THE CHURCH OF ENGLAND BIRMINGHAM

DIOCESAN ADVISORY COMMITTEE FOR THE CARE OF CHURCHES (DAC)

Churchyard Regulations (2006) and Further Guidelines

Introduction

The Churchyard Regulations below relate to the Parochial Church Council's (PCC) management of memorials in churchyards and are set out under the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (Amended 2015) by the Chancellor of the Diocese, following consultation with the Diocesan Advisory Committee for the Care of Churches (DAC). To apply for Faculty for works concerning churchyard memorials, please see:

The Church of England - Birmingham: Apply for Faculty

Burials, Interments and Monuments in Churchyards

B1. Overriding objective

1. The purpose of these Churchyard Regulations is to ensure that churchyards are kept in decent order so as to show respect for those who have died before us and to comfort so far as is possible all those who have loved ones buried there. Churchyards reflect the sure and certain hope that those buried or whose ashes are interred await the return of Jesus Christ and the life that is to come. Churchyards reflect too the Christian faith of those who have committed, permanently, their friends and/or family to God. It is especially important that each and every person with a loved one buried or interred in a churchyard seeks to have regard to the sensitivities of others in the same position and of other visitors to the church and its churchyard and, to respect the tradition of the churchyard itself.

2. An incumbent must not under any circumstances authorise the breach of these Regulations without reference to the Diocesan Chancellor for his or her approval.

B2. Rights of Burial and the reservation of grave-space

1. Parishioners, those on the electoral roll of the parish concerned and all persons who die within the parish boundaries have a Right of Burial within the parish churchyard provided that it is still open for burials, whether or not the deceased was a practising Christian and regardless of the length of time that the deceased lived in the parish.

2. Permission for burial of other persons may be granted by the PCC, which would normally pass a formal resolution giving general consent to the incumbent to give such permission at his or her discretion.

3. No one has a right to be buried in a particular part of a churchyard, but grave spaces may be reserved through a Faculty.

4. It is important to note that the exercise of a Right of Burial, the reservation of a grave space or the erection of a monument does not confer any right of ownership of that part of the churchyard, the whole of which remains vested in the incumbent. In particular, burial (or the interment of ashes) does not give the bereaved a right to have a memorial erected that is contrary to these Regulations.

B3. The erection of monuments

1. No monument may be erected over a grave until at least 6 months have passed since the interment, save that the incumbent may permit an exception in the case of the death of a minor provided that he or she first consults the Archdeacon.

2. Neither the relatives, nor the personal representatives, nor the close friends of the deceased have the right to have a monument erected over a grave. They may apply for the privilege of so doing to the incumbent who has discretion to permit such a monument if, and only if, the application complies with the Regulations, below.

3. Applicants are reminded that a churchyard is consecrated ground and that any memorial or monument will be seen by other visitors. Therefore, those completing the application should seek to have erected nothing that may cause offence to others or that is contrary to traditional Christian teaching; nor should any memorial by implication or otherwise draw an unfavourable comparison with anyone else. Accordingly, applicants must discuss their proposals with the incumbent before making a formal application.

4. Any application to erect a monument shall be made to the incumbent on the Faculty Petition Form (Churchyard Memorials), but only following the discussions with the incumbent referred to in Regulation B3.3, above.

5. Once a memorial has been erected on the grave the relatives or personal representatives remain responsible for its maintenance. Neither the incumbent nor the PCC has any responsibility at any time for the upkeep of individual memorials. As a result, applicants are advised to choose monuments that are not expensive to maintain and that are not especially susceptible to vandalism.

6. All changes in a churchyard, including the erecting or removal of monuments, require the authority of the Chancellor, who by custom delegates to the incumbent (save where he or she specifically directs otherwise) authority to permit the introduction of monuments that come within the limits set out in Regulation B4, below.

7. No order should be placed with a stone or monumental mason unless the order has been approved in writing by the incumbent or by the Chancellor.

8. Grave mounds are not permitted, irrespective of whether or not a memorial has been placed or is going to be placed over the grave.

