

Churchyard Regulations

Introduction

1. Churchyards have been regarded from their inception as 'God's acre'. Everything in a churchyard, from the memorial stones to the trees and shrubs, should be a matter for care and consideration. All parishioners who take a real interest in their churchyard and its surroundings will naturally wish it to be a place of beauty. Incumbents and churchwardens are recommended to obtain a copy of *The Churchyards Handbook* (4th edition, 2001) published by the Council for the Care of Churches, which contains much useful advice and information.

2. These Regulations relate primarily to all churchyards and to other consecrated ground associated with churches. However, consecrated portions of burial grounds established by cemetery companies or by local authorities are also within the jurisdiction of the Consistory Court for certain purposes, and therefore clergy who are concerned with interments of remains in such grounds should ensure that these Regulations (and particularly the general guidance in paragraphs 4.6 and 12 with regard to inscriptions and disinterment) are understood by the legal personal representatives and undertakers involved.

Legal Rights and Delegated Authority

Right of Burial

3.1 All parishioners (not just those closely associated with the church) have a right to be buried in the churchyard of their parish church, unless it has been closed for further burial by Order in Council (as to which, see paragraph 8). It should be explained to relatives or legal personal representatives before a burial or an interment of cremated remains takes place in consecrated ground that the choice of consecrated ground must be made with care, because it is unlikely that subsequent disinterment and reburial elsewhere will be permitted.

3.2 The strict burial right of a parishioner is confined to interment in the churchyard. The erection of a tombstone or monument over a grave, though now common, remains a privilege, and strictly speaking no tombstone or monument may be erected in a churchyard without the authority of a Faculty from the Consistory Court and granted by the Diocesan Chancellor. Because it is a *churchyard*, any memorial must be compatible with the Christian religion.

Authorising Memorials or Ledgers

3.3 No permission may be given for the erection of a memorial or ledger until 6 months has elapsed from the date of burial or interment. This is because of the problem of settlement of the excavated ground.

3.4 The responsibility for the authorisation of a churchyard memorial or ledger primarily lies not with the incumbent or priest-in-charge but with the Consistory Court. Application may be made at any time to the Consistory Court for authorisation by faculty to erect a memorial or ledger outside the scope of these Regulations. If granted this may be subject to conditions.

3.5 In practice the Chancellor has delegated a limited authority to the incumbent, who (subject to what is said elsewhere in these notes) may normally grant permission for the erection of a tombstone, monument or ledger. In the case of a vacancy in the benefice, these delegated powers are exercisable by the priest-in-charge (if appointed during a period of suspension of presentation under the Pastoral Measure), or otherwise by the Area Dean after consultation with the churchwardens.

3.6 No memorial or ledger may be erected in a churchyard until all the provisions set out in paragraph 3.7 have been completed. Similarly, no additional inscription may be made to a memorial or ledger until provisions similar to those in paragraph 3.7 have been complied with. No commission to an undertaker or monumental mason should be given until a churchyard memorial or ledger agreement referred to in 3.7 has been entered into.

Churchyard Memorial Agreement

3.7 Memorials or ledgers may be authorised by incumbents, priests-in-charge or area deans **only** if :

- the memorial or ledger falls squarely within the ambit of these Regulations (and any supplementary regulations imposed by the PCC and authorised by the Consistory Court), **and**
- a contract is entered into by the legal personal representative or executor (usually, but not always, a close relative of the deceased), seeking to erect the memorial. The agreement is to be in the form set out below.

<p>..... CHURCHYARD MEMORIAL OR LEDGER AGREEMENT</p> <p>Plot Number: (on attached plan)</p> <p><i>[NB This application may be made by the legal personal representative or an executor (usually, but not always, a close relative) of the deceased</i></p> <p>1 This application for authorisation to erect a memorial/ledger in the churchyard of the parish of is made by [<i>name</i>] of [<i>address</i>]</p> <p>2 I am the [<i>state relationship to the deceased</i>] of [<i>name of deceased</i>] and/or the administrator / executor [<i>or state any other legal authority</i>] of his / her estate. The deceased lived at [<i>address</i>]</p> <p>3 I understand that the only memorial that may be erected as a result of this application is one that falls entirely within the Churchyard Regulations and is as described in the Schedule attached. I acknowledge that I have been given a copy of the Regulations and understand them</p> <p>4 I also understand that the authorisation that is given to me to erect a memorial is subject to the provisions of the Pastoral Measure 1983 (or any replacement Measure) and in the first instance only permits the memorial to remain in the churchyard for a period of 100 years. I acknowledge that this period of time may be shortened, or extended, by a faculty of the Consistory Court.</p> <p>5. Breach of those Regulations (now or at some future time) or failure to maintain the memorial or the grave, may result in the memorial being removed by the church authorities with the consent of the Chancellor of the Diocese.</p> <p>6. I understand that the Consistory Court of the Diocese of Oxford shall have sole jurisdiction in interpreting and applying these arrangements.</p> <p style="text-align: right;"><i>Signed by the applicant</i></p>

