

In addition to the SPAB MCP webpages the following advice and guidance documents may be of help in caring for your churchyard or burial ground:

Caring for God's Acre

www.caringforgodsacre.org.uk

- Advice sheets, including their five steps to burial ground care
- Risk Assessment template
- Graveyard Recording Pack
- Involving the Community: fundraising and working parties case study
- Caring for Grassland

Ministry of Justice

www.gov.uk

Guidance on managing unstable gravestones

Historic England (formerly English Heritage)

www.historicengland.org.uk

- Guidance and best practice for the assessment, planning and implementation of conservation work to monuments, as well as legal frameworks and statutory duties
- Paradise Preserved: an introduction to the assessment, evaluation, conservation and management of historic cemeteries

Church of England

www.churchofengland.org

Scotland's Churches Trust

www.scotlandschurchestrust.org.uk

How to understand and interpret your local churchyard

Divine Inspiration

www.nationalchurchestrust.org

An initiative based at the Diocese of Coventry has produced a very useful Toolkit

ChurchCare

www.churchcare.co.uk

- Guidance on managing wildlife
- Advice on archaeology and ruins
- Advice via Shrinking the Footprint on caring for the biodiversity of nature in your churchyard



APPENDIX II

CHURCHYARD REGULATIONS

THIS INSTRUMENT OF DELEGATION PRESCRIBES CATEGORIES OF HEADSTONE, THE INTRODUCTION OF WHICH MAY BE AUTHORISED BY PAROCHIAL CLERGY

Introduction

1. Incumbents and priests-in-charge are temporary custodians not merely of the church building but also, where there is one, of its burial ground. Responsibility for its care and maintenance rests with the PCC. Churchyards are an important feature of both rural and urban communities: an historic record of successive generations, a home for funerary monuments of architectural and aesthetic excellence, a setting for the church itself (many of which are listed buildings), and a place for reflection and prayer. Churchyards are consecrated and set apart for sacred use, and therefore different in their nature from municipal cemeteries.

The nature and legal consequences of Christian burial

2. Parishioners, those named on the electoral roll, and those dying within the parish all have a legal right of burial in the parochial burial ground. This right is not restricted to the baptised nor to members of the worshipping community. Thus the clergy are brought into direct contact with relatives of deceased parishioners in circumstances of extreme distress and often in a highly charged environment. Whilst this provides a valuable opportunity for ministry and outreach it can also create pastoral challenges.
3. It is essential that the bereaved understand the meaning and consequences of burial in consecrated ground. The nature of the rite of burial is to say 'farewell' to the deceased and to commend them to the mercy and love of God in Christ and to await the transformation of resurrection. There is accordingly a theological finality to all interments, including those of cremated remains, in ground consecrated according to the rites of the Church of England. This is inconsistent with the concept of portability of remains and the future prospect of exhumation.
4. The bereaved must understand that by seeking a burial in consecrated ground, they are submitting to the jurisdiction of the Consistory Court which regulates the type of headstone or other marker which may be erected. This jurisdiction exists for reasons which are in part theological and in part aesthetic, since what may be unobjectionable in a municipal cemetery might be considered inappropriate (or even offensive) in an historic churchyard. It is the responsibility of the clergy to bring these matters to the attention of the bereaved at the earliest opportunity, and to inform them of these Regulations, so that their decision to seek an interment in consecrated ground is fully informed. A failure to do so, however traumatic the pastoral situation, is a dereliction of duty and may prove more damaging in the long term. Many parishes find it helpful to provide a handout

containing this information which can be taken away and read by the bereaved, and the Chancellor commends this practice.

The extent of the delegated authority of parish clergy

5. It is unlawful for a headstone to be introduced into a churchyard without permission. For administrative convenience and to minimise expense, the Chancellor by this written Instrument delegates to parochial clergy the authority to permit the introduction of a monument provided it is of a type which complies with the detailed provisions which follow. During a vacancy, or in the absence of a priest-in-charge, this delegated authority is exercised by the area dean.

