



DIOCESE OF LIVERPOOL

CHURCHYARD REGULATIONS: A GUIDE FOR CLERGY AND CHURCHWARDENS

This guide seeks to explain the Diocesan Churchyard Regulations and to help clergy and their parishes adopt good practice in the management of churchyards.

In addition to the general law, churchyards are subject to the Diocesan Churchyard Regulations. These Regulations are made by the Diocesan Chancellor and set out the type of memorial that the Minister of the parish may permit without the requirement of a Faculty from the Chancellor. Compliance with the Diocesan Churchyard Regulations is a matter of legal obligation. The Regulations also set out restrictions regarding the type of inscription permitted and prohibitions regarding kerbs, railings, stones, chippings, garden areas, photographs, artificial flowers and similar matters.

Some parishes have added their own additional regulations to reflect local circumstances. Likewise the maximum permissible dimensions for memorials may not be appropriate for some churchyards and some parishes may wish to apply smaller dimensions.

Parts of the Diocesan Regulations may need to be adjusted in particular cases – for example, some parishes have adopted a practice of not permitting a memorial directly associated with the place of interment of cremated remains in a garden of remembrance and therefore the regulations specifying the maximum dimensions of cremated remains memorials should be omitted. The regulations also include the maximum dimensions for a vertical memorial marking the place of interment of cremated remains – but many parishes do not permit that type of memorial and in such cases that provision should be omitted.

Any amendments must be notified to the Diocesan Registrar for approval.

Clergy must ensure that all memorial masons who work in their churchyards are aware of the Parish's regulations and that they are fully observed. Prior written approval for all memorials must be sought.

Memorial masons must submit applications for permission to introduce a memorial to the incumbent or minister in charge (or if none such is in post, to the parish administrator or churchwarden who will then forward it to the Area Dean) and a precedent form is attached.

In all cases an application may be made to the Chancellor for a faculty to permit a type of memorial that does not comply with the Regulations.

The Minister may not approve a memorial that does not comply with the Regulations. If the Minister is not willing to approve the application, an application may be made for a faculty.

A copy of the current edition of the Diocesan Churchyard Regulations is attached to this guidance and further copies are available on request from: the Diocesan Registrar, The Bishop of Liverpool's Registry, 1 The Sanctuary, Westminster, London SW1P 3JT. The Regulations, this guidance, the application form and other material are available on the diocesan website and on the Diocesan Registry website – liverpooldiocesanregistry.co.uk

The initial request for a faculty application form should be made to the Diocesan Advisory Committee. Applicants should be warned that a fee will be payable.

When arranging a funeral in church or a burial – including the interment of cremated remains – in the churchyard, the minister should explain the need for approval of a memorial, the inscription and anything that is to be placed on the grave and also explain what he or she is able to approve under the Regulations.

Many complaints received by the Archdeacons and the Diocesan Registrar relate to churchyard matters and would have been avoided if persons arranging funerals or burials and interments had been informed at the outset of the provisions of the Regulations. There is included with this guidance, an example of a shortened version of the Regulations and also an example of a formal application for permission which incorporates a summary of the Diocesan Regulations.

The suggested application form includes a section for completion by the memorial mason which requires confirmation that the memorial will be constructed and installed in accordance with the requirements of the recommended code of working practice of the National Association of Memorial Masons (NAMM) and the British Standard.

Some general comments

It is essential that the Churchyard Regulations are observed both by clergy and memorial masons. Many complaints received arise in cases where a previous Minister has ignored the Regulations and a new minister seeks to apply them.

Compliance with the Regulations will avoid problems for all.

As regards inscriptions and epitaphs, a pastoral approach is preferred but families of the deceased should be reminded that over long inscriptions leave no space for future inscriptions. Whilst the inscription should relate to the deceased, the inscription may include references to the deceased as being a father or mother etc of named persons. A reasonable balance should be maintained.

