

CHURCHYARD REGULATIONS

(In force from 1 October 1992)
(as amended 9 June 2021)

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These regulations contain the information and instructions given by the Chancellor and Archdeacons relating to churchyards and set out the extent of a minister's authority to allow memorials in churchyards. They also contain notes for guidance on certain other legal matters relating to churchyards.

1. **GENERAL LEGAL POSITION**

1.1 Churchyards are a valuable heritage and also a great responsibility. This responsibility is shared. The incumbent of the benefice holds the freehold during his incumbency but because churchyards are consecrated, they fall under the jurisdiction of the bishop exercised through the Chancellor of the Diocese. The Parochial Church Council (PCC) is responsible for the upkeep of the churchyard.

Those wishing to erect memorials over graves in churchyards must obtain permission. It is the Chancellor who has the legal authority to grant this, but the Chancellor has delegated to incumbents, priests in charge and, during a vacancy in the benefice, to the rural dean, authority to allow memorials which fall within the Rules. In these regulations, a clergyman who falls within the class of those who have the Chancellor's delegated authority is referred to as "the incumbent".

1.2 Care must be taken to ensure that new memorials harmonise with their surroundings. The Rules are designed to achieve this and have been prepared in consultation between the Chancellor of the Diocese, the Archdeacons of the Diocese and the Diocesan Advisory Committee ~~for the Care of Churches~~ (DAC). Advice about suitable stones, appropriate designs and the composition of inscriptions may be obtained from the incumbent (or DAC Secretary).

2. **PROCEDURE FOR APPLYING TO A MINISTER FOR A CHURCHYARD MEMORIAL**

2.1 An application to erect a memorial must be made to the incumbent responsible for the particular churchyard. The application must be on Part A of the prescribed form which the incumbent will provide. The grave where the memorial is to be placed must be identified in the form by reference to its row letter and number. A full description of the proposed memorial with measurements, details of design, material (including colour) and proposed inscription must be included. The application form must be signed by the applicant(s) personally and not by any person on his behalf. The appropriate fee for the erection of a memorial must be sent to the incumbent with the application form (the amount of which will be indicated by the incumbent).

2.2 The person who applies for the memorial must be the next of kin or executor of the deceased or other person who commissions the memorial and not the monumental mason or funeral director. During an interregnum (ie where there is no incumbent) an application for a memorial should be referred to the priest in charge (if there is one) or to the rural dean.

2.3 If the application is granted by the incumbent Part B of the form should be given or sent to the Applicant signed by the incumbent.

- 2.4 The incumbent may only permit the placing of a monument without referring the application to the Chancellor if:-
- (a) the application is made in the manner set out in paragraph 2.1 and 2.2 above, and
 - (b) the monument is of a size and type falling within the requirements of paragraph 3 below.
- 2.5 The incumbent may not permit the erection of any memorial inside the church, but in such case the applicant must apply by Petition to the Chancellor.

Permission to erect a memorial must be obtained from the incumbent before accepting an estimate or otherwise entering into a contract with a funeral director or stonemason. A minimum period of six months must elapse between the death of the person to be commemorated and the approval of an application by the incumbent, unless the incumbent is satisfied that there are exceptional circumstances justifying curtailment of this time limit (for example where the applicant is a relative of the deceased, reside abroad and wishes to complete arrangements before returning overseas, or is in severe ill-health and needs to complete arrangements within a limited time).

- 2.6 If an application is granted, the memorial erected must conform to that described in the application. It is the responsibility of the Applicant to see that this is done.

If the memorial erected is not in strict accordance with the details which were given on the application form the incumbent who authorised the application must inform the Archdeacon. Unless the memorial is modified so as to bring it into line with what has been applied for, the Archdeacon will be under a duty to report the matter to the Chancellor who may direct the Archdeacon to lodge a petition for the removal of the memorial. This may result in a hearing in the Consistory Court and fees and costs will be incurred and the Chancellor is likely to order the removal or modification of the memorial and that the fees and costs be paid by the Applicant.