Guidance on the operation of these Regulations

6. Applications for memorials should generally not be made until six months have passed since the interment. Not merely does this allow the ground to settle, but the passage of time permits a more reflective decision to be made than is often the case in the naturally emotional state of the early stages of grief. All close family members need to be consulted and a consensus achieved. Parochial clergy can offer help at this time in making suggestions to the bereaved of the types of memorial which might be introduced by reference to photographs or by pointing out examples in the churchyard itself. If this conversation precedes a visit to the stonemason it should avoid the difficulty and disappointment engendered by the selection of an inappropriate design from a catalogue. The Archdeacon can provide templates of leaflets which some parishes have found helpful to provide to the bereaved. Although the grave itself is the property of the incumbent, any memorial will belong to the person who paid for its erection (during his or her lifetime) and thereafter the heir-at-law of the person commemorated and that person carries the duty to maintain it and the legal liability for its safety.
7. A headstone is a public statement about the person who is being commemorated. Making the right choice of stone, design and inscription is important not only to the relatives or friends who are going to provide the memorial, but also to the wider community because of the effect which the headstone may have upon the appearance of the churchyard. Attractive, well conceived designs by skilled and imaginative craftsmen should be encouraged. In the search for a wider range of designs than those usually seen, reference should be made to the *Churchyards Handbook*, the booklet *Memorials by Artists* and other resources which can be made available by the DAC. Sculpture or other statuary is not discouraged but must be authorised by faculty.
8. Also to be encouraged are inscriptions which give a flavour of the life of the person commemorated rather than blandly recording a name and dates. Epitaphs should honour the dead, comfort the living and inform posterity. They will be read long after the bereaved have themselves passed away. A memorial stone is not the right place for a statement about how members of the family feel about the

deceased nor how they would address him or her were they still alive. Passages of scripture, which have a timeless quality, are to be preferred.

9. For further guidance, reference should be made to the *Chancellor's General Directions Concerning Churches and Churchyards* (Issue 2, 2018) and, in particular the following sections:

Churchyards	6.2	Graves	6.10
Exhumation	6.7	Inscriptions	6.14
Gardens of Remembrance	6.9	Reservation of grave spaces	6.18

Types of headstones which may be permitted by parish clergy

10. The incumbent has authority to permit the introduction of a headstone which complies with the following requirements.

10.1 **Size**

Memorial plate

Height (from base) 2ft 3 ins (min) to 4ft (max)

Width 1ft 8 ins (min) to 3ft (max)

Thickness 3 ins (min)* to 6 ins (max)

*except when slate is used, in which case 1.5 ins (min) is permitted

Memorial base (if included)

Height (from ground) 3 ins (min) to 6 ins (max)

Width 2ft (min) to 3ft (max)

Depth 10 ins (min) to 1ft (max)

The base may incorporate up to 2 integral sockets for flower vases.

10.2 **Foundation slab**

The foundation slab must be fixed flush with the ground such that a mower may freely pass over it.

10.3 **Materials**

The following stone is permitted for a headstone, but combinations of two or more types of stone are not allowed:

Limestone

Sandstone

Slate

Granite – honed light to dark grey but NOT black, red, blue, green, white or multi-coloured

10.4 Appearance

Polished stone or mirror finish is not permitted.

10.5 Inscriptions

Photographs or representations of objects or motifs such as a child's toy are not permitted nor is the use of 'pet names'. Bronze or ceramic inserts are not to be used. Badges, crests or emblems may be used provided they are seemly and appropriate for the deceased. Any representation will need to be designed so that it may be accurately cut by a skilled craftsman. Masons' or carpenters' names, signs or marks may be inscribed on any monument provided their position and appearance are unobtrusive having regard to the monument as a whole. Incised lettering may be painted in gold, silver, matt white, matt black or matt grey. Plastic inserted lettering is not permitted.

10.6 Position

No memorial may be erected within 3 metres of the outer wall of the church building save by authority of a faculty.

10.7 Fixture

Regard must be had to health and safety concerns, and to current industry standards for the fixing of monuments safely and securely.

10.8 Crosses

An incumbent may NOT consent to the introduction of a cross. Such monuments require a high standard of design. However, the incumbent may authorise the temporary introduction of a simple wooden cross no more than 12 inches in height to mark a recent burial. Such cross must be removed upon the erection of a stone memorial or after a period of 18 months, whichever be the sooner.

Prohibitions

11. For the avoidance of doubt, the following are not permitted:

- i. kerbs, railings, fencing, chippings, pebbles and similar materials, and free-standing vases. These create difficulty or danger when mowing;
- ii. memorials in the shape of vases, hearts, open books;
- iii. memorials incorporating photographs or portraits;
- iv. mementoes, windmills, toys or little animals, solar lamps or similar;
- v. the use of 'pet names'
- vi. artificial flowers.

Commonwealth War Graves

12. Graves of the Commonwealth War Graves Commission are marked by memorial headstones of a distinctive design and size, indicating their particular significance. The incumbent may authorise the erection of these headstones where applicable.
13. The incumbent is authorised to permit the installation of discreet signage provided by the Commonwealth War Graves Commission denoting the presence in the churchyard or burial ground of one or more Commission graves. The following conditions however must first be met:
 - i. The installation of the sign has been the subject of an affirmative PCC resolution;
 - ii. The sign is of a standard design previously recommended by the DAC or adapted to the requirements of a particular location on the advice of the DAC;
 - iii. The dimensions and location of the sign have the consent of the Archdeacon who may seek the advice of the DAC as the circumstances require.

