

Diocese of Southwark

**CHURCHYARD MEMORIALS,
REUSE OF GRAVE SPACES,
RESERVATION OF GRAVESPACES,
INTERMENT OF ASHES,
GRAVEYARD RECORDS,
EXHUMATION,
TREES IN CHURCHYARDS,
INSURANCE,
MEMORIAL TABLETS IN CHURCHES**

CHANCELLOR'S GUIDANCE

Issued by the Chancellor, after consultation with the Archdeacons in the Diocese of Southwark and the Southwark Diocesan Advisory Committee and the National Association of Memorial Masons.

Introduction

This is a guide to assist (a) the bereaved; (b) funeral directors and stonemasons; and (c) incumbents, priests-in-charge, churchwardens and others with responsibility for churchyards, in relation to various issues which arise from time to time. It replaces the Revised Directive by the Chancellor on Churchyards and Memorials in Churchyards & Churches, issued on 1st February 1994. It should be read in conjunction with *the Churchyards handbook* (Church House Publishing 4th ed. 2001).

The ultimate responsibility for any churchyard rests with the incumbent or priest-in-charge (generally referred to in this Guidance for simplicity as “the incumbent”), subject to the overriding authority of the Diocesan Bishop.

Burial within a churchyard belonging to the Church of England is quite distinct from burial elsewhere, both in regard to the procedures prior to burial, and with regard to subsequent procedures. Furthermore a well-ordered and well-maintained churchyard plays an important role in education, including Christian evangelism.

Save where (exceptionally) the Guidance may be applied in the case of the consecrated areas of certain civic cemeteries, the Guidance is not applicable to civic cemeteries, crematoria or other forms of public remembrance of the dead situated outside churchyards.

1. MEMORIALS

The prime movers in relation to memorials in churchyards will be the relatives of the deceased, for whom the business of choosing how, after death, the body should be dealt with (by burial or cremation), selecting a place in which to bury the body or the ashes, and in due course deciding what headstone to put up and what it should say, can be a source of anxiety and distress, exacerbating the problem of coming to terms with the death of a loved one.

Funeral directors and stonemasons (generally referred to in this Guidance as “funeral directors”) in practice play a leading role in the introduction of new memorials into churchyards, and it is their responsibility to assist both incumbents and the bereaved to achieve the most appropriate memorial in all the circumstances – so that the whole process plays a part in coming to terms with bereavement, rather than simply posing a further bureaucratic burden.

The headstone

Many of the churches in the Diocese do not have churchyards in which burials can take place. But there are a number where space still exists for new burials; and most of these are places full of character. Three elementary principles are that

- A memorial should respect its surroundings
- A memorial should not impose an unreasonable burden on future generations
- The inscription should be the most appropriate in all the circumstances

(1) design:

A memorial should be in harmony with those round it, and with the churchyard as a whole; and the appearance of the churchyard should harmonise with that of the surrounding area. This does not mean that there has to be strict uniformity: there is little virtue in being bland and dull. But a memorial should not stick out, and the design cannot be left entirely to the individual choice of the bereaved. The churchyard will last for many years to come; and its character depends on that of all the memorials within it. There is a distinction between private grief and public remembrance. No single memorial can be allowed to spoil that general appearance, nor can the amount of private grief currently felt determine in any absolute way the form and content of what is to constitute a public memorial.

In practice, this means that the choice of stone for a memorial, and its size, thickness, shape, and general design, should only be finalised after looking carefully at the churchyard as a whole, and in particular at the part of it containing the grave under consideration. Memorials that are much darker, lighter, taller, or smaller than those nearby, or which are of a completely different stone, are unlikely to fit in harmoniously. The same applies to those which are in the form of a book, or an angel, or some other sculpture – unless there are many others of a similar character in the immediate vicinity. Memorials in the shape of teddy-bears or motorcars should be avoided.

Stones used in local buildings, or stones closely similar to them in colour and texture, are usually more appropriate; whereas black stones, and most marbles and granites, and stones with a highly polished surface, are less likely to be suitable. Memorials of synthetic stone or plastic are almost never likely to be. The choice of lettering also needs to be made in the light of what has been used nearby – in some churchyards, for example gold lettering may be appropriate, but in most it will not; and plastic lettering will always be unsuitable. Photographs or portraits of the deceased will almost always be inappropriate, as they would be totally out of character with existing churchyards.

(2) maintenance:

Churchyards have to be maintained by the parish for centuries to come. Memorials should be designed to allow for continuing maintenance to be as simple as possible. Generally, therefore, graves should not have kerbed surrounds, with or without railings or chains, as these impede the cutting of the surrounding grass.