- 2.7 If an application is not within the authority delegated by the Chancellor to the incumbent under these Rules or the incumbent refuses to grant the application, the Applicant will be so informed by the incumbent. If the Applicant wishes to pursue the application, the Applicant will have to apply for a faculty. If the incumbent considered that the deviation is a minor one, he may supply the Applicant with a form on which to make an information application and this should be completed and sent to the Registrar. If the deviation is a major one, the Applicant should use the form of Petition which will be supplied to him by the Diocesan Registrar. The completed petition should then be submitted to the Registrar.

The informal procedure may be used in the first instance where the incumbent is in doubt whether or not the application conforms to the Regulations. The Chancellor or Archdeacons will decide whether or not to grant a Petition for a memorial which is not within the Regulations. The form of Petition and details of the fees currently payable on lodging a Petition are obtainable from the Registrar. If a hearing in court

is required, the Applicant may be ordered to pay the fees and costs of the Court hearing in addition to the lodging fee.

3. **SIZE AND TYPE OF MEMORIAL IN A CHURCHYARD WHICH AN INCUMBENT MAY ALLOW WITHOUT REFERRING THE APPLICATION TO THE CHANCELLOR**

3.1 **Measurements**

Headstones shall be no larger than 1200 mm (4') high, measured from the surface of the ground, 900 mm (3') wide and 150 mm (6") thick. They shall be no less than 750 mm (2'6") high, 500 mm (1'8") wide and 75 mm (3") thick, except in the case of a slate memorial which may be thinner, but shall be no thinner than 38 mm (1.5"). The metric equivalents given above are slightly less than the Imperial dimensions, but are recommended by the National Association of Master Masons.

3.2 **Base and Foundation Slab**

A headstone may stand on a stone base, provided that it is an integral part of the design and does not project more than 102 mm (4") beyond the headstone in any direction, except where a receptacle for flowers is provided, in which case there should be one receptacle only. This should be flush with the top of the base and may extend up to but not more than 200 mm (8") in front of the headstone. Due regard should be paid to the nature of the ground and the possibility of settlement.

Any foundation below the stone base must be below the ground level, and care needs to be taken to ensure that the foundation is so constructed that it remains completely covered at all times.

Other methods of fixing the memorial to the ground are not discouraged and the base of the memorial may be so shaped that it can be inserted directly into the ground at sufficient depth to ensure stability.

3.3 **Materials**

All memorials shall be made of natural stone including slate or of hardwood (teak or oak). Stones traditionally used in local buildings, or stones closely similar in colour and texture to local stone, are to be preferred. Black, blue, dark-grey and red granites, granites darker than Rustenburg grey, white marble, synthetic stone, plastic materials and metals are all outside these Regulations, and any application for a memorial consisting of any of these materials must be made by petition for faculty. No surface of the stone may be finished with a polished or reflecting surface. If desired, the front of the stone only may be finished to a fine rubbed surface provided it does not have a reflective or a "mirror" effect.

3.4 **Sculpture, Statuary and Carving**

The incumbent has authority to approve a memorial which includes sculpture or carving on the front side of the memorial provided that this does not extend over more than one-fifth of the surface area of that side and is not, in the opinion of the incumbent, unseemly or inappropriate. Other sculpture or statuary eg which

surmounts the top of the headstone or extends over more than one-fifth of the front surface of it may only be authorised by faculty. Sculpture, statuary or carving which is not integral to a memorial or is free-standing is not within these Regulations, but may be the subject of a Petition.

3.5 **Designs**

Provided that a memorial complies with the permitted measurements (para 3.1) either a curved top or a straight top is permitted. Any other object or shape is not within the Regulations and application for this must be made to the Chancellor. Photographs, porcelain portraits, coloured or painted scenes and portraits, kerbstones, chains, glass shades and chippings are not within these Regulations.

3.6 **Graves of the Commonwealth War Graves Commission**

Gravestones provided by the Commonwealth War Graves Commission are distinctive in design and dimensions to indicate their special nature. The standard dimensions are 2'8" high by 1'3" wide. These measurements are smaller than the minima permitted in these rules but the incumbent may give permission upon proof that the monument is supplied by the Commission.

3.7 Where the applicant does not wish to have a stone cross memorial, the incumbent may allow a wooden cross not exceeding 4' in height (1200 mm) measured from the surface of the ground. A stone cross must be the subject of an application by petition for faculty.

3.8 A stone vase may not be permitted by application to the incumbent but must be made the subject of an application by petition for a faculty.