In consideration of the applicant paying the statutory fee payable under the Ecclesiastical Fees Measure 1986 and in exercise of the delegated powers given to me I hereby authorise the applicant to erect a memorial solely in accordance with the schedule attached to this document

This authorisation permits the memorial to remain within the churchyard for a period no longer than 100 years from the date of this contractual agreement. For good and proper reasons it may be removed at any time but only under the further authority of a faculty

Signed by the incumbent/priest-in-charge/area dean

The Schedule

[*Insert here a brief description of the proposed memorial (indicating size, materials, finish and inscription, together with a churchyard plan showing the position of the plot and a sketch of the design*]

3.8 A copy of the agreement must be given *directly* to the person seeking to erect the memorial. It is insufficient for the copy to be given to an undertaker or monumental mason.

3.9 The original of the agreement must be safely kept with the parish records and shown to the archdeacon on request

Reference to Diocesan Registry

3.10 This delegated authority does not extend to authorising any monument, ledger or tombstone that falls outside the Regulations set out in the following paragraphs. Any applications for the erection of such memorials should be referred to the Registrar of the Diocese in the first instance. Permission will be given only if there are extraordinary reasons to justify this. If an incumbent, priest-in-charge or area dean is *in any doubt* as to whether or not s/he should give permission for the erection of a particular monument or tombstone, s/he should not deal with it, but **must** refer the matter to the Registrar

Diocesan Regulations for Tombstones, Monuments or Ledgers

4. The Chancellor in consultation with the Diocesan Advisory Committee has established the following Regulations for implementation in all churchyards throughout the Diocese. They replace all previous Churchyard Regulations unless authorised by Faculty:

4.1 **Materials:** A memorial must be made of natural stone with a non-reflecting surface, or of hardwood. Stones traditionally used in local buildings, or stones closely similar to them in colour and texture, are to be preferred. Black blue or red igneous rock (eg red granite), marble, synthetic stone or plastic are not permitted. Painted or polished stone is also not permitted, although a small area of non-reflective polishing may be permitted, to take an inscription.

4.2 **Dimensions:** A memorial may be:

- no larger than 1200mm (4ft) in height from the ground, 900mm (3ft) in width and 150mm (6inches) in thickness; and
- no smaller than 75mm (3inches) in thickness, save that slate memorials may be no smaller than 38mm (1 1/2 inches) in thickness.

4.3 **Base and Foundation Slab:** A memorial must be inserted sufficiently into the ground to ensure stability or be supported by a pre-cast concrete shoe

- Due regard must be paid to the nature of the ground and the problem of settlement.
- A headstone may stand on a stone base, provided that it is an integral part of the design and does not project more than 50mm (2 inches) beyond the headstone in any direction
- Foundation slabs must not be visible
- The headstone must either be set into a below-ground shoe or be connected to its base by non-ferrous dowels

4.4 **Designs:** a memorial need not be rectangular in shape. Curved tops may be preferable to straight edges.

- Individually designed memorials are encouraged but may only be permitted by faculty.
- Memorials in the shape of a heart or cross are not permitted save by way of faculty.
- Photographic and etched images, mouldings, etchings, videos or sound-recordings of the deceased, imagery (of stained glass windows, flowers, animals, toys and the like), kerbs, fencing, railings, chains, chippings or glass shades are prohibited save when permitted by faculty, which is unlikely to be granted save in exceptional circumstances

4.5 **Sculpture:** Armorial bearings, crests, figurative sculpture, or other statuary may only be authorised by faculty

4.6 **Inscriptions:** Inscriptions must be simple, reverent and theologically acceptable; they may include appropriate quotations from the Scriptures or literary sources.