The placing of cut flowers is a traditional way of showing affection or respect for the deceased; but dead flowers are unsightly and disrespectful. Those placing the flowers should remove them, and should not be upset if those responsible for the churchyard remove dead flowers as and when they observe them. The placing of flowers in free-standing vases or jars (even if partially buried) is generally unattractive, and a better solution is to choose a headstone with integral provision for a small vase for flowers; this enables them to be kept in water, and thus to last for longer. Experience suggests that provision of two or more integral vases is excessive. Normally it will be unobjectionable to plant a few spring bulbs on the grave, in front of the headstone, but more elaborate planting schemes are generally to be discouraged. The placing of artificial flowers is inappropriate.

At least six months should be allowed to elapse following the most recent burial in a grave before a headstone is erected, so allow the grave to settle. The ground should be leveled before a headstone is erected, and if this is not done, those responsible for the churchyard may undertake leveling when twelve months have elapsed since the latest burial in it.

(3) inscriptions:

Often the most difficult decision is what to put on the headstone. It is important not to rush decisions: what seems suitable just after the funeral may seem less so after a little time has passed. Wording can properly be individual, to reflect the personality and career of the deceased, and in particular to express the precious and personal qualities that made the deceased a unique and loved person, and to strike a chord of remembrance and reflection (and sometimes challenge) to the passer-by and stranger. But it also ought to be respectful, not only of the deceased, but also of other memorials and the feelings of all who may read it. A well-chosen inscription can give comfort in the present and provide interest (to others) in the future.

The memorial should commemorate, accurately, the existence of the person who has died, by recording his or her full name, or at least the surname and first name by which he or she was generally known (for example, “Thomas Joseph Smith” or “Thomas Smith”). It is perfectly appropriate to include as well any term of affection or widely-used nickname, perhaps in brackets (for example, “Thomas (Buster) Smith”). Generally terms such as “dad”, “mummy”

or “nan” are best avoided, but this is not an absolute rule. The memorial should also record the date of death and, wherever possible, either the date of birth or the age at death.

A name on its own says little; and misses the opportunity to say something publicly about the person who has died. There is much to be said for trying to express the precious and powerful qualities that made a person unique and loved. The inscription may record what he or she did (“district nurse” or “local councillor” or “craftsman”) or simply some feature of the deceased’s character (“much-loved husband, father and grand-father”). Some may wish to add a scriptural text, or an extract from a poem, or some other suitable words, consistent with Christian theology and inspired by reflection on the life of the departed. Any inscription should be short and to the point; and should avoid the trite, the home-spun, or the overly sentimental. The vocative case should be avoided (for example, “he was much loved” is preferable to “you were much loved”).

Carved artwork may be included – either traditional Christian symbols (such as the Cross, though use of more than a single cross is to be avoided, since that reduces the Cross to mere decoration), or other decorative items (such as flowers), or, where appropriate, some other device reflecting the life of the person who has died – an example might be a book in the case of an author, or a palette in the case of an artist, though regalia relating to a particular football club are unlikely to be appropriate save in the case of a particularly close association. Sometimes in the case of a child a much-loved toy might be included. As a general rule, decoration should be kept simple and a minimal approach adopted.

(4) advice:

Careful study of other gravestones and epitaphs will often assist in choosing something appropriate. Incumbents will usually be willing to comment in advance on particular proposals, and to make suggestions. Early consultation is strongly recommended in order to minimise later problems.

Local funeral directors will be able to help with ideas for memorials, and give estimates as to costs. They will usually have a range of standard memorials, and will probably be able to indicate where an example of any particular pattern can be seen locally. An individually commissioned memorial will almost certainly cost more, but may be a more fitting tribute to the deceased (and thus more satisfying to the bereaved), and will almost always be preferable aesthetically.

A current list of addresses of approved funeral directors regularly operating in this diocese may be obtained from the Secretary of the Diocesan Advisory Committee, Trinity House, 4 Chapel Court, Borough High Street, London SE1 1HW (tel. 020 7939 9400). Alternatively, a list of other stonemasons who may be suitable for particular requirements may be obtained from Memorials by Artists, Snape Priory, Saxmundham, Suffolk, IP17 1SA (tel. 01728 688934).

(5) timing:

The process of choosing design and wording should not be rushed. Incumbents will usually not entertain any application for six months after the burial. It is essential that no headstone should be commissioned until any necessary formal approvals have been given – the fact that a memorial has already been commissioned and paid for is not a reason for granting approval.

Method of application for approval

Approval should be sought by filling the appropriate form (including dimensions, design, materials, inscriptions etc.), and giving or sending it to the incumbent - or the funeral director may do this. The form must be signed by both the applicant and the funeral director, and accompanied by the appropriate fee.

