

Membership Newsletter



Transfer of Grave Ownership

Recently, a number of members have reported that they and their authorities have been criticised for employing a lawful process for the transfer of grave ownership.

The Institute has prepared this newsletter in order to help members ward off any suggestions that the lawful transfer process is not required or is inappropriate.

The Department for Constitutional Affairs (now MoJ responsibility) issued its document entitled Guide for Burial Ground Managers in 2005. This document was drafted under the scrutiny of the Burial and Cremation Advisory Group at which all funeral industry organisations are represented.

The Guide contains the following clause:

2.28 An exclusive right of burial may be transferred on the death of the registered owner to the person or persons entitled to it. A burial authority should satisfy itself that the person or persons wishing to take up the ownership are entitled to do so by the production of a grant of probate or letters of administration. If these legal documents have not been applied for or issued, the authority may accept a statutory declaration from the nearest surviving relative(s).

The full document is on the MoJ website at:

<http://www.justice.gov.uk/downloads/burials-and-coroners/burial-ground-managers.pdf>

Members will also note that Part II of Schedule 2 of the Local Authorities Cemeteries Order 1977 states:

4. A burial authority shall, subject to such investigation as they think proper, record particulars of any assignment or transmission of any such right notified to them in the register maintained or preserved under paragraph 2.

The Institute's view is that the words 'subject to such investigations' in the above legislation and the words 'a burial authority should satisfy itself' in the Guide mean one and the same.

The Institute fully supports clause 2.28 contained within the Guide and agrees that a statutory declaration is used when no other legal document exists. Members are reminded that a simple indemnity form will not provide any protection.

Members might wish to reproduce this newsletter if faced with a challenge against its lawful transfer process.

ICCM – Developing and promoting good practice in cemeteries and crematoria

ISSUED BY: The Institute of Cemetery & Crematorium Management
Registered Office: City of London Cemetery, Aldersbrook Road, Manor Park, London E12 5DQ
Founded 1913 Incorporated 1958 London Register No. 610299
Tel: 020 8989 4661 Fax: 020 8989 6112 Web: www.iccm-uk.com