- A request for any other inscription (including non-literary verses) must be made to the Diocesan Chancellor via the Registry. Inscriptions must be incised or in relief. Plastic, lead or other inserted lettering is not permitted.
- Nicknames or pet names may be used in addition to baptismal names; they should, however, normally be included in inverted commas within the name of the deceased. Diminutives and pet names may be permitted within the discretion of the incumbent or relevant area dean.
- Additions may be made to an inscription at a later date following a further interment in the same grave or for other suitable reason. Any such addition must, however, be separately authorised in a manner similar to that set out in paragraph 3.7. The lettering, layout and wording must be consistent with the original inscription.
- Hand-crafted letter-cutting is welcomed and encouraged (see the examples given in *The Churchyards Handbook* and in *Memorials by Artists*)

4.7 **Commemoration after Cremation:** The erection of a memorial tablet or ledger is not permitted except in an area set aside by faculty (and then only in accordance with the terms of that faculty). A suitable addition to an existing memorial to a close relative is permitted but must be separately authorised in a manner similar to that set out in paragraph 3.7.

4.8 **Trademarks:** No advertisement or trademark may be inscribed on a memorial, although the mason's name may be inscribed at the side or the reverse in unleaded letters, no larger than 13mm (1/2 inch).

4.9 **Upkeep:** Graves may not be fenced or otherwise individually delineated; and

- Individual gardens, fencing or shrubs are not permitted, although the incumbent may permit the planting of a few bulbs or annuals.
- Only cut flowers or wreaths may be left at the graveside. These must be removed when withered or decaying. No plastic or artificial flowers are permitted save in relation to:
 - Remembrance Day wreaths or poppies, or Christmas wreaths; these must be removed after a period of one month.
 - Silk flowers, appropriate to the season; these must be removed when they become faded or bedraggled
- Toys or other similar ornaments may be left at the graveside for a period of twelve months after the burial or interment. They must then be removed by the family or by the incumbent (or area dean) after sensitive consultation with the family.

Vaults and Above-Ground Funerary Edifices

5 The construction of a brick-lined vault, bricked grave or mausoleum in a churchyard requires the authority of a Faculty. Such a Faculty will be granted only if there are exceptional reasons why burial in a brick-lined vault, as opposed to the normal form of earth burial, should be permitted. If there are such reasons, the Chancellor will require an assurance

- that any memorial to be erected over the vault will comply with diocesan and local churchyard regulations, and
- that a fund to pay for future maintenance will be established if the Faculty is granted
- in relation to any mausoleum or similar construction above ground, that any necessary planning consent has been obtained

Publicity and Variations

6.1 These Regulations must be drawn to the attention of all local undertakers and memorial masons as well as to the relatives of the deceased

6.2 In certain cases local variations to these Churchyard Regulations may be permitted by the Chancellor. Any local regulations must have been approved by the Chancellor after the date of these Churchyard Regulations.

6.3 If parishes adopt local variations then it is *essential* that the regulations should be given as much local publicity as is possible. They should be kept on permanent display in the church porch; copies should be given to undertakers and monumental masons who do work in the churchyard; and they should be brought to the attention of relatives after burials.

The removal of tombstones and kerbstones and the levelling of grave mounds

7.1 Parochial Church Councils are advised to make a regulation to the effect that in future all grave mounds will be levelled after a specified period (but see paragraph 6.2). Subject to this, they are justified in levelling individual grave mounds that are no longer being tended, although it is desirable that they should give notice of their intention to do so, and respect the wishes of known relatives.

7.2 Larger schemes of levelling and schemes involving the removal of tombstones or kerbstones require the authority of a Faculty.

7.3 Forms of petition for a Faculty can be obtained from the Registrar of the diocese, and the procedure is as follows:

- 7.3.1 If it is desired to move tombstones or kerbstones with inscriptions, a plan of the churchyard must be prepared with the individual graves marked and numbered upon it together with a list giving details of the interments recorded by each memorial.
- 7.3.2 If the intention is to remove only kerbstones and/or footstones that do not have an inscription, then a plan is not necessary. It is necessary, however, that persons who are interested should be able to discover precisely what is proposed. This can be achieved by marking the kerbstones or footstones affected by the proposals in some appropriate way.
- 7.3.3 If the proposal is to level grave mounds then a plan of the churchyard should be prepared showing the area affected and such grave mounds as can be identified should be marked upon this plan.
- 7.3.4 A notice in the following form should be displayed on the church notice board. In addition it must be inserted in a local newspaper and in the parish magazine if there is one. At least four weeks should be allowed for objections to be made.