If the proposed memorial conforms with the relevant Regulations (see below), it will normally be approved without further ado. Occasionally it may be necessary for others to be consulted: for example, where a memorial is in some way out of the ordinary. This does not necessarily mean that it will not be approved (though some applications are refused), but the approval process may take a little longer.

Once a particular design has been approved, it must not be altered without further approval. A new application form should accompany any revised proposal, though normally a second fee will not be required.

This procedure also applies where an alteration is to be made to an existing memorial (for example, to add a further inscription following a second burial).

Methods of approval

There are three ways in which a memorial may be approved:

- by the incumbent, if the memorial complies with the Churchyard Regulations in force for the churchyard concerned
- by the incumbent, where there are no Churchyard Regulations in force, but the memorial complies with the Diocesan Churchyard Regulations
- by the Chancellor – usually following consultation with the Diocesan Advisory Committee, and if necessary after an oral hearing

Where approval is the responsibility of the incumbent, the authority cannot be delegated, whether to assistant priests, curates, other clergy, churchwardens or Parochial Church Councils. Where there is a vacancy, or where the incumbent is for some good reason unable to consider the matter, the Archdeacon may act on the incumbent's behalf.

(1) Churchyard Regulations

The most satisfactory approach is for each incumbent, who has responsibility for a churchyard with space for burials to prepare, in consultation with his or her Parochial Church Council, Churchyard Regulations for the churchyard(s) in question, indicating which types of memorial would normally be suitable. Such Regulations then need to be considered by the Archdeacon and the Diocesan Advisory Committee, prior to approval by the Chancellor – subject to any modifications that may seem desirable. They will then form the basis on which in future the incumbent may approve any new memorial to be introduced into the churchyard concerned.

Churchyard Regulations may in some cases be more permissive than the general Diocesan Churchyard Regulations (see below), in other less so. Where, for example, a churchyard contains nothing but memorials of a very traditional character, almost all made from a particular type of sandstone, then the Churchyard Regulations are likely to provide that approval will only be for that pattern and that stone. Where, on the other hand, a churchyard contains a mixture of different materials and designs, more latitude can be allowed in approving new ones.

Churchyard Regulations should be prepared in the same format as the Diocesan Churchyard Regulations and following the same general order, but substituting different specifications as required.

It will be necessary for funeral directors to check from time to time as to whether Regulations have been prepared for the churchyards where they carry out work. This is best done by contacting the incumbent concerned, or the Secretary of the Diocesan Advisory Committee whose address is given above.

(2) Diocesan Churchyard Regulations

The second approach, which is the method used in the past, is for general Regulations to be issued by the Chancellor, following consultation with the DAC, indicating what categories of memorial are normally suitable throughout the Diocese. Where there are no Churchyard Regulations in force, the Diocesan Churchyard Regulations will be the basis on which an incumbent may approve any new memorial to be introduced into a churchyard in his or her care.

The new Diocesan Churchyard Regulations, contained as an Appendix to this Guidance, include a number of variations from those included in the Revised Directive issued by my predecessor in February 1994. The Chancellor will welcome suggestions from any source as to ways in which the Diocesan Churchyard Regulations may be improved.

If a funeral director feels that the Diocesan Churchyard Regulations do not enable the introduction of a particular type of memorial that is often requested and which seems perfectly acceptable in the particular churchyard concerned – although possibly not elsewhere – the solution is of course to encourage the incumbent to prepare Churchyard Regulations.

(3) Approval by faculty

The third approach will only be necessary comparatively rarely. It would apply where, for example, a proposed memorial is of an unusual character, and thus worthy of more careful consideration, but not intrinsically undesirable – it may indeed be an exciting new design, worthy of enthusiastic support. Many of the more interesting monuments from the past would probably not accord with the Diocesan Churchyard Regulations. It might also apply where for some reason a proposal would be locally sensitive or controversial – in which case the incumbent will submit to the Chancellor a note explaining why this is so. Occasionally the Chancellor may, having consulted the Diocesan Advisory Committee, approve by Faculty a proposed memorial which is opposed by the Incumbent or by the Parochial Church Council for the churchyard in question, but there must be no expectation that this will be a regular occurrence.

Consideration of a proposal

An incumbent is able to approve any proposed memorial if it complies with the Churchyard Regulations (if any) that are currently in force for the particular churchyard concerned, or in other cases if it complies with the Diocesan Churchyard Regulations. He or she may also approve the alteration of any existing lawfully erected memorial to incorporate the details of a second, or further, burial or burials in the same grave.

The formal instrument of authorisation to incumbents appears as an Annex to this Guidance. It enables the Chancellor to withdraw the authorisation at any time, in relation to a particular churchyard or part of a churchyard, or in relation to particular categories of memorials; but this will only happen rarely.

