

DIOCESE OF BRISTOL

CHURCHYARD REGULATIONS

ISSUED BY THE CHANCELLOR OF THE DIOCESE, 2017

1 GENERAL

- i The Parochial Church Council (PCC) is responsible for the care and maintenance of the Churchyard under the Parochial Church Council (Powers) Measure 1956.
- ii Works (including the introduction, renewal or alteration of any item) may only be carried out in accordance with these current Regulations.

2 LOCAL CHURCHYARD RULES

It is recommended that every PCC should formally adopt a set of Churchyard Rules to cover the use and maintenance of the churchyard. These Rules must conform to the Chancellor's Regulations but should also include more detailed requirements for day-to-day care. A model set of Churchyard Rules, which can be adopted or modified by the PCC to suit local circumstances, can be obtained from the Diocesan Registry or from the Secretary to the Diocesan Advisory Committee ("the DAC").

3 RIGHTS OF BURIAL

Provided the churchyard has not been closed by Order in Council:-

- i Parishioners (including those on the church electoral roll) and others who die in the parish have a right of burial in the churchyard, if there is space remaining.
- ii The incumbent, PCC and churchwardens may also grant permission for the burial of other persons at their discretion.
- iii A grave space may be reserved by faculty, but not otherwise.
- iv The whole churchyard is vested in the incumbent alone. *No right of ownership* is conferred upon the relatives of the deceased (or upon any other person) by any of the following:-
 - the reservation of a grave space;
 - the exercise of the right of burial; or
 - the erection of a memorial.

4 PERMISSION FOR MEMORIALS ON GRAVES

The erection of a memorial is a *privilege*, not a *right*. The ultimate authority is that of the Chancellor of the Diocese, exercised in the Consistory Court upon an application for a faculty. He has the power to allow by faculty any kind of gravestone or other memorial in a churchyard. Faculty application forms can be obtained from the Diocesan Registry. Statutory fees are payable.

A limited authority, however, is delegated by the Chancellor to the incumbent to give permission for memorials *provided that* in size, design and material they fall within the category of what is normally recognised as suitable. Permission must be given in writing. The requirements are as follows:-

- 1 **Materials** The memorial must be in one of the following materials:-
 - a English limestone or pennant stone; or
 - b unpolished grey granite; or
 - c Nabresina (Roman stone); or
 - d English oak; or
 - e English or Welsh slate.

- 2 **Form** The memorial must consist of:-
 - a a headstone not more than 4' (120 cm) high; or
 - b a cross not more than 4'6" (135 cm) high; or
 - c a horizontal slab sunk so that the surface of the same is sufficiently flush with the surrounding earth to allow a mower or autoscythe to pass over it.

- 3 **Advertisements or trademarks** No identification of the maker or supplier must appear on the memorial other than the name only of the craftsman or designer in letters not more than half an inch (13 mm) high.

- 4 **Base** Any base upon which a headstone (or other memorial) is fixed for stability must be sunk low enough into the ground to allow a mower or autoscythe to pass over it.

- 5 **Spacing** Headstones must be placed conveniently for the churchyard mower to pass around them.

- 6 **Additional features** A memorial shall not include any photograph, metal or plastic inserts, railings, chippings, statuary, bird baths or other artefacts or any images or carvings that are not explicitly consonant with orthodox Christian belief. A badge or insignia of the Armed Forces of the Crown is permitted provided that the incumbent has a letter of authority from the branch of the Forces in question.

Only memorials which conform to these requirements can be permitted under the powers delegated to the incumbent.

5 EXISTING MEMORIALS

It is not uncommon for churchyards already to contain memorials introduced in the past (with or without faculty) which do not conform to the criteria set out in section 4 above. However, such memorials are not to be followed as precedents. If there is any doubt, the advice of the Registrar or the DAC should be sought.

6 APPLICATIONS FOR MEMORIALS

An application to the incumbent must be made *by letter* or *using the form "Application to introduce a Memorial into a Churchyard"* obtainable from the PCC, the Registry (tel 01749

674747). The design must be submitted for the incumbent's approval before any order is given to a stonemason. Information provided must include: the inscription (properly set out); the style of lettering; full particulars of the materials; the dimensions; and details of the proposed foundation work. No further steps may be taken before approval is received in writing.

The incumbent should consider whether the proposed design and materials harmonise with those of neighbouring graves, and with the materials of the church itself. He or she should also consult the local Churchyard Rules (see above under section 2). If the incumbent is in doubt whether a particular design is suitable or within the limits of the allowed discretion, OR if there is a controversy, an application should be made to the Chancellor for a faculty. Where the incumbent decides not to allow the erection of a memorial, the applicant must be advised of the right to make an application to the Chancellor for a faculty.

7 APPLICATIONS FOR FACULTIES

The Chancellor has issued the following general guidance as to how he would be assisted in dealing with applications for faculties for the installation of memorials in churchyards which fall outside the normal churchyard regulations.

Before the Chancellor will consider any application to install a memorial outside the Churchyard Regulations he must be provided with:

- i) written confirmation from the applicant that they have read the Churchyard Regulations or any local Churchyard Rules
- ii) a short explanation as to why they seek to install a memorial which falls outside the Regulations. This need not be anything other than a short letter or statement setting out why a variation in material or shape or wording is required. The Chancellor does not require a document that is drafted by solicitors. The statement should explain the pastoral or other reason why the applicant wishes to depart from the Regulations.
- iii) The Chancellor will need to see that the applicant has raised the matter with the PCC of the churchyard and need to see a copy of the PCC's opinion. It should be emphasised that the PCC's opinion is not determinative one way or the other, but it will assist the Chancellor in judging what local opinion is on the application.
- iv) In relation to wording that is controversial the Chancellor will need an explanation as to why the words have been chosen. In particular he would need confirmation that the petitioners have taken note of the following extract from the Judgment delivered by the Chancellor of Lichfield, Eyre Ch., in the case of *All Saints, Standon* (unreported);

"The question I have to address is whether the proposed wording is such as can be permitted in the particular circumstances of this case.