B4. The incumbent's authority to permit monuments

1. Provided that he or she keeps a written record of the same, an incumbent may give written permission for the erection of a monument on a grave in the following circumstances:

    a) The monument must be in the shape of an upright headstone or of a book, which is basically rectangular in shape, but the top edge should be flat or in the shape of a cross. There must not be a sculptured figure protruding from the top of the headstone.
    b) The headstone or cross may be no larger than 1.25m x 0.65m x 0.11m (4' 1" x 2' 2" x 0' 4") and no smaller than 0.60m x 0.50m x 0.08m (2' 0" x 1' 8" x 0' 3").
    c) The rectangular flat slab may be no larger than the grave itself and must lie flush with the ground. It must be installed carefully.
    d) The headstone or cross may stand on a stone base provided the base is an integral part of the design and does not project more than 0.11m (0' 4") in any direction beyond the upright stone, unless a vase hole is included, when the front projection may be extended to 0.18m (0' 7") in front of the stone.
    e) The upright stone, or base if used, is fixed onto a foundation slab that must extend 0.08m to 0.15m (0' 3" to 0' 6") beyond the stone or base in every direction and lie flush with the ground (not the grass) so as to allow a grass cutter to pass over it, freely.
    f) The headstone, cross or slab is made of unpolished natural stone sympathetic to the fabric of the church, or of English oak.

2. Generally, the inscription is in words and numbers only and is incised without any colouring, gilding or silvering. The inscription must include the full names of the person or persons buried with dates or years of birth and death. The incumbent may permit the side bearing the inscription to be polished. The incumbent may permit additional words provided that:

    a) they are not tactless or inapt;
    b) they are consistent with Christian scripture, teaching and doctrine; and
    c) they do not intentionally, by implication or otherwise, draw a comparison of any sort with anyone else buried in the churchyard.

3. If it is sought to have an incised carving representing a special aspect of the life of the deceased on the headstone then, in addition to the incumbent's agreement, specific permission must be sought from the Chancellor. Such a carving must not be inappropriate for a Christian place of burial and must be no larger than 0.15m x 0.15m (0' 6" x 0' 6").

4. The name of the mason making the monument is not to be on the front of it and if permitted at all by the incumbent (whose permission shall only be granted if he or she

considers the appearance of the name will not be unsightly) should be in words not exceeding 0.02m (0' 1") in height.

B5. Limits to the incumbent's authority

1. The incumbent has no authority to permit a memorial or monument that does not comply with the conditions contained in Regulation B4 above and in particular the incumbent has no authority to permit:

    a) monuments made of marble or granite (other than unpolished grey granite), artificial stone or plastic and, in particular, monuments made of black granite or marble;
    b) monuments made of more than one type of stone;
    c) monuments in the shape of hearts, urns or statues depicting human figures or otherwise;
    d) monuments with more than one side polished;
    e) monuments with pictures or photographs on them;
    f) kerbing, railings or chippings; or
    g) any kind of lighting.

B6. The role of the Chancellor

1. Any memorial that does not come within that permitted by the above Regulations may only be erected with the express written consent of the Chancellor and formal approval must be sought from him or her. The latter may choose to consult with the Archdeacon, the incumbent and the DAC before deciding whether the application for such a monument shall be made by way of a petition for Faculty. The Chancellor is approachable and sensitive to the stress a bereaved family goes through. Representations by letter can be made (prior to any Faculty application) to the Diocesan Registrar and will be considered carefully.

B7. The interment of cremated remains

1. Strictly speaking, a Faculty is required for every interment of ashes, but by custom the Chancellor continues to delegate to the incumbent the discretion to inter cremated remains in an open churchyard.

2. A Faculty must be obtained in all cases where it is desired to inter cremated remains in ground no longer open for burials.

3. A Faculty must be obtained for the interment of cremated remains within or below a church; such a Faculty is only granted in exceptional circumstances.

