Handbook for the Bereaved

We are sorry that you have been recently bereaved and hope that this guidance note will be helpful to you and the family.

Churchyards

Churchyards are a part of our national history. They matter to many people, especially those whose loved ones' remains rest there. But they are also important to parishioners, historians, archaeologists, ecologists, visitors and many others.

Churchyards are consecrated ground; they are set aside for burials; and they are places for quiet contemplation and remembrance.

Because the Church of England sees its guardianship of churchyards as a great responsibility on behalf of local community, it attempts to secure the highest standards in all that is done in them. For this reason, it is particularly appropriate that the Bishop should have the final authority over them, a duty normally exercised by the Chancellor on the Bishop's behalf.

Right to be buried in a churchyard

Not everyone has the right to be buried in a particular churchyard. Anyone who lives or dies within the parish boundary or whose name is on the electoral roll of the parish church does have a right to be buried in the churchyard if there is still space. Otherwise, the consent of the minister of the church and the parochial church council (PCC) will be needed, and they will usually be looking for a significant connection between the person and the parish before giving their consent.

It is for the minister to decide where in the churchyard any given burial shall take place. It is important to understand that a minister of a church can give no promise or assurance to anyone that at some point in the future they will allow or arrange for their burial to take place in the churchyard at all or in any particular place in the churchyard.

It is possible to apply for a faculty to reserve a grave space in some churchyards but not in every churchyard. The only person who can grant a faculty for that is the Diocesan Chancellor (the ecclesiastical Judge who presides over the Consistory Court). The Chancellor is unlikely to grant such a faculty if the churchyard is on the point of being full, with no parts being capable of allowing reburial. This is because it is not thought right to deprive parishioners, present or future, of their right of being buried there. The Chancellor, considering such an application will want to know what the attitude of the incumbent and the PCC is about that and whether they support the application.

It is also important that anyone considering burial in a churchyard understands that once human remains have been interred in a churchyard it is very rare for the exhumation and relocation of those remains elsewhere to be allowed. Only in exceptional circumstances would that be permitted. The Christian expectation is that once a body has been interred it will rest in peace awaiting the final resurrection of the dead. Anyone who thinks that they might wish at some time in the future to move the remains to some other location may be better looking for burial in the un-consecrated part of the local cemetery, where the rules about exhumation are less strict.

Although neither burial, the erection of a memorial, nor the reservation of a grave space give any rights of ownership over the ground in question, the memorial remains the property of the person who commissioned it, and after their death it belongs to the "heir-at-law" of the person commemorated. This person is responsible for maintaining the monument in good order. Where this does not occur, the PCC may choose to take steps to ensure safety in the churchyard, but must have permission from the Chancellor for any permanent changes.

Churchyard Memorial Regulations

To help protect the special character of our churchyards, in contradistinction to local cemeteries, the Diocesan Churchyard Memorial Regulations (“the Regulations”) give guidance about the memorials that can be introduced into our churchyards. As stated above the family of the deceased do not own the land in which a body is buried (the grave), or the plot in which cremated remains are buried; the land remains part of the churchyard.

Our churchyards need maintenance and are often cared for by volunteers, so graves must be flat and kept clear of obstructions so that the grass can easily be cut. This means that graves may not be marked out by chippings, kerbs, chains, railings, fences or anything similar. Even though historically such items were permitted they no longer can be for these practical reasons.

Coffin burials may be marked with upright headstones. Care must be taken to see that all new headstones fit into their surroundings. That is why native natural stone is preferred, and why polished granite or marble and artificial materials are not permitted (the detailed Regulations have full details of what are acceptable materials and finishes).

The nature of the churchyard also means that the inscription on a memorial must be one that is appropriate for a churchyard setting. Traditionally it has been said that any inscription should “honour the dead, comfort the living and inform posterity”. To achieve that objective, the Regulations say that the inscription must be factually accurate, not offensive, and not inconsistent with Christian doctrine.

It will also be important to have in mind that if it is likely that there will be a further burial in the same grave in the future then sufficient space is left on the headstone for an additional inscription to be added.

Sometimes people wish to have an image engraved on the memorial that depicts the life and interests of the deceased. These will usually be allowed provided that it is modest in size, not occupying more than 20% of the surface area of the inscription plate. Usually such images will not be allowed to be in colour. Insignia (such as those associated with regiments) are very often copyrighted in which case their use would require the consent of the body they represent.