<p>..... Churchyard</p>
<p>Notice is hereby given that the Parochial Church Council propose to petition the Consistory Court of the Diocese for a Faculty authorising (here set out briefly what is proposed, e.g. levelling mounds, moving tombstones, etc) A plan of the churchyard showing the work proposed may be inspected at from (date) to (date) between the hours of and</p> <p>(The memorials affected by the proposals have been suitably marked).</p> <p>Anyone wishing to object to the proposed work should send notice to the undersigned before (date). Hon. Secretary</p> <p>Dated</p>

- 7.3.5 Petitioners are asked to notify the Commonwealth War Graves Commission (2 Marlow Road, Maidenhead, Berks SL6 7DX) whenever proposals involving the removal of war grave memorials in churchyards or church cemeteries are under consideration. A certificate should accompany the petition to the effect that the petitioners have given notice to the Commission and that the Commission have either not raised any matter with them or that the requirements of the Commission will be complied with, as the case may be.
- 7.3.6 Details of the proposals should be submitted to the Diocesan Advisory Committee. This can be done while the proposals are being advertised.

7.3.7 After the Diocesan Advisory Committee has reported, and the period allowed for objections has expired, the Faculty petition can be completed and sent to the Registrar of the diocese, together with the necessary supporting documents, i.e.

- a copy of the resolution of the Parochial Church Council;
- a copy of the plan and the list referred to above;
- copies of the newspaper and parish magazine containing the advertisements;
- a certificate that no objections have been received as a result of the advertisements (or as the case may be).

Closure of churchyards

8.1 If an incumbent and PCC wish a churchyard to be closed, an appropriate Order in Council under the Burial Act 1853 has to be sought from the Coroners Section, 5^h Floor, Allington Towers, 19 Allington Street, London SW1E 5EB (Tel: (020) 7035 5530/5531 Fax: (020) 7035 5525 www.homeoffice.gov.uk).

8.2 An application is likely to be successful if one of the following conditions is met:

- the churchyard is full;
- the continuing use of the churchyard for burials may constitute a risk to public health or be contrary to decency;
- the discontinuance of burials may prevent or mitigate nuisance.

8.3 An application will not normally be considered if it relates to part of the churchyard only

8.4 If a closure order is made the PCC may apply to the local authority to take over its maintenance, but the control of the churchyard remains with the incumbent and PCC. Unless authority by the closure order no burials may thereafter be made in the churchyard (but see 10.10 in relation to cremated remains).

Reservation of grave spaces

9.1 Grave spaces may only be reserved by Faculty, and the maximum period of reservation permitted by law is 100 years. It is the Chancellor's usual policy to reserve for a much shorter period, generally 25 years, although this may be extended in appropriate circumstances. However, this period is capable of extension if, by its expiry, the right has not been exercised.

9.2 If the churchwardens are not able to certify that there is sufficient space to meet foreseeable need for burial space for the next five years, then the application must be referred to the PCC for consideration before the petition is lodged. In a suitable case, the Chancellor may still grant the faculty to reserve the space, but he will attach appropriate weight to the PCC's views if granting the faculty is likely to cause difficulty in the foreseeable future.

9.3 In these cases it is not necessary for the matter to be referred to the Diocesan Advisory Committee, and application should be made directly to the Registrar, who will supply the special form of petition that is required, and details of fees payable.

9.4 Save in exceptional circumstances, it will be a condition of the grant of every Faculty for the reservation of a grave space that the petitioner pay the sum of £200 to the PCC of the parish concerned as a contribution towards the general cost of maintaining the church and churchyard. A letter confirming that the petitioner is prepared to make this payment should accompany the petition when it is submitted

9.5 The plan accompanying the petition should be properly surveyed if possible, showing the area of the churchyard concerned and precise measurements relating to the position of the grave space to be reserved from at least two fixed points. There should be a north point shown on the plan. The

description of the plot in the schedule on the first page of the application should contain reference to each measurement shown on the plan. This is necessary to avoid any confusion that might arise in the future.

Interment of cremated remains

10.1 Strictly speaking a Faculty is required for interment of cremated remains in any consecrated ground. In practice, however, the Chancellor does not insist upon a Faculty in all instances. Where a Faculty is necessary the terms of the Faculty will depend, first, upon whether or not the consecrated ground is open for burials and, second, upon the type of interment.