Important Notes

14. **The Incumbent has no authority to permit the erection of a memorial which does not comply with these Regulations. Any non-compliant memorial (whether or not the incumbent has purported to give his or her authority) may be removed by order of the consistory court.**
15. **A faculty may be sought for the erection of a memorial which does not comply with these Regulations. Such petitions are actively encouraged. Each case will be considered on its individual merits and the views and policies of the Incumbent and PCC will be taken into account. The opinion of the DAC will also be sought.**
16. **Parishes may seek a faculty for bespoke Regulations for use in a particular churchyard. Such Regulations should take into account local practice, tradition and custom and the particular environmental, architectural and aesthetic considerations of the church and its setting. They are likely to be more readily enforceable if the parish has a sense of 'ownership'. The provisions of these Regulations should be incorporated unless the parish can satisfy that chancellor that it is appropriate for a faculty to be granted which sanctions a specific variation.**

17. **Where there is ambiguity as to whether a proposal comes within the incumbent's delegated authority, or where the incumbent is favourably disposed to the introduction of a headstone which may be just outside its scope, an application may be made by the incumbent to the Chancellor for the delegated authority to be extended so as to permit the proposal. Such applications will be considered on their merits on a case by case basis.**

THE WORSHIPFUL MARK HILL QC

Chancellor of the Diocese of Leeds

January 2018

APPENDIX III

APPLICATION FOR INTRODUCTION OF A HEADSTONE INTO CHURCHYARD

This form is to be completed in duplicate.

To the Reverend.....
Rector/Vicar/Priest in Charge of the Parish of

1. I/We apply to you for permission to introduce into the churchyard known as
.....the monument described overleaf.
2. I/We have read the Churchyard Regulations issued by the Diocesan Chancellor and believe that you have power under those Regulations to permit the introduction of the proposed monument into the churchyard.
3. I/We undertake that if you grant permission the proposed monument, when erected, will conform with the description overleaf and also to indemnify you or your successors against all costs and expenses to which you or they may be put if the monument is not so erected.
4. I/We undertake for myself/ourselves and our successors to be responsible for the maintenance and stability of the monument.

Name(s) of applicant(s).....
Relationship to deceased.....
Address.....
Email.....Phone.....

Date..... Signed.....

I/We repeat paragraph 2 above and give you and your successors the same undertaking as is given by the applicant(s) in paragraph 3 above.

Date..... Signed

Monumental Mason

of (address)

For use by the Incumbent or Priest in Charge

I consent / I do not consent to the introduction of the monument described overleaf into the churchyard named above.

Date..... Signature

The Incumbent should keep one copy of the form and return the other to the Applicant.

Full sketch of memorial showing ground level and height above ground level, width, depth and all other material dimensions. The sketch should also show the method of stabilising, whether by a ground anchor or otherwise.

Type of stone or other material to be used

.....

Surface finish

.....

Description of any carving or decoration

.....

Wording of inscription

.....
.....
.....
.....

Style, size and colour of lettering

.....

New Schedule 1 – Lists A and B

SCHEDULE 1

Matters which may be undertaken without a faculty

General notes

List A and List B set out matters which may generally be undertaken without a faculty subject to conditions specified in Table 1 and Table 2 and, in the case of List B, subject to the archdeacon giving written notice that the matter may be undertaken. However, a matter may not be undertaken without a faculty despite being included in List A or List B if it comprises

- works which involve alteration to or the extension of a listed building to such an extent as would be likely to affect its character as a building of special architectural or historic interest
- works which are likely to affect the archaeological importance of a building or any archaeological remains within a building or its curtilage
- works for all or part of which scheduled monument consent is required under the Ancient Monuments and Archaeological Areas Act 1979
- works which involve the extension, demolition or partial demolition of a building or the erection of a new building
- a matter which gives rise to a question of law or doctrine, ritual or ceremonial or which would, if undertaken, affect the legal rights of any person
- the exhumation or other disturbance of human remains
- the reservation of a grave space
- the sale or other disposal of an article of architectural, archaeological, artistic or historic interest
- the sale of any book remaining in or belonging to a parochial library⁽¹⁾
- the introduction of an aumbry or another receptacle used for the reservation of the sacrament of Holy Communion
- the introduction of a monument, or the carrying out of work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground.

In List A and List B—

“authorised” means authorised by faculty or under List A or List B;

“church” includes a building which is included in the list maintained by the Church Buildings Council under section 38(1) of the Measure;

“fabric” means the structure of a building comprising its walls, floor and roof;

“historic”, in relation to material, means material which is of historic or architectural significance;

Advice may be sought from the Diocesan Advisory Committee as to whether material is historic material or whether an article is of architectural, archaeological, artistic or historic interest.