An incumbent is not bound to approve a proposal merely because it complies with the relevant Regulations, and in any case (whether or not it so complies) is free to consult others if he or she wishes, before deciding on any particular application. An incumbent must not approve a proposed memorial if he or she considers:

- that it does not comply with the relevant Guidelines
- that it is likely to be controversial for some reason
- that it is in any way inappropriate.

If the incumbent, though unable himself or herself to approve the proposed memorial, nevertheless supports the proposal in principle, he or she will forward it to the Diocesan Registrar together with a letter of support – and let the applicant (and the funeral director) know that this has happened, and why. The Registrar will then arrange for the proposal to be advertised and referred to the Diocesan Advisory Committee, and will forward it to the Chancellor for his consideration. No further fee is payable, unless an oral hearing is considered necessary by the Chancellor.

If an incumbent is unable to support a proposal for any reason, he or she will let the applicant know as soon as possible, together with a brief and clear statement of the reason why. That will normally be in the form of a personal letter, as the applicant will understandably be upset in such a situation. The letter should also explain to the applicant that he or she is at liberty to apply for a faculty; and should provide the name and address of the Registrar, from whom the necessary application form can be obtained; a copy of the latter should be sent to the

Registrar. A further fee will be necessary for a faculty application in such a case; but the fee paid with the initial application to the incumbent will be returned in any event.

Unauthorised memorials

Where a memorial is erected without being approved either by the incumbent or the Chancellor (or with the approval of the incumbent in a case which falls outside the relevant Regulations), the Chancellor is able to order it to be removed – at the expense of whoever erected it (which may well mean, in practice, the funeral director or stonemason). This applies also where approval is given for a particular memorial, but a different one is erected without further approval.

Where a memorial is erected without approval or (more likely) is erected after approval has been given for a somewhat different memorial, the incumbent should first consider whether approval would have been given – in accordance with the principles in the relevant Regulations – for the memorial that has in fact been erected, if it had been sought in advance. If it would have been, or if the memorial is only very marginally unacceptable, approval should be given to retain the stone. If it is unacceptable as it stands, but can be altered to make it acceptable, that should be done and approval given for the revised version. In either case, incumbents should give the name of the funeral director or stonemason concerned to the Archdeacon.

Where a memorial is erected which cannot be approved by the incumbent in the light of the principles in the relevant Regulations, and cannot be altered to make it accord with those principles, the Registrar will be notified, in order that he can start the necessary procedure either for a faculty to be sought (where the incumbent considers that the memorial is generally acceptable, albeit non-conforming), or to bring about its removal; and again the Archdeacon should be informed by the incumbent.

Future review

The Archdeacons will monitor the way in which these arrangements work in practice. If funeral directors, stonemasons or individuals have any comments, favourable or otherwise, they should communicate them to the relevant Archdeacon (or to the Registrar), in order that they may be taken into account when the matter next comes up for review.

2. REUSE OF GRAVES

Save where burial rights are granted subject to a particular period of years, there should be an expectation that grave spaces will in due course be reused, and this is necessary to economise on land-use at a time when gravespace is a diminishing resource. This is an increasingly urgent problem which all those responsible for churchyards have to face. Sensitive solutions have to be devised and implemented.

Reuse of graves within a period of less than 75 years is likely to cause distress and offence to the living, as well as appearing disrespectful to the dead. But incumbents should promote and publicise policies for the reuse of graves as soon as 75 years have elapsed after the most recent burial therein, not least so that those presently arranging a burial are informed of what is likely to happen in the future.

Rather than planning for re-use on a grave-by-grave basis, there is merit in seeking to bring larger areas into re-use as part of a coherent plan.

Removal of existing memorials (including laying them flat) requires a faculty from the Chancellor, and consultation with any surviving relatives who can be traced will always be appropriate. Memorials remain the private property of those who initially paid for their erection, and therefore any faculty granted will contain provision for safeguarding (by some form of relocation) of the memorials. Where authorisation is sought to reuse part of a churchyard, the removal of a number of memorials can properly form the subject of a single petition for faculty.

3. RESERVATION OF GRAVESPACES

Spaces for burial are generally allocated on a first dies, first served basis to those entitled to them – that is, those living in the parish and those on the church electoral roll.

From time to time, however, applications are received from parishioners and others wishing to reserve a gravespace for future use. Experience suggests that such applications are more frequent in cases where the space remaining for future burial in a churchyard is adequate only for a few more years, but they do arise occasionally in other cases.

A grave can only be reserved in a particular place for future (as opposed to immediate) use after a petition has been made to, and granted by, the Chancellor. An incumbent has no right to reserve gravespaces, and a promise made by him will on its own be ineffective. On the other hand the Chancellor will always wish to be informed of the views of the incumbent concerned, and incumbents may wish to consult others, including especially the Parochial Church Council.

