

REGISTRY OF THE DIOCESE OF LICHFIELD

NOTES FOR THE GUIDANCE OF PERSONS WISHING TO RESERVE GRAVE SPACE IN A CHURCHYARD

Anyone resident in a parish or on the church electoral roll has the right of burial in the parish churchyard but the choice of site for the burial is at the discretion of the Incumbent, unless a place has been reserved on the authority of legal permission (or Faculty) granted by the Chancellor of the Diocese, who has jurisdiction over all consecrated Church of England churchyards within the Diocese. A promise to "keep that spot", given by one Incumbent or a churchwarden, has no legal value and is not binding on a successor.

The parish is only obliged to bury parishioners, those on the electoral roll, or those who die in the parish. Those persons can apply to reserve a particular grave space. A person who is not a parishioner or whose name is not on the electoral roll may also apply for the reservation of grave space but such persons will normally need to explain their connexion with the church or churchyard in question and why it would be appropriate for a space to be reserved for them. The type of connexion which would make it appropriate to grant a reservation in favour of such a person would be if they had lived in the parish or worshipped at the church for a number of years but had now moved away (perhaps due to age or ill-health) or if they had family members buried in the churchyard.

You have been supplied with an application form (or Petition) which will be put before the Chancellor.

The Chancellor will be concerned to ensure that the proposed reservation does not unduly interfere with the rights of parishioners. In particular he will be concerned to avoid the situation where a grave space is reserved and unused for some years after the rest of the churchyard has become full and where those parishioners who die before the person who has reserved the space are unable to be buried in the churchyard. The Chancellor does not normally permit the reservation of a grave space if there is less than 10 years' space remaining in a churchyard. It is for that reason that the form requires details of the number of spaces left in the churchyard and the average number of burials per annum in the last 5 years. An application can be made even if there is less than 10 years' space but special circumstances will normally need to be shown before a reservation will be allowed.

You will see from the kind of questions on the Petition that you first need to talk things over with the parish priest. The parish priest will have to give their consent and the Chancellor also needs to know the views of the Parochial Church Council (commonly called the "PCC") on the application. A PCC is not obliged to support an application. If the parish priest or the PCC does not support your application you can still apply and the Chancellor will consider your arguments to be allowed to reserve a space and the reasons given by the priest or the PCC for not supporting it. In some parishes the PCC has a formal policy of not supporting applications. If that is the case you can still apply and the Chancellor will consider your application on its merits but he will normally require you to show a good reason why should you be allowed to reserve a grave space when the PCC has such a policy and where other people are not allowed to reserve spaces.

If you are a parishioner or have a legitimate reason for wishing to reserve a space in the churchyard then provided that the parish priest and the PCC support your application and that there is sufficient space left in the churchyard, the Chancellor will normally approve the application but he is not bound to do so and will consider each application on its merits.

The parish priest or the PCC should be able to supply you with some of the information that the petition asks for such as how much space is available in the churchyard and at what rate is it being used up. They should also be able to supply you with an accurate plan of the entire

churchyard but in any event you will need to supply three copies of such a plan (no larger than A3 please) marking clearly in red the exact space that you and your priest have agreed upon and showing where it is in relation to the church building. Accuracy is essential because this plan will eventually be attached to the faculty as a permanent record of what has been arranged.

Fees. The Registry fee for the administration of the Faculty procedure is £210 plus VAT (the total is **£252.00**).

The expense of maintaining the churchyard falls entirely on the local parish church. The Chancellor requests applicants who wish to reserve a grave space to make a donation directly to the PCC as a contribution towards the upkeep of the churchyard. He suggests that those who are parishioners or on the electoral roll to make a contribution of at least **£125.00** and those who are not parishioners or on the electoral roll to make a contribution of at least **£250.00**.

Marker: The Chancellor will make it a condition of the faculty that the successful applicant will supply the parish with a small marker (Monumental Masons can usually provide a small stone tablet) which will be placed on the reserved space as a permanent indication.

When you have completed the Petition form, please send it, together with a copy of the PCC Resolution, **three** copies of the churchyard plan and your cheque for £252.00 made payable to FBC Manby Bowdler LLP. You should address and send the petition to The Diocesan Registry, Routh House, Hall Court, Hall Park Way, Telford, Shropshire, TF3 4NJ, Tel. 01952 211303.

Please note in particular that if the Chancellor issues a formal Judgment in relation to your Petition, then, because the Consistory Court is a public, civil, Court, the Judgment will be published on the Diocesan web site and that of the Ecclesiastical Law Association, and may well be published in law reports, and other places. Members of the public including the media have access to the Judgments of the Consistory Court, and are free to publish details which appear in the Judgment. The purpose of publication of Judgments is to explain to the public how decisions have been reached in particular cases and so as to assist the public in understanding the legal issues at stake; it also ensures transparency.

Correct as of 7th February 2020. These notes are issued by the Registry of the Diocese of Lichfield and may be updated from time to time.