Making an application

Anyone wanting to take forward the possibility of having their loved one's remains laid to rest in a churchyard, should arrange to meet and discuss this with the minister of the church concerned. It will be important that before doing so they should have read this handbook and satisfied themselves that they are content with the necessary restrictions that come with a churchyard burial. These restrictions are fully described in the Diocesan Churchyard Regulations which can be accessed here: https://www.salisbury.anglican.org/supportforparishes/care-of-church-buildings-and-churchyards/

Six months needs to be allowed after the burial before a memorial can be erected to allow the ground to settle, but the application can be made before that period expires.

One of the matters to discuss will be what type of memorial is to be erected at the site of burial. Because it is a public space and because the family do not own the plot of land in which their loved one is buried there are restrictions about the type of memorial that can be erected.

The minister is able to give permission for a memorial to be erected that meets all the requirements of the Diocesan Churchyard Memorial Regulations as to size, shape, type of material and the actual inscription and any engraving that is to be on the face of the memorial.

A standard Application Form is available online on the Salisbury Diocesan Website, see link above. Alternatively, a hard copy of the form can be obtained from the Diocesan Registry (registry@battbroadbent.co.uk; 01722 432390). It asks for details about the applicant and their relationship to the deceased. It also asks a number of questions about what consultations about the proposal there have been with other close relatives of the deceased and what the views of other members of the family are. The minister considering the application needs to know about these things as there have been occasions in the past where family disagreements about memorials have surfaced very late in the day, to the upset of all concerned.

When the form has been completed and signed by the applicant and by the memorial mason (who has a significant part of the form to complete themselves including providing a scale drawing of the proposed memorial and the inscription) it should be provided to the minister. Ideally this will be done online or by email, but if that is not possible a hard copy should be provided to the minister.

Memorial Masons

All memorials must be installed by a fully qualified and registered memorial mason. That is because in addition to the Churchyard Memorial Regulations there are other national legal requirements about the installation of memorials in burial grounds. In particular there is *BS 8415:2018 Memorials within burial grounds and memorial sites – Specification.* Registered memorial masons are familiar with these requirements and will ensure that everything is done correctly.

They will also be able to assist in completing the application form and advising about the types of stone, designs, dimensions and other details necessary to comply with the Regulations.

In addition to items such as kerbs, railings, chippings not being allowed, some other things such as toys, candles, lights and artificial flowers are not allowed either. Cut flowers and wreaths may however be left on the grave or in an authorised vase.

If such items are introduced without a faculty having been granted to allow them then they will be removed by or on behalf of the minister. That may involve an application to the court and the person who has introduced the items unlawfully will not only be required to pay for the cost of their removal, but also the court costs involved.

Cremated remains

Cremated remains may also be buried in some churchyards. This is usually in area of the churchyard set aside for such burials. Again, a memorial is often permitted, and again there are rules about the type of memorial – usually it is a flat stone measuring about 450mm by 400mm laid flush with the ground surface and bearing an inscription. In some churchyards or areas in churchyards the only memorial of cremated remains permitted is having the deceased's name recorded in the Book of Remembrance kept in the church.

The minister's decision

(a) **Where the application complies (or almost complies) with the regulations**

If, when the minister receives the application, they are satisfied that it complies with all the Regulations as to type, shape, size; and they are satisfied with the inscription, then they can authorise the introduction of the memorial. However, they are not bound to do so. For example, although its dimensions do not exceed the maximum sizes the minister may feel that it would look out of place with all the other memorials in the churchyard because they are all of a much smaller size than the Regulations allow and so they feel this one would not fit in well. Or the minister may be aware of other issues that make them uncomfortable about allowing what is proposed.

If the application almost complies with the Regulations, but not quite, then if the minister would otherwise be happy for it to be introduced into the churchyard, the minister can ask the Diocesan Chancellor to say that although it is "not quite compliant" it can be dealt with as if it complied with the Regulations. Examples of such cases would be where the shape is slightly different from the standard range, because it has 'shoulders'; or the dimensions are very marginally outside the maximum or minimum dimensions. If the Diocesan Chancellor says it can nevertheless be treated as if it were compliant then the minister can give permission for the installation.

