

# General Guidance on Churchyard Matters

This document contains brief guidance from the Chancellor of the Diocese on various legal matters arising in churchyards. More detailed guidance is available from the Registrar.

## MEMORIALS AND MONUMENTS

The churchyards and the curtilage of the church are subject to faculty jurisdiction. This is exercised by the Chancellor of the Consistory Court of the Diocese in conjunction with the Archdeacons and the clergy. The introduction of a memorial in a churchyard or other consecrated burial ground requires a faculty, but the Chancellor has by the Churchyard Regulations 2016<sup>1</sup> delegated to rectors, vicars and priests in charge ("the minister")<sup>2</sup> her discretion to authorize the introduction of certain types of memorial which comply with those Regulations. That does not mean that a memorial outside the scope of those Regulations will never be permitted in a churchyard in the Diocese of Norwich, but if the memorial does not conform to the Regulations an application must be made to the Chancellor for permission. Churchyards provide areas of peaceful reflection and prayer for the bereaved and for the wider community and as such memorials which are jarring or incongruous are to be discouraged. Nevertheless, churchyards need not be bland and homogenous and the Chancellor encourages attractive, well conceived designs by skilled and imaginative craftsmen. Where such designs fall outside the scope of the Regulations they must be authorized by a faculty. The minister has no discretion to permit a memorial which is not within the Regulations. He or she should be mindful of the fact that illegal memorials can cause (and in this Diocese and elsewhere have caused) significant pastoral difficulties for the future and a real sense of injustice in those who have abided by the law. With this in mind, it is important to note that the existence of a similar memorial or memorials either in the same churchyard or elsewhere in the Diocese is not of itself a reason for the giving of permission either by the minister or by the Chancellor.

The Regulations limit the colour and type of stone which may be used. Local stone is often the most appropriate material in a rural setting as this will blend with the stone of the church building, churchyard walls and existing gravestones. Dark or red granites are not permitted; neither is highly polished stone. Unvarnished oak or teak may be used. The Regulations also limit the shapes which may be permitted without a faculty to simple headstones, crosses and horizontal ledgers. Kerbs, chippings, photographs, candles and other objects are not permitted and must be removed by the minister or churchwardens, who may, at their discretion, allow such articles to remain on new graves for a period of up to thirteen months. Inscriptions and pictures on memorials should be simple, dignified and reverent and should have a clear Christian or traditional funerary symbolism or reflect the life and work of the deceased. Pictures must be uncoloured and occupy no more than one third of the face of the memorial. Portraits of individuals are not permitted. Epitaphs should honour the dead, comfort the living and inform posterity. They will be read long after the bereaved themselves have passed away and as such are not the right place for passing sentiments about how the family feel about the deceased. Instead biblical or well-known hymnal words which give a flavour of the life of the deceased are to be encouraged.

## MANAGEMENT AND MAINTENANCE OF THE CHURCHYARD

The parochial church council (the PCC) is responsible under the Parochial Church Councils (Powers) Measure 1956 for the care and maintenance of the churchyard. Each PCC is encouraged to make its own rules to meet the needs of the local situation, but neither the minister nor the PCC has authority to make any rules which are contrary to the Churchyard Regulations 2016 without the express authority of the Chancellor. Any PCC or minister that wishes to apply rules in a particular churchyard which are contrary to the Regulations must petition the Chancellor for a faculty to introduce and to operate such rules. The Registrar can provide guidance on the procedures for such an application. The Chancellor is mindful of the fact that it is desirable that churchyards be kept as level as possible to assist with maintenance. The PCC may remove flowers or wreaths from graves when they start to wither or (in the case of silk flowers) start to become disheveled or discoloured.

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<sup>1</sup> A copy of these Regulations can be found on the Diocesan Registry website at <http://www.norwichdiocesanregistry.co.uk/churchyards/memorials/>

<sup>2</sup> During a vacancy in a benefice the advice of the Registrar should be sought.

## **BURIAL IN THE CHURCHYARD AND EXHUMATION**

Certain people have the right for their remains to be buried in the churchyard provided that there is space available. Those people are: residents, people with their name on the electoral roll of the parish and those who die in the parish. The Church of England is the established church in England and as such the right to burial is not restricted to the baptized or to worshipping members of the congregation. No-one else can be buried in the churchyard without the consent of the minister and the PCC. Usually some significant connection between the deceased and the parish would be required. It is in the nature of the rite of burial is to say 'farewell' to the deceased and to commend them to the mercy and love of God in Christ to await the transformation of resurrection. There is accordingly a theological finality to the burial of all remains in ground consecrated according to the rites of the Church of England. The prospect of exhumation at some future date and the relocation of remains will only be permitted in the most exceptional of circumstances.

## **OWNERSHIP OF AND RESPONSIBILITY FOR MEMORIALS**

Burial, the reservation of a grave space, or the erection of a memorial, do not confer upon the relatives of the deceased or others any right of ownership of the land in which the burial is (or is to be) made. Nevertheless, a memorial remains the property of the person who commissioned its erection during his lifetime and after his death belongs to the "heir-at-law" of the person commemorated. This person is responsible for maintaining the monument in good order. Where this does not occur the PCC may choose to take steps to ensure safety in the churchyard, but must have faculty permission for any changes.

## **BURIAL OF CREMATED REMAINS**

Cremated remains should not be strewn or scattered. The pouring of cremated remains directly into the earth is, from the point of view of symbolism, theology and sound practical sense, to be preferred, but they may be buried in a casket made of wood or some other biodegradable material. Where cremated remains are buried in an area set aside by faculty for the burial of cremated remains no tablet or plaque shall be introduced other than in accordance with the terms of the faculty. Where cremated remains are buried individually, subject to the agreement of the minister, the burial may be marked by a tablet or plaque set flush with the ground of no more than 52.5cm (c. 1ft 9in) square. However, if the church has a book of remembrance this is the preferred method of commemoration i.e. without a tablet or plaque.

## **RESERVATION OF GRAVESPACES**

Guidance on the reservation of gravespaces is available from the Registrar or on the Diocesan Registry website. Reservations should usually only be sought by those over the age of 50 and will usually only be granted for a period of 30 years. However, where there is space in the churchyard for less than 30 years' worth of anticipated burials, any faculty for a grave space reservation is likely to be for that shorter period. So if there is only room for 5 years' worth of burials, any reservation is likely to be limited to just 5 years. Applicants for reservations of a gravespace are encouraged to make a donation to the relevant PCC.

## **BREACHES OF FACULTY JURISDICTION**

Where a breach of the Churchyard Regulations or other aspect of the faculty jurisdiction has occurred advice should be sought promptly from the Archdeacon or Registrar and steps taken to rectify the breach. For example, it may be appropriate to seek permission for a scheme to remove illegally introduced items (such as kerbstones, vases or other articles) or to make other alterations in order to facilitate churchyard maintenance or ensure fairness and a consistency of approach within the churchyard. The Chancellor encourages parishes to pursue such schemes, which require a faculty. Advice can be sought from the Registrar.