3.9 **Temporary Wooden Cross**

During the period between burial and the later erection of a permanent memorial, the grave may be marked by a small temporary wooden cross, measuring not more than 1'6" (450 mm) in height (measure from the surface of the ground) and 1' (300 mm) in width. This may carry a small plaque stating the name and date of death of the deceased. The person wishing to erect such a temporary cross (or a funeral director on his/her behalf) may seek permission from the incumbent verbally and permission may be granted verbally.

3.10 The incumbent has no authority to permit kerbs, railings or chippings to be included in any memorial and no headstone shall be carved as, or embossed with, such symbols as books or hearts and on application by petition to the Chancellor will not normally allow such.

3.11 **Inscriptions**

(a) Inscriptions should be simple and reverent. Quotations will be taken usually from the Bible or Prayer Book including the Common Worship but, if desired, they may quote from other sources compatible with the Christian faith. The wording of an inscription must be included in the application and must be

approved by the incumbent. Inscriptions may be incised or in relief, and may be coloured a shade lighter or darker than the surrounding stone. Gilded, silvered, plastic or other inserted lettering is not permitted.

- (b) An addition may be made to an inscription at a later date following a subsequent interment in the same grave or for some other good reason but an application for this must be made to the incumbent. The lettering, layout and wording of an additional inscription must be similar in design to those of the original inscription.
- (c) Guidance has been sought in relation to applications for wording which includes informal or abbreviated references to the deceased such as “Mum” or “Dad”. Ministers in charge should encourage applicants to use the full and correct English terms such as “Mother” and “Father”.

However where applicants continue to want abbreviations the minister may allow these if he considers it right to do so.

Before making his decision, the minister should consider the following factors:-

- (a) Whether the minister or Parochial Church Council objects.
- (b) Whether any other person or body objects.
- (c) Whether the application is supported by the minister and Parochial Church Council, with knowledge that the informal word or words have been asked for.
- (d) Whether there are any other aspects of the proposed memorial which are outside what is normally permitted.
- (e) Whether the grave is in an obvious position in the churchyard (e.g. near a main path to the church) or is in a more distant part of the churchyard.
- (f) Whether the churchyard is one calling for a high level of inscription-writing (e.g. a beautiful Grade I listed church with historic churchyard).
- (g) Whether there are any other memorials in proximity which have such words on them.
- (h) Diminutives for grandfather such as “Pop” or “Gramps” may be less acceptable than “Mum” or “Dad”.

If the minister is inclined to refuse the application because of the use of informal words, he should not announce this to the applicant or any other person or body, but should refer the matter to the Diocesan Chancellor (through the Diocesan Registrar) for a decision by the Chancellor.

To assist the Chancellor with his decision the applicants should take photographs showing their grave, a general view of the part of the churchyard in question,

and the inscriptions on any relevant graves in proximity and they should send them to the Registrar with the application. The minister may give assistance in showing the applicants what photographs they should take. The minister should write to the Registrar separately stating the view of himself and the Parochial Church Council.

3.12 Trademarks

No advertisement or trademark may be inscribed on any memorial. A mason's name may be inscribed at the side or on the reverse of the headstone near to the bottom of the stone. This must be in unlead letters no larger than 12 mm (0.4") in height.

4. COMMEMORATION AFTER CREMATION

- 4.1 An incumbent may grant permission for the commemoration in a Book of Remembrance of a person whose remains have been cremated. The Book of Remembrance shall be kept in the church. (A faculty is required to authorise the placing of a Book of Remembrance in a church). Commemoration in a Book of Remembrance usually occurs where the cremated remains are interred in the churchyard of the church where the Book is kept but an incumbent may exceptionally grant permission for an entry in the Book of Remembrance where the remains are interred elsewhere. Where the application is limited to the entry of a deceased person's name in a Book of Remembrance, the prescribed form relating to memorials need not be used, but the application should be made in writing to the incumbent and, if permission is granted, this should also be in writing. No fee is payable to the incumbent for obtaining such permission but the PCC may make an appropriate charge for having the entry written.
- 4.2 Where cremated remains are interred in a churchyard, the incumbent may grant permission for the following forms of commemoration:-
- (a) An inscription on a single communal memorial in the churchyard (where such memorial exists pursuant to a previous faculty).
 - (b) A suitable addition to an existing memorial stone in the churchyard relating to a close relative.
 - (c) Where permitted under a previous faculty giving leave to set aside an area in the churchyard for interment of cremated remains, a stone tablet (bearing only the name of the deceased and the dates of birth and death) no larger than 18" x 18" may be laid flush with the ground. Such a tablet will not be permitted if a previous faculty to set aside such an area does not permit individual tablets.
 - (d) Where cremated remains are interred individually in an otherwise unused area of the churchyard, the interment may be marked by a stone tablet (bearing only the name of the deceased and the dates of birth and death) laid flush with the ground measuring not more than 18" by 18".