4. If it is desired to inter cremated remains in an urn, that urn should, ideally, be readily biodegradable, rather than be made of metal, plastic or hardwood.

5. The scattering of ashes in a churchyard is never permitted.

6. Each interment of cremated remains should be recorded in a Book of Remembrance.

7. An incumbent may give written permission for a memorial to be placed in that part of the churchyard reserved for cremated remains provided that it is laid flat with the ground and does not exceed 0.45m x 0.30m (1’ 6” x 1’ 0”). A proposal for any memorial outside these limits must be referred to the Chancellor.

B8. Flowers on graves

1. Bulbs and small plants may be planted on graves in certain churchyards with the permission of the incumbent, who must in any event be consulted before any unusual arrangement is to be made.

2. Cut flowers may be left on a grave, but must be cleared away when they die.

3. No artificial flowers may be placed on a grave except for Remembrance Day poppies, which should be removed after a decent interval in consultation with the incumbent.

4. No teddy bears, photographs, balloons or other sentimental items should be left on a grave. If they are, they may be removed by the incumbent or churchwardens or their deputy at any time 42 days after interment.

B9. Breaches of Regulation

1. The mere fact that another monument, memorial or any other form of exception in breach of these or earlier regulations has been erected or permitted is not a good reason for allowing another such item that does not comply with these Regulations.

2. If a memorial, etc., is erected in breach of these Regulations, the Chancellor may order its removal.

B10. The role of the Parochial Church Council

1. The PCC is encouraged to pass a formal resolution that should be widely known, indicating that its members will support the incumbent in not allowing unsuitable monuments and inscriptions in breach of the Chancellor’s Regulations.

2. The PCC is encouraged to approve an appropriate booklet for those bereaved setting out, in less legalistic form, what are their rights, duties and responsibilities.

3. The PCC is encouraged to ensure that the parish has an up-to-date and carefully preserved Book of Remembrance and a graveyard plan that shows accurately the position in the churchyard of all burials, whether marked with a headstone or not.

B11. General

1. Any application to the Chancellor should be sent to the Diocesan Registrar, Anthony Collins LLP, 134 Edmund Street, Birmingham B3 2ES

2. These Regulations have been drawn up by the Diocesan Chancellor in consultation with the Deputy Diocesan Chancellor, the Archdeacons of the Diocese and the DAC. They are issued with the approval of the Bishop of Birmingham. They shall come into force on 1st October 2006. From that date, the previous Regulations shall cease to have effect.

Further Guidelines

G1. General

These guidelines do not form part of the formal Churchyard Regulations, detailed above. They offer general advice on gravestone and memorial safety, when it is appropriate to raise memorials and the responsibilities regarding closed churchyards, and are intended to help those responsible for churchyard maintenance to feel confident that they have acted in accordance with the duty of care imposed by statute on the occupiers of premises to which the public may gain access.

Sometimes, there have been issues regarding parts of memorials, such as railings or other metalwork, that have become unsafe because of jagged edges or potential tripping hazards. Ultimately, the collapse of a churchyard memorial is a potential hazard, especially in large municipal cemeteries where there is a greater likelihood of children playing unsupervised. Detailed guidance from Historic England on caring for historic graveyard and cemetery monuments can be found here:

Historic England: Cemeteries and Burial Grounds

G2. Installing new memorials in churchyards

Most churchyard memorials are single gravestones. These should have one-third of their total length firmly embedded into the ground. Where this is achieved, there is little danger that the gravestone will topple over. In the event that any different form of memorial is proposed, a Faculty application will require detailed drawings showing the entire stonework and the appropriate calculations to show that it will not be susceptible to movement as a result of subsidence. The completed structure must be tested by the contractor who installs it, or by a structural engineer, to demonstrate that it will withstand a force of 50kg. In either case, it will be necessary to check the Public Liability Insurance of the individual or firm testing the memorial.