A common instance is where a husband or wife (or partner) wishes to have a space reserved next to a spouse (or partner) who has already been buried, or where children wish to be buried near their parents. Sometimes a number of grave spaces may be reserved with a view to the creation of a family burial area.

The faculty will normally be subject to a condition requiring a fee to be paid to the incumbent and/or into the churchyard maintenance fund of the church concerned. A faculty will relate to a particular individual or individuals and cannot be transferred even to another member of the family without a new faculty. Reservation of a gravespace does not carry with it any associated right to erect a memorial.

Once a faculty has been granted by the Chancellor, the incumbent must keep a record, so that there can be no risk of the space being used for anyone else. It will also minimise the likelihood of future problems if reserved spaces are physically marked on the ground in some way.

By law, where a gravespace is reserved, a burial must take place therein within a maximum period of 100 years. In this Diocese reservation is unlikely to be granted for a period in excess of 40 years (save in the case of family graves), and account will be taken of the date by which the person to be buried is likely to have died. A reservation can be extended by further faculty.

Once a burial has taken place in a reserved gravespace, there is no bar to its being used again for an unrelated burial once a period of approximately 75 years has elapsed.

Incumbents will give advice to persons seeking to reserve a gravespace, and should discourage at the outset any applications which are almost inevitably going to be turned down.

4. INTERMENT OF ASHES

The random interment of ashes in churchyards is discouraged. It is wasteful of gravespace, and tends to lead to a proliferation of memorials.

Incumbents are authorised to approve the interment of ashes in churchyards in two situations.

The first is where the ashes are those of a close relative of a person whose body already occupies a gravespace within the churchyard. Provided other relatives of the original occupant agree, there is much to be said for allowing one or more such interments of ashes, so as to create a family grave. It should assist maintenance of the grave, as well as being an economic use of gravespace. On the other hand such interments of ashes do not automatically carry any right to a further memorial, or to the adding of a further inscription to any existing memorial, for which separate approval must be sought. It will usually be unsightly, and therefore inappropriate, to permit the erection of additional memorials in such circumstances.

The second is where the ashes are to be interred within an area of the churchyard designated for the interment of ashes, which will normally take the form of a Garden of Remembrance. Subject to selection of an appropriate area and the provision of an appropriate design, faculties for the creation and subsequent extension of Gardens of Remembrance are likely to be granted, since this is a respectful and economical way of treating the remains of the deceased. Interment of ashes should take place by simple pouring of the ashes into a hole in the ground, rather than by the burying of ashes within a container, and the incumbent should maintain a gridplan showing where individual ashes have been buried. After a period of approximately 20 years, individual squares on the grid can be reused. It is possible to incorporate simple plant and/or gravel cover, provided care is taken not to disturb recently buried ashes. Fresh unwrapped flowers may be laid at the place of interment to mark anniversaries, but should be removed after a short period, since nothing is more depressing than the sight of dead flowers littering an otherwise well-maintained Garden of Remembrance.

Relatives of the deceased generally prefer a system whereby the names of the deceased are recorded in some semi-permanent form outside, close to the place of interment. Individual plaques, though frequently and understandably sought, are to be discouraged, since they almost always give rise to a cluttered appearance. Sometimes it is possible to incorporate into the design a memorial on which names can be recorded as interments take place, but this is not always possible, nor is it readily compatible with reuse of the Garden of Remembrance. Usually the most appropriate course will be a Book of Remembrance, kept open within the church and with the pages turned at regular intervals. A fee should be charged to cover the costs of maintaining the Garden of Remembrance itself and the cost of a calligrapher for inscribing the names in the book. Relatives can sometimes be encouraged to achieve remembrance for the deceased through means other than memorials, for example through gifts of value to the church. It is important, however, that churches are not embarrassed by gifts of unwanted items (for the introduction of which in any event a faculty is likely to be required), and that such gifts do not become a means of securing a memorial tablet which would otherwise be refused.

It will generally be appropriate for the incumbent or Parochial Church Council to appoint one or more persons to take responsibility for the maintenance of the Garden of Remembrance, including regular replanting, weeding and removal of dead flowers.

5. GRAVEYARD RECORDS

Each parish is legally required to maintain a record of burials which take place in the churchyard including disposals of cremated remains, though a separate register should be kept for the latter. Both records should list the same information: the full name of the deceased; his or her age and former home address; the date and location of burial; and the name of the officiating minister. In addition the register of interments of cremated remains should record any funeral service and the place of cremation preceding the interment. Maintenance of an up to date plan of the churchyard and of the occupation of gravespaces is an important responsibility. Helpful guidance is contained in appendix 1 to *the Churchyards handbook*. The records that parishes make will themselves form important historical documents and should be of a high standard.