Many complaints have been received regarding the prohibition of artificial flowers. Modern silk flowers are said to be indistinguishable from natural flowers. Clergy and persons who

look after churchyards need to adopt a sensitive approach and indeed it is not likely that anyone will have sufficient free time to search out for and remove good-quality artificial flowers. However, plastic flowers should never be allowed.

Withered flowers, whether natural or artificial, need to be removed in order to maintain the quality of the churchyard.

Common sense needs to be applied regarding the type of stone to be used in churchyards. Different criteria need to be applied in different types of Churchyard, and indeed in different parts of the same churchyard. A modern highly polished granite memorial will not be appropriate in many older churchyards where the surrounding memorials are old, unpolished and weathered. Local stones will always be preferable.

Memorial masons will be at fault if they allow customers to choose a modern memorial in an inappropriate situation. They must know and respect the churchyards in which they normally work.

Safety in churchyards is a matter of the utmost importance. Kerbs are likely to be the cause of tripping and are not permitted as being unsafe. Likewise railings and chains may inflict injury and indeed may impede access to another person's family memorial. Stone chippings and the like are liable to damage grass cutting equipment and indeed may cause injury to persons operating such equipment or a person standing close by. If you notice items of this type appearing in the churchyard, action needs to be taken immediately – do not wait as others will follow suit. First contact the family and asked them to remove the offending items but, if they refuse, seek the directions of the Registrar.

Again many complaints are received regarding the height of grass in churchyards. Churches cannot afford, and do not have the resources, to maintain the grass in a churchyard to a Wimbledon standard. Volunteers to help are welcome persons. It is important that the task of cutting grass is eased and this means that those cutting grass should not be compelled to run an obstacle course. That is the reason why vases should be placed on the memorial plinth and not on the grass. The area in front of a memorial should not be planted out as a garden. All this hinders churchyard maintenance. If families are told at the outset that gardens and the like are not permitted, they cannot complain later when they are asked to remove them. If they are not told, they will complain. Likewise if a blind eye is turned to one non-compliance, others will follow suit.

Individual designs are not to be discouraged but do require careful scrutiny which should be done through the faculty system.

Churchyard layout

The layout of a churchyard must take into account the needs of the disabled and the infirm. A local authority health and safety officer has recently made the point that churchyards as

well as church buildings must enable disabled access. Remember that the majority of people who visit family graves are the elderly who are put at risk if pathways are too narrow.

The Institute of Cemetery and Crematorium Management suggests the following in local authority cemeteries -

- 900 MM wide strip of virgin ground or raft foundation placed at 6.1 M (21 feet) centres
- each grave plot should measure a minimum of 2.7 M (9 feet) by 1.5 M (5 feet) and this should be in addition to the 900 MM strip of virgin ground or foundation.

Also allow sufficient space between memorials: do not tightly pack graves close together.

Do not arrange for a row of graves to be laid close to a wall, hedge or similar feature or to the church building. You are likely to need access to the wall or hedge or building at some time in the future.

Graves and memorials should not be laid out close to a tree or trees.

CHURCHYARD REGISTERS and PLANS

The Parochial Registers and Records Measure requires that a register of burials is maintained and the burial register is to include the reference number of the grave on the churchyard plan. It is necessary therefore for a proper churchyard plan to be prepared and maintained and a scheme of numbering grave plots should be adopted – for example, by reference to sections, rows and grave numbers.

SOME LEGAL POINTS

1. Who has the legal right to be buried or to have their ashes interred in a churchyard?

A person who:

- lived in the parish at the time of their death; or
- died in the parish; or
- was on the church electoral roll of the parish at the time of their death

has a legal right to be buried or have their ashes interred in any consecrated burial ground forming part of the churchyard of the parish church or other consecrated burial ground belonging to the church. An incumbent/minister may decide to permit persons outside these categories to be buried, or their ashes to be interred, in a burial ground or garden of remembrance but in most cases only where there are strong pastoral grounds for so doing.