- 4.3 Stone tablets permitted under Rule 4.2 (d) must comply with Rule 3.3 as to materials and finish.
- 4.4 Application for commemoration in a manner set out in paragraph 4.2 (a), (b), (c) or (d) - shall be made in writing to the incumbent using the prescribed form referred to in paragraph 2.1 above. If consent is given, the incumbent must do so by returning Part B of the Form and he must direct the type of commemoration allowed; if a tablet is to be placed, he must direct the precise location for the tablet. The Applicant must pay the fee required by the incumbent and must comply with all directions given.

5. **FLOWERS**

- 5.1 Where it is desired to have a container in which flowers may stand in water, the design of a memorial may include an integral flower receptacle, but the receptacle must comply with Rule 3.2 above. Where there is no receptacle such flowers must be placed in a removable water container and this container must be recessed completely into the ground, so that when not in use, there is no obstruction to churchyard maintenance.
- 5.2 Wreaths and other cut flowers may be laid on a grave, but must be removed as soon as they appear to be withered. No artificial flowers are allowed to be laid or placed in containers except for Remembrance Day poppies and traditional Christmas wreaths. These must be removed after a period of not more than two months. Flower bulbs may be planted in the soil of any grave. No tree, rose bush or other shrub may be planted to mark a place of interment without the authority of a faculty.

6. **MARKING OF RESERVED GRAVESPACES**

If a faculty is granted to reserve a gravespace, this will be subject to the following conditions:-

- 6.1 The site of the gravespace in the churchyard shall be marked in such a way that it can be located at the time when it will be required for use. The responsibility for such marking shall be that of the Applicant. The Applicant should discuss the method of marking with the incumbent or priest-in-charge and agree it with him, and then carry out the marking. One of the following methods of marking must be used unless, upon written application to him, the Chancellor otherwise directs:-
- (a) A metal or hardwood stake placed at the head of the gravespace. The stake must be marked with the initials of the name of the person for whom the grave is intended followed by the year in which the faculty for the reservation is issued;
- (b) A horizontal bar not less than 18" long, in metal or hardwood, with a vertical stake beneath it, so that the stake can be driven into the ground at the head of the space and the bar lie flat on the ground (for ease of mowing) and marked as in (a);

- (c) A stone marker, not larger than 12" by 8" by 6", placed at the head of the space, and marked as in (a);
 - (d) Any other method currently in use in the churchyard and complying with the general requirement as to durability, and marked as in (a).
- 6.2 The responsibility for marking the site of the gravespace in the churchyard and for ensuring that the marker remains adequate for its purpose shall be that of the Applicant, and not that of the Incumbent or the Parochial Church Council.
- 6.3 The reserved space shall be marked within three months of the date of Faculty.

GENERAL COMMENT

The Chancellor may grant a faculty for a type of memorial which is not within these Regulations but applicants and clergy should regard the Rules as giving general guidelines on such matters as measurements and the type of stone to be used. The Chancellor welcomes designs for memorials which are artistic and creative but which are also in keeping with the peace and natural beauty of the churchyard.

Further information about graveyards and memorials, forms of application to an incumbent and petitions for faculty may be obtained from:-

The minister of the church concerned

or

The Diocesan Registrar
35 Thorpe Road
Peterborough
PE3 6AG
Tel: 01733 882831

[Email: \[anna.spriggs@hcsolicitors.co.uk\]\(mailto:anna.spriggs@hcsolicitors.co.uk\)](mailto:anna.spriggs@hcsolicitors.co.uk)