Interment in a churchyard or other consecrated ground open for burials

10.2 The Chancellor permits, without a Faculty, interment of cremated remains, whether by burial or by strewing (see 10.7 below), in a churchyard or other consecrated ground which is still open for burials provided that the general conditions set out in paragraph 10.7 are observed. Attention is also drawn to paragraph 4.7.

10.3 If, however, it is desired that a particular part of such churchyard or other consecrated ground be reserved exclusively for either the burial or the strewing of cremated remains, a Faculty must be sought for either or both of these purposes. In selecting such reserved parts the Petitioners should bear in mind that the greater part of the churchyard or other consecrated ground must be preserved for burials other than of cremated remains.

10.4 The Petitioners for such a Faculty should ordinarily be the incumbent and the churchwardens.

10.5 The Petition must be accompanied by a scale plan showing:

- the entire churchyard or other consecrated ground;
- the extent to which the churchyard or other consecrated ground is still available for interment; and
- the part proposed to be reserved for the burial of cremated remains and/or the part proposed to be reserved for the strewing of cremated remains.
- It is likely that the Chancellor will wish a single, general memorial to indicate the setting of the special area.

10.6 If a Book of Remembrance or a Requiem Book is already in use in the church this fact must be stated in the Petition. If no such Book is in use the Petition must include an undertaking by the PCC to place such a Book in the church before the Faculty, if granted, is issued from the Registry.

10.7 The Faculty, if granted, will be subject to the following general conditions in addition to any special conditions that the Chancellor may impose in a particular case:

- In so far as the interment is otherwise than by burial it must be by strewing and not by scattering. Strewing involves the release of cremated remains from a special container near the surface of the ground. The remains should be strewn on earth (for example, on a flower bed) and then lightly covered with earth.
- Each interment of cremated remains by burial or by strewing should be recorded in the Book of Remembrance or Requiem Book in the church.
- No headstone or kerb shall be erected without separate Faculty in such part of the churchyard or other consecrated ground as is reserved for the interment of cremated remains by strewing

10.8 The Faculty will empower the Petitioner, without further reference to the Chancellor, to permit the interment of cremated remains by burial or by strewing respectively in those parts so reserved

Interment in ground no longer open for burials

10.9 This category includes, but is not limited to, those closed churchyards, which, by Order in Council, are maintained at the expense of the local authority.

10.10 The interment of cremated remains in a closed churchyard must be authorised by faculty.

10.11 In the case of a churchyard maintained at the expense of the local authority, *in addition to a faculty* the consent of the local authority to such interment should first be obtained, and no monument may be erected to mark the place of burial without the like consent

Interment within or below the church

11. Interment within or below the church itself requires a separate Faculty in each instance. Save in exceptional circumstances no such Faculty will be granted.

Removal of human remains from consecrated ground to another place of burial

12.1 Whenever a deceased person is buried in consecrated ground, it is assumed that the place of burial is intended to be the final resting place of that person. The same principle applies when the cremated remains of a deceased person are interred in consecrated ground

12.2 The disinterment of human remains (including cremated remains) from consecrated ground (whether in a churchyard or a local cemetery) for the purpose of reburial in another place is unlawful, unless it has been authorised by Faculty. Such a Faculty will not readily be granted.

12.3 It should be explained to relatives or legal personal representatives before a burial or an interment of cremated remains takes place in consecrated ground that the choice of consecrated ground must be made with care, because it is unlikely that subsequent disinterment and reburial elsewhere will be permitted.

12.4 Anyone seeking a Faculty authorising the disinterment of the remains of a person buried in consecrated ground or the cremated remains of such a person will have to put forward special grounds in order to obtain a Faculty. Mere convenience of visiting a grave or place of burial will not usually be a sufficient ground for the grant of a Faculty. The relatives or personal representatives of a deceased person will be deemed in the first instance to have chosen the consecrated place of burial, whether it is in a churchyard, cemetery or crematorium, as the final resting place for that person. The fact that relatives have subsequently moved to a different area is unlikely to be a justification for disturbing the remains.

12.5 The principles (including theological principles) concerning disinterment of human remains have recently been reviewed by the Court of Arches (the highest ecclesiastical court) in the case of *Re Blagdon Cemetery*. Anyone who is considering petitioning to disinter remains should acquaint himself or herself with these principles. The Registry is able to supply general guidance arising from the Judgment for that purpose. The Registrar will, if so desired, advise petitioners of the names and contact details of a number of specialist lawyers who may be consulted by intending applicants.