2. May a burial plot be bought?

No – consecrated ground may not be purchased or sold – as a matter of law. Fees must be paid for burial or interment in a churchyard and also for the approval of a memorial and the amount of the fee payable in cases where the deceased person had a legal right of burial or interment is fixed each year by the General Synod of the Church of England. The fee is not a purchase price for the burial or interment plot and the family of the deceased do not become owners of, or acquire exclusive rights to, the plot

3. How can a grave plot be reserved?

A faculty is necessary to authorise the reservation of a specified burial plot and such faculties are not granted as a matter of course. Reservation faculties are granted for a specified period of years (normally 30) but in particular cases the reservation period may be longer.

4. What is the minimum depth of soil between a coffin and the ground surface?

The Local Authority Cemeteries Order 1977 provides that: “nobody shall be buried in a grave in such a manner that any part of the coffin is less than 3 feet below the surface the level of any ground adjoining the grave; provided that the burial authority may, where they consider the soil to be of a suitable character, permit a coffin made of perishable good material to be placed not less than 2 feet (60.96 CM) below the level of any ground adjoining the grave.”

Nobody shall be buried in a grave unless the coffin is effectively separated from any coffin interred in the grave on a previous occasion by means of a layer of earth not less than 6 inches (15.24 CM) thick. When any grave is reopened for the purpose of making another burial therein, no person shall disturb any human remains interred therein or remove therefrom any soil which is offensive.

5. When will an exhumation be permitted?

A faculty is always necessary to authorise an exhumation. In addition a Burial Act Licence, from the Ministry of Justice, will also be necessary if the reburial or re-interment is not to be in a consecrated burial ground i.e. consecrated in accordance with the rites of the Church of England. Note that some parts of some local authority cemeteries or burial grounds are consecrated. In deciding whether to grant the faculty, the Diocesan Chancellor treats cremated remains in the same manner as any other human remains. Exhumation Faculties are granted in exceptional cases only, for example, where a mistake has been made in the burial plot. The general principle is that human remains should rest permanently in peace. On burial or interment in consecrated ground, human remains are committed to the protection of the Church.

Much heartache would be avoided if a gentle question is asked of the surviving husband or wife (or civil partner) or other close family member when a funeral or the burial or interment is arranged. If the person who has died is to be cremated, ask whether that is also

the wish of the surviving spouse or civil partner; on occasions the survivor does not wish their remains to be cremated and expects that the other's cremated remains can readily be exhumed and moved to their new full grave at the time of death. Explain that this may not be allowed – certainly not as a matter of course. Consideration should be given to the reservation of a grave and the interment of the cremated remains in the reserved grave plot.

Similarly distress can be avoided by gently explaining to the survivor and other members of the deceased's family that an exhumation will not be allowed simply because the survivor has moved away, whether to a care home or to be close to their children or for any other reason, and is no longer able to visit the churchyard. Very special grounds would be necessary before such an exhumation is permitted. Similarly an exhumation would not be readily permitted in a case where the survivor dies and is buried or interred in another churchyard or place and permission is sought to exhume the remains of the spouse or partner who dies first so that they can be placed in the new grave or interment plot.

Gentle pastoral care and asking the right questions at the right time will avoid later distress for a mourning family. Do not give any indication that permission for an exhumation is granted as a matter of course; indeed, the contrary is the case.

6. Replacing memorials

Care needs to be taken to ensure that all relevant members of the family approve the removal of an old memorial and its replacement. It is important that the memorial approval application form is used for a replacement memorial (see paragraph 4 of the Regulations). If a memorial is removed to enable an additional inscription to be made, the liability of the original memorial mason for the safety of the memorial will be ended and the memorial mason who reinstalls the memorial must undertake that liability.

7. DIY memorials

Home-made memorials must not be permitted.

Sir Mark Hedley, Chancellor

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