The primary responsibility for maintaining church records lies with the churchwardens, but they will need to work closely on this (as on all other matters) with the incumbent.

6. EXHUMATION

Once a body or ashes have been buried in consecrated ground (whether in a churchyard or in a municipal cemetery), they may not be exhumed save with the authorisation of a faculty granted by the Chancellor, which will never be granted unless there are special circumstances which justify the making of an exception to the norm that Christian burial is final. Nevertheless, there has been throughout the country an increasing number of petitions for exhumation, often in far from exceptional circumstances such as where widows have moved home and can no longer readily visit the grave of their former husbands, or where parents have moved and are unable to visit the graves of a child who has predeceased them. In some cases incumbents appear to be advising applicants that permission will readily be forthcoming; this is particularly so in the case of incumbents to whose parishes the surviving spouse or parents have moved and who are prepared to make available space for reinterment. It is important that incumbents and funeral directors inform those planning burial in consecrated ground that this is a final disposal and that the vast majority of petitions for exhumation will necessarily be rejected as a matter of law.

Moving to a new area is not an adequate reason for removing remains as well, and any medical reasons relied upon by a petitioners would have to be very powerful indeed to create an exception to the norm of permanence, for example serious psychiatric or psychological problems where medical evidence demonstrates a link between that medical condition and the question of location of the grave of a deceased person to whom the petitioner had a special attachment.

There are, however, two situations in which the prospects of obtaining a faculty for exhumation are less remote. The first is where a genuine mistake has occurred, for example where a burial took place in the wrong plot in a cemetery; or where there was a lack of knowledge at the time of burial that it was taking place in consecrated ground with its significance as a Christian place of burial. The second is where exhumation takes place with a view to reinterment in an existing or proposed family grave. Such multiple use of grave space is to be encouraged, as an expression of family unity and as an economical use of land for burials. It should not, however, be assumed that whenever the possibility of a family grave is raised a petition for a faculty for exhumation will automatically be granted. A husband and wife should make provision in advance by way of acquisition of a double gravespace if they wish to be buried together; and where exhumation is contemplated there will need to be clear evidence as to the existence of the legal right to such a family grave if no family member has already been buried in it.

7. TREES IN CHURCHYARDS

The Chancellor is obliged to give written guidance to Parochial Church Councils as to the planting, lopping and topping of trees in churchyards. following consultation with the Diocesan Advisory Committee. This section sets out that guidance.

Introduction

The care and maintenance of a churchyard, and thus the upkeep of the trees within it, is the responsibility of the Parochial Church Council. In the case of trees, this is so even if a churchyard is a disused one, maintained by the local authority.

Where tree preservation orders have been made in respect of trees in churchyards, or where the churchyard lies within a conservation area, consent to fell, or to carry out work on, trees is required from the relevant planning authority: there is no “ecclesiastical exemption” from local authority control over works to trees (unlike the position in relation to building works to listed churches). Where the tree is in a conservation area (but not subject to a tree preservation order), the local planning authority must be notified of the proposed works to trees, in order to give it the opportunity to impose a tree preservation order.

A faculty from the Chancellor will generally be needed for any works of consequence to any existing trees in a churchyard, and for the planting of any new ones (but see below); and this will be so whether or not there is a need to obtain planning consent from, or to notify, the local authority under the Town and Country Planning Act 1990. The Faculty Rules contain a special form for petitions relating to trees, which needs to be sent to the DAC in the first instance.

All applications should be accompanied by photographs, clearly showing the nature of the alleged problem.

The importance of churchyard trees

Whilst trees may seem to be of no direct relevance to the life and work of the church as a local centre of worship and mission, they play an important role both in themselves (as objects of interest and beauty) and also as counterfoils to the architecture of the church itself and the memorials within the churchyard. Often local people appear to be more concerned about what happens to trees within a churchyard than about any other aspect of church-life. Additionally trees both grow and decay. This can cause problems for buildings and memorials, and dangers for all concerned.

Expert advice

Where there are trees in a churchyard, the Parochial Church Council should appoint one of its members as its Tree Warden, who should be responsible for monitoring the state of trees in the churchyard and should report at least annually to the Parochial Church Council. If desired, this position can be filled by one of the churchwardens. Further, every Parochial Church Council should be prepared to seek and follow expert advice concerning the trees and large shrubs within its churchyard or churchyards.

Many local authorities employ an arboricultural officer who may be able to give advice with regard to the safety of a tree within a churchyard and what, if any, maintenance or remedial work is necessary; alternatively advice can be obtained from an arboricultural consultant. The obtaining of a report from a consultant, and acting upon its recommendations, will be

evidence that a Parochial Church Council has acted prudently, which is a duty expected of it by the law and indeed by insurance companies.