G3. Inspection of churchyards

It is appropriate to carry out an annual check of the memorials in all churchyards to which the public have access. This check should involve an inspection of each memorial to consider whether it may present any danger. Loose or decaying parts of larger memorials must be noted and gravestones should be checked to see if they move when hand pressure is

applied to them. If any movement is detected, the next step should be to test by one adult kneeling beside the memorial (not in front) and pulling on it as he or she gets to their feet. If the stone does not rock, it can be regarded as reasonably safe, but if it moves significantly then remedial action is required.

While memorials are being inspected, it is appropriate to look for other potential hazards on pathways and to record if there is any need for remedial work. There is no need for any of this testing to be carried out by a professional or expert, but it is important that the fact that the check has been conducted should be recorded. The need for any remedial work or indeed the decision to keep a closer watch on any particular memorial should be recorded so that it can be reconsidered in the next annual inspection.

G4. Urgent remedial work and safety precautions

In the event that a memorial is found to be unsafe, safety precautions should be taken without delay, such as removing any loose and broken masonry to a place of storage. If a gravestone is felt to be at risk of collapse, the Archdeacon should be informed and, if necessary, it should be laid flat on the grave. The relatives of the memorialised should then be contacted to organise the appropriate works to reinstate the stone in a safe and upright condition. If appropriate, a dangerous memorial should be identified with signage and cordoned off with tape barriers until it is made safe.

G5. Alterations to memorials in churchyards

There is no need to apply for a Faculty to inspect memorials, but Faculty permission is required if any permanent alterations are needed, including relocating a memorial or laying it flat.

If, following an inspection, it is decided to undertake a series of repairs and improvements, one application based on the inspection report will be appropriate. The application should explain what memorials are considered to be dangerous or need repair and what remedial work is proposed. The application should then state whether it has been possible to trace any family of the deceased and whether they are funding the repairs. Where there is unlikely to be local knowledge of the family of the deceased, advertising in the local press may be necessary in an attempt to give family members the chance to carry out repairs to memorials, as this remains their responsibility in perpetuity.

G6. Municipal cemeteries

These notes are not intended to relate to large municipal cemeteries. The need for precautions to be taken by civil local authorities will be considered by their own management. Where part of a municipal cemetery is consecrated so that it is subject to Faculty, the local authority should be aware that the testing procedure noted in point G3 will be appropriate.

G7. Installing new memorials in church buildings

It is often the case that relatives and friends will want to commemorate a life soon after a person has died. It is better, however, to allow some months to pass before everyone agrees on an appropriate style of memorial (which could be a piece of stained-glass, a candle stand, or other furnishing inside the church, rather than the standard memorial plaque).

A 2-year moratorium is often appropriate before new memorials are introduced into church buildings, but the particular circumstances of each case should be taken into account when determining the appropriate 'pause' before any works are put in hand. Nevertheless, it is recommended to wait at least 6 months before applying for Faculty to make a change or addition to some part of the church fabric or its contents as a gesture of commemoration for someone connected with the church over an extended period of time.

PCCs should have a clear, written policy on what is considered to be appropriate memorialisation within the church building and grounds. This should be made available to applicants and must be applied consistently and universally. PCCs are not obliged to accept new memorials and may choose to not install new personal memorials in the church building and grounds at all, if this is felt to be appropriate.

G8. Closed churchyards

A closed churchyard is one in which burials no longer take place (apart from in exceptional circumstances), but the churchyard is still open to public access. Maintenance responsibility for such places is often handed over by the parish to the civil local authority, but the ownership still remains with the incumbent.

Upon closure of a churchyard, an Order in Council is made. This document may be accompanied by a Maintenance Agreement, which would make explicit the aspects for which the local authority will be responsible. In general, responsibility is held to cover "all things attached to the realty which includes tombs, monuments, war memorials, churchyard crosses and its walls and fences".

Closures since the early 1970s have been made under the Local Government Act 1972. Under Section 215 of the Act, keeping the churchyard in "decent order" is held to include dealing with "saplings and bushes ... long rank grass, weeds and brambles". The responsibility for trees in churchyards closed by an Order in Council rests with the local authority, explained in Section 6 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (Amended 2015).