10) My consideration of that question must be undertaken in the context of the nature and purpose of a churchyard. Churchyards are consecrated to God, Father, Son, and Holy Spirit and what is set out on memorials therein must be consistent with that consecrated status. It follows that inscriptions must be consonant with orthodox Christian belief. Not only is this because of the purpose of the churchyard but also because inscriptions convey a message to those who visit churchyards. It is important that the message that such visitors receive is one which proclaims (or at the very least is not inconsistent with) the message of hope and faith being given to them by Christ's Church.

In addition it is to be remembered that the memorial will be read not just by those who knew the deceased in question but by those who did not. Indeed, the message conveyed to those who did not know the deceased is in many ways more important

than the message being given to those who did know him or her. Moreover, the memorials placed in churchyards must be fitting and appropriate not just for today but also for the future.

11) That does not mean that there has to be a characterless uniformity in the inscriptions in a churchyard. Human individuality and diversity – indeed human eccentricity and non-conformity – are gifts from God and are to be celebrated as such. Accordingly, individuality and diversity in churchyard inscriptions reflecting the diversity and different characters of those commemorated are to be encouraged. Very many churchyards are enhanced and their purpose reaffirmed by inscriptions which are varied (and often quirky or eccentric) and which convey something of the character or life of the departed person. The message that we are individuals and are loved by God as individuals with our God-given differences and eccentricities is an important part of the Christian message proclaimed in our church buildings and to which our churchyards should bear witness.

12) In short individuality, even quiriness, is to be encouraged in the inscriptions on memorials but what cannot be permitted is anything which can be seen as inconsistent with the Church's message. In addition there is a difference between quiriness and humour which are to be welcomed on memorials and flippancy and irreverence which would be impermissible”.

The Chancellor has directed that the following should be noted:

- (1). The Churchyard Regulations are not capricious or arbitrary. They have been drafted with care and are designed to acknowledge, with humility and with due pastoral sensitivity, that churchyards are not just an important part of our heritage but are a setting for an appropriately Christian reflection on death and a reverent memorial to the dead. Gravestones should not be a demonstration of the worldly or material wealth of the deceased, nor should they reflect the vagaries of fashion. The Churchyard Regulations also make it very clear that the fact that one gravestone has been erected is not to be taken as a precedent that another similar gravestone will be ‘nodded through’, or indeed an indication that no faculty would be required.
- (2). The Chancellor is concerned that some stonemasons appear to be unaware of the Churchyard Regulations. It may be that there will be strong pastoral reasons for allowing a particular engraving on a gravestone and that a faculty can be applied for setting out those reasons. It is then a matter for the Chancellor to decide having received the advice of the DAC, the incumbent and the PCC. It is not a matter for an incumbent to decide without reference to the Chancellor. In particular it has never been a matter for a stonemason to decide without reference to the incumbent and the Chancellor.
- (3). If a gravestone is erected that does not comply with the Churchyard Regulations and has not been granted a faculty the Chancellor will encourage the Archdeacon to initiate proceedings in the Consistory Court and will add parties to the proceedings with the consequent costs to be borne by those parties as appropriate. It is within the Chancellor's powers to ban certain stonemasons from being allowed to erect gravestones in churchyards, and the Chancellor will have no hesitation in exercising those powers if he is satisfied that there has been a deliberate decision to erect a gravestone without applying for a faculty.

8 CREMATION PLOTS

The creation of a new area for the burial of cremated remains will require a faculty and the DAC's advice is set out in a separate Guidance Note. The faculty will set out the governing regulations for the cremated remains area including its extent, any landscaping to be included, and the size and materials for individual memorials.

Existing areas for cremated remains must be maintained according to the local Churchyard Rules. Cremated remains should preferably be put into the ground without a box although biodegradable containers are acceptable. They can be interred in existing family graves.

Memorial plaques over cremated remains shall be just below the level of the turf and measure no more than 450mm (18") by 400mm (16"). They should be sunk low enough to allow a mower or autoscythe to pass over them.

9 CLEARANCE OR ALTERATIONS TO GRAVESTONES OR MEMORIALS

No gravestone or memorial may be moved or removed without a faculty. The Diocesan Registrar can provide further advice. In the case of repairs, the DAC will advise whether the works are substantial and requiring a faculty.

10 CULTIVATION

The surface of the churchyard should be kept as level as possible, free from mounds or kerbs, so that the grass may be cut. Bulbs may be allowed. Further details may be listed in the local Churchyard Rules.

11 RIGHTS OF WAY

Rights of Way or Wayleaves (whether private or public) including telephone or electricity poles or pipelines over or through consecrated ground require a faculty. Without a faculty they are invalid.

12 EXHUMATION

Please see the current Chancellor's Guidelines regarding Exhumation. (A copy is available from the Diocesan Registry.)

13 THE ROLE OF THE INCUMBENT AND OF THE ARCHDEACON

In these Regulations the "incumbent" of a parish includes the priest-in-charge and, in the event of a vacancy, the Archdeacon (subject in this case to any direction by the Bishop).