It is good practice to compile a tree report approximately every five years, which can then be annexed to the report of the quinquennial inspection of the church.

Dangerous trees

There is no formal exemption for the need for a faculty where a tree (or part of it) is dangerous. The Faculty Rules contain provisions for obtaining authorisation in cases of urgency, and a condition will often be imposed requiring replacement planting. Where the imminence of the danger is such that the only safe course is immediate felling, the Archdeacon should always be consulted, and care should be taken to confine the works to the part of the tree which is the cause of the danger; and thereafter to obtain retrospective authorisation.

Unauthorised works

Not only can an injunction be issued by the Consistory Court restraining the carrying out of unauthorised works to trees, but also a restoration order can be made by the court, requiring a replacement tree or trees to be planted.

De minimis

Subject to prior consultation with the Archdeacon, up to two trees in any churchyard may be planted in any calendar year without a faculty provided the trees are planted at least 10 metres from the wall of any church or building, and provided no disturbance of graves will be involved.

Minor works to trees, falling within the following categories, can be carried out without a faculty:

- (a) in the case of any tree:
 - (i) the carrying out of pruning works, as distinct from lopping or topping; and
 - (ii) the carrying out of works required by a notice under paragraph 9 of Schedule 4 of the Electricity Act 1989;

- (b) in the case of a tree that is in a conservation area but not subject to a tree preservation order:
 - (i) the cutting down, uprooting, lopping or topping of a tree whose diameter does not exceed 75 millimetres; and
 - (ii) where carried out for the sole purpose of improving the growth of other trees, the cutting down or uprooting of a tree whose diameter does not exceed 100 millimetres (as thus measured); and

- (c) in the case of a tree that is neither in a conservation area nor subject to a tree preservation order, in addition to the works identified in (b)(1) and (ii) above, the lopping or topping of any tree.

8. INSURANCE

In view of their extensive responsibilities if any accident should occur in a churchyard (including damage occasioned by paths and memorials which have fallen into disrepair) it is essential for the incumbent and the Parochial Church Council to be covered by an adequate insurance policy. Useful guidance is contained in chapter 5 (and appendix 2) of *the Churchyards handbook*.

Whatever the amount of insurance cover, it will be appropriate for all Parochial Church Councils at least once a year to receive a report on the present state of any churchyard for which they are responsible, and to ensure that where any monuments become dangerous appropriate measures are instituted (with the benefit of faculties where appropriate).

The integrity of existing memorials should be tested on a regular basis, preferably using devices (such as Topple Testers) which provide a more accurate test of stability than manual testing.

9. MEMORIAL TABLETS IN CHURCHES

The relatives of a deceased person sometimes ask if they may put a memorial tablet into a church. It is sometimes the case that no one else wants the tablet, but incumbents, churchwardens and Parochial Church Councils are naturally reluctant to say so, and sometimes support an application which they really wish had not been made.

Churches are not primarily repositories for family memorials, and tablets are often neither beautiful in themselves nor of interest to anyone other than the family of the deceased. On the other hand, if a tablet is to be erected, it should contain more than merely a statement of the name and dates of the person commemorated.

No tablet may be placed in a church without a faculty from the Consistory Court, and the ultimate decision as to whether to grant a faculty is for the Chancellor alone.

A faculty will not generally be granted unless:

- (i) the person to be commemorated has an obvious connection with the church or the parish, going beyond that of a person who has worshipped in the church or lived in the parish;
- (ii) the public display of the memorial is in some way educative or inspirational;
- and
- (iii) the memorial is doctrinally sound;
- (iv) it is artistically an adornment to the church.

As a safeguard against a premature application, a faculty is unlikely to be granted until at least twelve months after the death of the person to be commemorated.

Annex: Instrument authorising Ministers to approve the introduction of memorial into churchyards

Appendix: Diocesan Churchyard Regulations

The Feast of Pentecost
8 June 2003

**CHARLES GEORGE QC
CHANCELLOR**

ANNEX

Diocese of Southwark

INSTRUMENT AUTHORISING MINISTERS TO APPROVE THE INTRODUCTION OF MEMORIALS INTO CHURCHYARDS

1. Subject to paragraph 5, the minister may approve the introduction into a churchyard of any memorial, provided that the memorial is in accordance with the relevant regulations.

2. “The relevant regulations” means:

- (a) the Churchyard Regulations applying specifically to the churchyard concerned; or
- (b) if there are no Churchyard Regulations in force, the Diocesan Churchyard Regulations set out in the Appendix; and

“minister” means the incumbent of the parish in which the churchyard is situated or, where rights of presentation are suspended, the curate licensed to the charge of that parish or the minister acting as priest-in-charge.

