



# Diocesan Advisory Committee (DAC)

## CHURCHYARD GUIDANCE

### General responsibilities

Parochial Church Councils (PCCs) are responsible for maintaining a churchyard in good condition,<sup>1</sup> and this includes maintenance to any walls, fences, gates, entrances, paths, other structures and trees, to ensure the churchyard as a whole is both tidy and safe for those using it.

### Churchyard plans, ownership and boundaries

It is vital for any PCC to have a copy of an up to date churchyard plan which shows the location of all known interments, along with an indication of any space available for future interments, as well as any sections of the churchyard which may have been added as extensions over the years. Churchyard plans should form part of your church terrier, and if you can't find a copy it may be worthwhile checking with Gloucestershire Archives to make sure a previous version wasn't sent there for safe keeping.

In terms of ownership, most churchyards will be 'vested in the incumbent of the benefice', and this remains in perpetuity unless the land is formally sold off and ratified by a pastoral scheme (which is exceedingly rare).

The majority of churches in the Diocese of Gloucester were registered with Land Registry between 2008-2013, using information already available to us and supplemented by that which was provided by parishes. However, land registry, nor original deeds tend to clarify boundary ownership, and in most cases where issues arise over boundaries with neighbouring properties, we would advise PCCs to approach them on the basis of a 'party wall' and try to arrange a mutually acceptable solution. There are always exceptions to this, and if you have any queries in relation to this please do get in touch with us at Church House for further advice.

### Open or closed?

It is very important to establish the status of the churchyard; whether it is formally 'closed' by order in council, open to burials but full, or open with space remaining. If you are in any doubt about whether the churchyard is closed, please contact us at Church House so that we can check on your behalf. We have come across numerous instances where parishes have been convinced that their churchyard is closed, when it is simply full, and though it may seem like a minor point of clarification, the legal implications of the difference can be quite substantial so it is worth establishing this clearly.

## **PCC policies on churchyards**

There are also instances where PCCs may have in place particular policies, which are specific to an individual churchyard. If this is the case, having these policies clearly documented somewhere is also important so you can refer back to them quickly and easily. For example, it is common for a PCC to resolve not to agree to the reservation of grave space applications, when space is becoming limited, or to have particular stipulations about memorial type which relate to preserving a local tradition or special character.

## **Churchyard Regulations**

The most recent Churchyard Regulations were approved in 2015 (and published in early 2016), and included several revisions to both the application forms for new memorials and also the guidance which accompanies them. The Churchyard Regulations are produced by the Chancellor and are specific to this diocese and it is very important for PCCs, incumbents and all memorial masons to be familiar with their contents so that bereaved families are advised appropriately before making plans for new memorials. Shortly after issue, the Regulations were sent to every firm of funeral directors and memorial masons know to work within the diocese, as well as being circulated within the diocese. The Churchyard Regulations are not intended as a list of things which are 'not allowed' but are a clear way of making clear particular types of memorial which an incumbent is able to authorise directly, versus those for which special permission by way of a faculty needs to be sought. The regulations do give a general sense of guidance as to the types of things which are most likely to be acceptable, but exceptions do arise and applying for a faculty enables the Chancellor to make an appropriate judgement in such individual cases. We understand that dealing with requests for memorials can be a highly emotive issue, and that incumbents are often made to feel under pressure to agree to whatever is proposed. However, the Regulations are there to protect you, and if you need additional pastoral support in this regard, please contact your Archdeacon.

Requests for burials

Requests for burials of pets – NO!

Request for interment of cremated remains

## **Responsibility for existing memorials**

Whether churchyard monuments are ancient or modern, they officially remain the private property of the person who paid for them, or if they are now deceased their heirs at law. It is therefore the owner of the monument who is primarily responsible for maintaining it in safe condition, and it is theoretically possible if an injury results from a memorial being left unsafe through negligence, for someone to make a claim against the owner of that memorial.<sup>1</sup>

However, if the owner or a memorial does not fulfil this responsibility (or cannot practically be traced due to the age of the memorial), a secondary responsibility to maintain it falls to the body that have the duty to maintain the wider churchyard. This is why PCCs often effectively become responsible for some very ancient tombs and memorials, and become so concerned if they become unstable.

It is sensible and good practice for memorials in churchyards to be tested at least annually for their stability, to ensure that any risks are identified and monitored appropriately. If memorials are found to be unstable, families should as far as possible be made aware of this and given the opportunity to remedy the situation. Contact should be made directly (if known), or through a notice on the churchyard boundary or within a local publication such as parish newsletter, if family cannot easily be identified. Simply laying flat memorials without any prior warning can cause distress to families as well as making for bad press, so a PCC really must take steps to draw peoples attention to the situation, and record what efforts have been made to contact people, before taking any direct action.

We have a separate guidance sheet on Table Tomb Repairs which offers advice on their assessment, conservation and grant funding. This can also be downloaded from our 'Churchyards' section of the website.

### **Responsibility for war memorials**

The responsibility for the overall control of war memorials lies with local authorities<sup>1</sup>, who are able to incur reasonable expenditure for the maintenance, repair and protection of war memorials within their control. If they are located within a Church of England churchyard, it is possible that a faculty may be required for substantial conservation work or alteration, so any proposals for works to war memorials should be sent to the Church Buildings Team in the first instance for advice.

The Imperial War Museum, in conjunction with the War Memorials Trust has a database of all known UK war memorials. In addition to details of the memorial, the database records who is acknowledged to be responsible for the memorial, though if there remains a doubt it is worthwhile contacting the War Memorials Trust for further information and advice.

### **Health and Safety**

The PCC is responsible of issues of health and safety within the churchyard just as within the church building, and as such the church's insurance policy should include provision for the churchyard. Ecclesiastical Insurance offer some useful guidance notes as well as a series of self-assessment templates which you can use to identify, record and mitigate any risks within your churchyard.



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