Application may be made to the chancellor for directions as to matters not included in List A or List B that are of such a minor nature that they may be undertaken without a faculty.

(1) “Parochial library” is defined in section 95(4) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 as “a library in a parish which was founded (whether before or after the commencement of this Measure) by way of charitable contribution in order to assist the clergy of the Church of England with their studies”.

A

New List A + B

(1.04.2020)

**A6. Church halls and similar buildings
subject to the faculty jurisdiction**

(1) Works of maintenance and repair to the building and the replacement of fittings in the building

(2) The introduction, removal or disposal of furniture and fittings

No article of historic or artistic interest is removed or disposed of

(3) Replacement of material covering the roof where neither the church nor the church hall or similar building is a listed building

(4) The introduction of a defibrillator in a building which is not a listed building

A7. Churchyard

(1) The introduction and maintenance of equipment for maintenance of the church and churchyard

(2) The repair of paths and other hard-surfaced areas, including resurfacing in the same materials and colour

(3) The introduction of unwired lighting to mark the edge of a path

(4) The maintenance of fences, walls and gates (including lychgates and stiles), not involving repair or replacement, carried out as part of the regular course of care and upkeep of the fence, wall or gate

Any new disturbance below ground level is kept to a minimum

(5) Repairs to, and like for like replacement of, fences and gates other than lychgates, walls or historic railings (See matters B6(2) and (3) in List B for repairs to walls and lychgates)

Any new disturbance below ground level is kept to a minimum

(6) The repair, repainting or like for like replacement of a noticeboard

The wording on the board is not changed except for the purpose of updating existing information that is included on the board

In the case of replacement—

- the Town and Country Planning (Control of Advertisement) Regulations 2007 are complied with,

- the replacement noticeboard is not illuminated, and
- any new disturbance below ground level is kept to a minimum

(7) The grant by the incumbent of a licence for grazing in the churchyard

The licence is in a form approved by the chancellor

(8) The disposal or replacement of gas and oil tanks (and associated pipe work)

No works of excavation are involved

The local planning authority is notified of the proposal

Any work to a gas fitting is carried out by a person who is registered on the Gas Safe Register (or is a member of another class of persons approved by the Health and Safety Executive for the purposes of Regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998)

Any work to an oil-fired heating system is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))

In the case of replacement, the replacement tank is of similar dimensions and in substantially the same location

(9) The introduction, replacement or disposal of a flagpole not attached to the church building

The local planning authority is notified of the proposal

Any new disturbance below ground level is kept to a minimum

(10) The introduction of a defibrillator where the church is not a listed building

A8. Trees

(1) The felling, lopping or topping of a tree the diameter of any stem of which does not exceed 75 millimetres (measured over the bark at a height of 1.5 metres above ground level)

The works do not relate to any tree in respect of which a tree preservation order is in force or which is in a conservation area

Regard is had to guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

(2) The lopping or topping of any tree—
 (a) that is dying or dead; or
 (b) has become dangerous

Regard is had to guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

B6. Churchyard

(B)

(1) The introduction and removal of benches in a churchyard

No bench proposed to be introduced has an inscription on it which would not be permitted on a monument in the churchyard under the applicable churchyard regulations made or approved by the chancellor

(2) The repair or rebuilding of walls

The works do not relate to any wall which is included in the Schedule maintained for the purposes of the Ancient Monuments and Archaeological Areas Act 1979 or is separately listed as a building of special architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) Act 1990

Any new disturbance below ground level is kept to a minimum

(3) The repair of lychgates

The lychgate is not separately listed as a building of special architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) Act 1990

(4) The introduction, replacement or alteration of a notice board

A new notice board is not illuminated

The Town and Country Planning (Control of Advertisement) Regulations 2007 are complied with

(5) The introduction of a defibrillator where the church is a listed building

Any new disturbance below ground level is kept to a minimum

(6) The introduction of stands for bicycles

(7) The resurfacing of paths and other hard-surfaced areas using different materials or colour where the church is not a listed building

(8) The introduction of hand rails to steps or paths

B7. Trees

(1) The planting of trees

Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

- (2) The felling of a tree—
 (a) that is dying or dead; or
 (b) has become dangerous

In the case of any tree in respect of which a tree preservation order is in force or which is in a conservation area, section 206 of the Town and Country Planning Act 1990 (which provides for the planting of replacement trees) is complied with

Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

- (3) All other works to trees (whether or not prescribed in List A) except felling

If applicable, the law relating to the preservation of trees in respect of which a tree preservation order is in force or which are in a conservation area is complied with

Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards"
