

DIOCESE OF ROCHESTER

CLOSURE OF CHURCHYARDS

Some additional information for PCCs contemplating the closure of a churchyard, to be read in conjunction with the leaflet issued by the Department for Constitutional Affairs - Notes on Orders Requiring the Discontinuance of Burials in Church of England Churchyards (April 1995). (Please note Closure of Churchyards and Orders in Council are handled by The Coroners' Division, Department for Constitutional Affairs, Ground Floor, 4 Abbey Orchard Street, London SW1P 2HT (coroners@dca.qsi.gov.uk))

1. Incumbents and PCCs who are actively seeking the closure of their churchyard, with or without specific exceptions, are advised to do so by means of an Order in Council.
2. Formal notice of intending closure should be forwarded to the local authority at least a year in advance in order that they may make budgetary arrangements for the increased demands on their finances.
3. County and District Councils have powers to contribute towards preserving and maintaining and managing structures in churchyards which are recognised as ancient monuments, under the Ancient Monuments and Archaeological Areas Act 1979. Help may thus be provided for features such as memorials, mausolea, sundials and lychgates. English Heritage has further power to contribute towards the expense of moving a monument so as to preserve it.
4. No bodies may be buried in contravention of an Order in Council.
5. The prohibition does not extend to cremated remains.
6. Apart from the limitation on burials, all legal rights and liabilities and the jurisdiction of the Consistory Court remain unaffected. This means that the ownership of the churchyard does not change and the churchyard is still subject to Faculty Jurisdiction.
7. The wish to transfer responsibility for maintenance to the local authority needs to be expressly made (but this in itself is not sufficient reason for closing a churchyard). It is important to cite the inclusion of specific boundaries.
8. Once the local authority has accepted the principle of the cost of maintenance, the practicalities are often subject to local arrangements. In some cases the local authority passes a cheque to the PCC and they provide labour and machines; in other cases, the local authority will provide this. The type of maintenance should also be negotiated, especially if the PCC wishes to prevent the use of pesticides, herbicides, strimmers, over-zealous cutting etc.

Bibliography.

Churchyards: Responsible Care for(1993), published by the Council for the Care of Churches, (£1.60 including p & p) available from Church House Bookshop (020 7898 1300).

The Churchyards Handbook, 4th edition (ISBN 0 7151 7583 1) available from Church House Bookshop (£10.95).