

# 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.

## **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. Usually some significant connection between the deceased and the parish would be required. It is in the nature of the rite of burial 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.

## **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 in the manner permitted by the Churchyard Regulations. However, if the church has a book of remembrance this is the preferred method of commemoration i.e. without a tablet or plaque.

## **MEMORIALS AND MONUMENTS**

The churchyards and the curtilage of the church are subject to the faculty jurisdiction. This is exercised by the Diocesan Chancellor 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, 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 the wider community and as such memorials which are jarring or incongruous are to be discouraged. Churchyards need not be bland and homogenous and the Chancellor encourages attractive, well conceived designs by skilled, imaginative craftsmen. Where such designs fall outside the scope of the Regulations they must be authorised by a faculty and cannot be permitted by the minister. He or she should be mindful of the fact that illegal memorials can cause (and 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. The Regulations also limit the shapes which may be permitted without a faculty. Kerbs, chippings, photographs, candles and other

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<sup>1</sup> A copy of these Regulations can be found at <https://www.salisbury.anglican.org/whos-who/contacts/registry/churchyards-headstones-and-burials>

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

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 13 months. Inscriptions and engravings 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. Engravings must be uncoloured and occupy no more than one fifth of the face of the memorial. Portraits of individuals are not permitted. It should be remembered that epitaphs will be read not only by those who knew the deceased but also by others, and long after family members have themselves passed away. It is therefore important that words should have a degree of longevity and brevity, without leaning towards the overly sentimental. 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 become disheveled or discoloured.

#### **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 permanent changes.

#### **RESERVATION OF GRAVE SPACES**

Guidance on the reservation of grave spaces is available from the Registrar. Reservations should usually only be sought by those over the age of 50 unless exceptional circumstances exist. Reservations will usually only be granted for a period of 30 years, but extensions of that period can be applied for later if necessary. Where there is space in the churchyard for less than 30 years of anticipated burials, any faculty for a grave space reservation is likely to be for that shorter period; if there is only room for 15 years of burials, any reservation is likely to be limited to just 15 years. Where there is less than 10 years of space a reservation is likely to be refused unless exceptional circumstances exist. PCCs are encouraged to adopt a policy on reservations where there is limited space available in the churchyard and may resolve not to support reservations in those circumstances. Applicants for reservations of a grave space may be encouraged to make a donation to the relevant PCC for the upkeep of the churchyard.

#### **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.

**The Worshipful Canon Ruth Arlow**  
**Chancellor of the Diocese of Salisbury**

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