permission to erect a memorial. The right to erect a memorial is for thirty years only but it can be extended for a further thirty years subject to the agreement of the council and on the payment of the fee applicable at the time of application.

Those who are given the right to erect a memorial will have to keep the council informed of change of address.

The council advises all applicants to ensure that the monumental mason neither begins work on the memorial nor inscribes it before permission and approval have been given. The council may ask that memorials erected without the proper permission being requested are removed until permission is granted.

iii) Restrictions

- a) Memorials must be no more than 24" wide and the upright part, on which the inscription is usually engraved, must be no more than 19" in height. Irregular shaped headstones are permitted, within these dimensions. All memorials must comply with current safety standards and the council must agree the design and wording of each memorial to prevent offence to cemetery visitors.
- b) Memorials must be erected vertically on the outer edge of the plot in line with other memorials in the same row.
- c) Memorials must be made from good quality stone and should complement the material of other memorials in the section of the cemetery in which it is to be installed.
- d) There are no restrictions on the wording inscribed on a memorial other than it should not give offence to other members of the public.
- e) The council will not allow the installation of
 - kerbs or any memorial which will cover, or part cover the grave, eg, a granite slab,
 - fencing or railings or hedging or a groove to be dug around the grave as a boundary, on the grave plot.

The council will remove memorials which have not been authorised, do not comply with its regulations or are considered to be a danger or offensive to other members of the public.

iv) Fees

The council reserves the right to increase the fees at its discretion and these are reviewed on an annual basis. Fees for non-parishioners are doubled. Where a long-standing resident of Norton has moved away for care, fees charged will be at the Burial Officer's discretion, depending on individual circumstances.

v) Responsibility for memorials

- a) The owner of a memorial is responsible for ensuring that any memorial masonry installed on the grave plot has been properly constructed and has been installed in accordance with the standards laid down by the National Association of Memorial Masons.
- b) It is recommended that all memorials should be insured against theft, loss, or damage.
- c) It is important to remember that when permission is given to erect a memorial it is the responsibility of the person who is given this permission, and not the council that is responsible for the maintenance of the memorial and its foundation. It is strongly recommended that the stability and condition of the memorial and foundation is checked at least annually and any defect or defects that are identified are made good at his or her own expense. Failure to do so may result in the person who arranged the erection of the memorial being held liable for any injury or death caused to a third party if the injury or death is shown to be due to the condition of the memorial or the manner in which it was installed.
- d) Owners (or their agents) of kerbed graves are required to dismantle them, irrespective of whether they are rafted or not, prior to a new interment taking place; however, kerbed graves without rafts will not have to be dismantled prior to caskets of ashes being buried in them but kerbed rafted graves might have to be. The decision will be at the discretion of the clerk and gravedigger. Owners (or their agents) will be responsible for removing the kerbs to a place where they will not be a hazard to members of the public and removing the raft fragments from the cemetery. The dismantling of a kerbed grave and the removal of the raft fragments from the cemetery is to be completed three days before the interment takes place.
- e) Owners (or their agents) of memorials which take the form of a slab or chest covering part or all of a grave are responsible for their removal from a grave, prior to a new interment taking place. The work is to be completed three days before the interment.
- f) The council has a duty of care towards cemetery visitors. In order to comply with this duty, the council will carry out safety inspections of memorials.

In the event that a memorial is identified as being a potential hazard, the council is duty bound to take action to reduce the risk to visitors. If the memorial is unstable, and liable to fall, the memorial has to be laid down onto the ground to reduce the risk of injury to others. The council will attempt to contact the owner of the grant, at their last known address, to inform them of the reason for taking action. Regular memorial inspections arranged by the owners of the grant themselves will avoid the need for such action.

If a memorial is identified that needs maintenance work carrying out, but the memorial does not present an immediate safety hazard, then the council will write to the holder of the grant at their last known address to inform them of this and ask them to carry out remedial work. If not response to this request is received after three months the council may take such action as deemed necessary and reimbursement of any costs may be sought from the owner of the memorial.

4. Soil boxes

The council reserves the right to place soil boxes on graves next to those which are being opened without notice. The soil box will be removed immediately after the interment and the grave will be left as it was previously.

5. General

Visitors to Norton Cemetery are asked to respect others and are reminded that noisy and discourteous behaviour may cause distress to other visitors. Any children visiting the cemetery must be supervised.

Dogs are to be kept on a lead at all time when in the cemetery.

The council reserves the right to amend these rules at any time without giving prior notice.

APPENDIX 1

Process to be used when permission is requested for a burial to take place and the holder of the Exclusive Right of Burial is deceased (except for when the person to be interred is the holder of the Right).

If there is a will	If the deceased died intestate
<p>Can the family use the will to establish if there is an Executor?</p> <p>If necessary, the family can use Find a Will on Gov.UK website for a small cost to obtain a copy of the will:</p>	<p>Was Grant of Letters of Administration obtained?</p> <p>If so Exclusive Right of Burial transfers to whoever is named on this document as Administrator and they can sign the permission</p>

<https://probatesearch.service.gov.uk/#wills>

Exclusive Right of Burial transfers to the Executor named on the will and he or she needs to sign the permission slip for the burial to take place.

A copy of probate or the will should be provided to prove who holds Exclusive Right of Burial.

The family then need to decide whether to leave Exclusive Right of Burial in the Executor's name, or transfer this to someone else using a Letter of Assignment.

If the Executor cannot sign this permission slip then a family member can claim Exclusive Right of Burial using the Statutory Declaration. This should only be done where the council is confident that the Executor cannot sign, and a copy of the will should still be provided.

If there are joint Executors, then one or more of them can choose to have their name removed from the Exclusive Right of Burial using a Renunciation Form. If this has not been done, then they all must sign the permission slip.

slip for the interment. The council needs to see Grant of Letters of Administration.

If the person named on this Letter of Administration cannot sign, then a Statutory Declaration must be completed.

The family then need to decide whether to leave Exclusive Right of Burial in the Administrator's name or transfer this to someone else using a Letter of Assignment.

If no Grant of Letters of Administration was obtained the family must complete a Statutory Declaration.