(b) Where the application complies with the regulations but the minister is not content with what is proposed:

As indicated above the minister may not be happy with the proposal even though it complies with the regulations. In those circumstances the minister will set out their concerns on the form and return it to the applicant. The applicant will then need to consider whether they may be able to amend their application in a way that will satisfy the minister's concerns e.g. by reducing the size of the memorial if that was the issue. If such accommodation is not possible they will need to decide whether to apply for a faculty from the Diocesan Chancellor. For more details of that process see below.

(c) Where the application does not comply with the regulations.

In these circumstances the minister is not authorised to admit the memorial and will return the form to the applicant saying so. The applicant must then decide whether to change their proposal to one that does comply or whether they wish to apply (and the technical word for such an application is a "petition") for a faculty from the Diocesan Chancellor, following the process described below.

Timescales

It would be hoped that the minister in most cases will have given the applicant a response within 28 days of receiving the application. Of course there will be reasons why that cannot always be done. Such reasons would include holidays, and the possible need for the Minister to consult others including the Diocesan Chancellor. However, if after 28 days there has been no response it would not be unreasonable for the applicant to contact the minister and ask when they might expect to have a reply. In the absence of any satisfactory response to such an enquiry, it is suggested that the applicant contact either the relevant Archdeacon (Bishop's staff team - The Diocese of Salisbury) or the Diocesan Registrar (registry@battbroadbent.co.uk; 01722 432390). It would be hoped that they would be able to ascertain the cause of any delay and to help bring the matter to a speedy conclusion so far as the minister's role in this process is concerned.

Memorials outside the Regulations

If the minister has declined to grant permission for the memorial; or if the family want a memorial that does not comply with all the requirements they can in any event seek permission (by what is called a "faculty") from the Diocesan Chancellor (the ecclesiastical judge). The family can seek guidance from the diocesan registry (registry@battbroadbent.co.uk; 01722 432390) as to whether what they wish for is likely to be allowed.

The chancellor does encourage well-conceived designs by skilled and imaginative craftspersons. The Lettering Arts Trust (formerly known as Memorials by Artists) is able to help identify such craftspersons: Headstones & Tablets — The Lettering Arts Trust
The role of such artists in working with the bereaved on a memorial which is truly personal can be highly significant in helping people deal with their grief.

Such faculties because they involve a number of professional people in the process do incur fees above the parish fees for burial and erecting a standard type of memorial. More details about that process are provided below.

Petitioning for a faculty

The application for a faculty requires the payment of statutory fees and the formal request by the applicant that their request for a faculty should now be considered.

However, prior to making the formal request for the faculty process to start, there is a legal requirement that any person considering petitioning for a faculty must consult with the Diocesan Advisory Committee (generally referred to as "the DAC"). Each diocese has such a body which consists of a number of people with specialist skills and experience who can advise the Diocesan Chancellor about the various issues that will need to be considered when deciding whether or not to grant a faculty. Such consultation is required by the Faculty Jurisdiction Rules 2015, rule 4.1.(1). Any approach to the DAC should be made through the DAC Secretary (https://www.salisbury.anglican.org/supportforparishes/care-of-church-buildings-and-churchyards/dac-diocesan-advisory-committee/).

If, having carried out that consultation, the applicant wishes to proceed down the faculty route then they need to notify the Diocesan Registrar (registry@battbroadbent.co.uk; 01722 432390) and ensure that the Registrar has a copy of the application form, or if not to provide them with one. They will also have to pay the not insignificant statutory fees and ask that the faculty process commence.

The original application form will be deemed to be the faculty petition by virtue of the Regulations.

The Faculty Jurisdiction Rules also require that public notice is given about the Petition. The Registrar will be able to assist with how that should be done in accordance with the Faculty Jurisdiction Rules, rule 6.

Because this is now a formal legal process, it is possible for people to formally object to the proposal and to become parties to the case, although it is rare for people to take that step. The Diocesan Chancellor will almost certainly want to know the views of the minister and the PCC.

When all these processes have been completed the Diocesan Chancellor will consider all the material that has been submitted and make a decision as to whether or not to allow the proposed memorial to be admitted. If it is allowed it may be subject to conditions e.g. about the precise size of memorial that will be allowed or about the exact wording on the inscription plate.