3. The minister may adopt Churchyard Regulations relating to one or more of the churchyards in his or her care, provided that:

- (a) they comply with the principles contained within the current edition of the document issued by the Chancellor entitled Churchyard Memorials etc. Chancellor’s Guidance; and
- (b) they have been approved by the Parochial Church Council, the Archdeacon, the Diocesan Advisory Committee and the Chancellor;

and two or more ministers may jointly adopt Churchyard Regulations so as to apply to two or more of the churchyards in their care, subject to the same provisos.

4. Subject to paragraph 5, following a second or subsequent burial in a plot on which there is an existing lawfully erected memorial, the minister in whom is vested the freehold of the churchyard concerned may approve the alteration of that memorial to incorporate the name and other details of the newly buried person.

5. The minister shall not approve the introduction or alteration of any memorial if he or she considers that it:

- (a) does not comply with the principles set out in the relevant regulations;
- (b) is likely to be controversial for some reason; or
- (c) is in any way inappropriate.

6. The authorisation given by paragraphs 1 and 4 shall not be delegated by the minister to any other person, save that, during a vacancy in the living or in case of emergency, the authorisation may be exercised by the Archdeacon.

7. The authorisation given by paragraphs 1 and 4 may be withdrawn at any time by the Chancellor in relation to any minister, or all or any part of any churchyard, or any particular memorial or category of memorials, following consultation with the Archdeacon.

The Feast of Pentecost
8 June 2003

**CHARLES GEORGE QC
CHANCELLOR**

APPENDIX

Diocese of Southwark

DIOCESAN CHURCHYARD REGULATIONS

1. These Regulations shall apply only where there are not in existence Churchyard Regulations adopted by the minister under the terms of the Instrument of Authorisation.

2. Subject to paragraph 1, the minister may approve the introduction into a churchyard of any memorial if:

- (a) at least six months have elapsed since the most recent of the deaths being commemorated;
- (b) the form of the memorial is:
 - (i) a vertical headstone,
 - (ii) a vertical headstone on a horizontal stone base,
 - (iii) a horizontal stone slab, or
 - (iv) a simple timber cross;
- (c) the memorial is adequately secured in the ground so as to ensure that it is stable;
- (d) in the case of a stone memorial,
 - (i) it is of natural stone (either sandstone, limestone, granite not darker than Rustenberg grey, or slate), and
 - (ii) it does not have a highly polished reflective finish;
- (e) in the case of a memorial consisting of a vertical headstone, with or without a horizontal stone base,
 - (i) the height of the vertical stone above ground level is between 500 mm (1ft 8 in) and 1200 mm (4 ft);
 - (ii) the width is between 500 mm (1ft 8 in) and 900 mm (3 ft);
 - (iii) its thickness is, in the case of a slate memorial, between 40 mm (1½ in) and 150 mm (6 in) or, in any other case, between 75 mm (3 in) and 150 mm (6 in);
 - (iv) any foundation slab is located so that its upper surface is either flush with the surrounding ground level or at least 300 mm (12 in) beneath it;
- (f) in the case of a memorial consisting of a vertical headstone on a horizontal slab,
 - (i) the base is an integral part of the design,
 - (ii) where it incorporates a receptacle for a flower vase, there is provision for no more than one such vase;
 - (iii) where it incorporates a receptacle for a flower vase, the base does not project more than 200 mm (8 in) beyond the face of the vertical stone; and
 - (iv) in any other case, it does not project more than 100 mm (4 in);

- (g) in the case of a memorial consisting of a horizontal slab,
 - (i) it is no more than 600 mm (2 ft) wide and 1800 mm (6 ft) long, and
 - (ii) its upper surface is flush with the surrounding ground;
- (h) the inscription on the memorial contains at least:
 - (i) the name of the deceased;
 - (ii) the date of his or her death;
 - (iii) the date of birth or the age at death,and any factual material in the inscription is accurate; and
- (i) the inscription and any artwork is incised into the stone and, if painted, no more than one colour is used; and
- (j) the memorial contains no advertisement or trademark other than the name or mark of the mason which, if included, shall be at the base of the side or rear face of the stone and no more than 13 mm (1/2 in) high.

3. Any other memorial shall only be introduced into a churchyard with the authority of a faculty.

4. Notwithstanding compliance with paragraph 2, the minister shall not approve a proposed memorial if he or she considers that it is:

- (i) likely to be controversial for some reason;
- (ii) is in any way inappropriate,

and in considering whether to approve a proposed memorial the minister shall have regard to the current version of the document Churchyard Memorials etc. Chancellor's Guidance.

5. "Minister" means the incumbent of the parish in which the churchyard is situated or, where rights of presentation are suspended, the curate licensed to the charge of that parish or the minister acting as priest-in-charge.

The Feast of Pentecost
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