

Churchyard Regulations 2016

(With additional Guidance - Nov 2020)



Churchyard Regulations 2016

Part I – Introduction

1. These Regulations are made by the Chancellor of the Diocese of Norwich and take effect on 1 March 2016. They set out the rules relating to churchyards within the Diocese of Norwich, and, in particular, the erection of memorials in them.
2. Christian burial takes place in the hope of resurrection. Meanwhile, it is good to mourn the departed, to remember them with thanksgiving and to reflect on our own mortality. A monument is by no means essential. All burials in churchyards are recorded in church registers, often as far back as the sixteenth century. The best form of remembrance is in prayer, by sacrament and witness, or by a gift to the church which can itself be a useful and worthy memorial. The Rector, Vicar or Priest in Charge (“the Incumbent”) and/or churchwardens should be consulted about any such intended gift.
3. Incumbents and priests-in-charge are temporary custodians not merely of the church building but, where there is one, of its burial ground. Responsibility for its care and maintenance rests with the PCC. Churchyards are an important part of local and national heritage in the communities they serve: a place for reflection and prayer, an historic record of successive generations, a home for funerary monuments of architectural and aesthetic excellence and a setting for the church itself (many of which are listed buildings). It should be borne in mind that churchyards are different in their nature from municipal cemeteries. In addition, the upkeep of a churchyard is a considerable burden upon the limited resources of PCC funds.
4. Residents, people with their name on the electoral roll of a parish and those who die in a parish have a right of burial in the churchyard provided there is room. The Incumbent may, at his or her discretion and if there is sufficient room, permit the burial of others in the churchyard. The place of burial is at the discretion of the Incumbent, unless a particular grave space has been reserved by faculty granted by the Chancellor of the Diocese. The right of burial is not restricted to the baptized 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 difficulties.
5. It is essential that the bereaved understand the meaning and consequences of burial in consecrated ground. Two particular features arise: First, 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 to await the transformation of resurrection. There is accordingly a theological finality to the burial of all remains in ground consecrated according to the rites of the Church of England. The prospect of exhumation at some future date and the relocation of remains will only be permitted in the most exceptional of circumstances.
6. Secondly, 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 memorial 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 must be

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. The Chancellor has provided written Guidance on Churchyard Matters which can be found on the Diocesan Registry website and may be a useful document to share with bereaved families.

7. It is unlawful for a memorial to be placed in a churchyard without proper permission. That permission generally derives from the Chancellor of the Diocese in the form of a faculty, but for administrative convenience and to minimize expense the Chancellor delegates to the incumbent of the parish the authority to permit the introduction of memorials which fall within Part II of these Regulations. The incumbent has no authority to permit the introduction of a memorial outside the scope of Part II and any memorial which does not comply with these Regulations may be removed by order of the Consistory Court. Where the parish is in vacancy the advice of the Registrar should be sought. The applicant is advised not to enter into any contract with stonemasons before obtaining either the incumbent's written consent or a faculty, in case permission is refused.
8. Where a proposed memorial falls outside the scope of Part II of these Regulations a faculty may be sought for its introduction. Churchyards provide areas of peaceful reflection and prayer for the bereaved and the wider community and as such memorials which are jarring or incongruous are to be discouraged. Nevertheless, churchyards need not be bland and homogenous and the Chancellor encourages attractive, well conceived designs by skilled and imaginative craftsmen. In cases of doubt or for individually designed memorials, an informal preliminary view may be sought from the Registrar.
9. Unless there are very exceptional circumstances no application for a monument will be approved until at least six months after the burial. This allows the soil in the grave to settle, and provides time for careful consideration of the design and content of the memorial. A temporary wooden cross or marker bearing the name of the deceased and not exceeding 3ft (c.90cm) in height may be used to mark a new grave for a period of up to 12 months after a burial.

Part II – Memorials

10. The Chancellor has delegated to the incumbent power within his or her sole discretion to permit the introduction into their churchyard of memorials falling within the following provisions:
 - 10.1 Size (measurements including the base):
Between 135cm/53"/4ft 6ins and 75cm/29.5"/2ft 6ins high;
Between 90cm/35.4"/3ft wide and 37.5cm/14.7"/1ft 3ins wide;
and
Between 15cm/6" and 7.5cm/3" thick (slate 5cm/2").
In the case of infant burials memorials must have a minimum size of 45cm/17.7"/1ft 6" in height by 30cm/11.8"/1ft in width by 7.5cm/3" thick.

A base forming an integral part of the design of a headstone which does not project more than 10cm/4" beyond the headstone in any direction (except where a vase is incorporated when the base may extend a maximum of 20cm/8" in front of the headstone) is permitted. The base shall be fixed on a foundation slab which must be positioned just below the turf so that a mower may pass freely over it.

10.2 Materials:

Monuments shall be in harmony with the church and other memorials in the area of the churchyard and made of:

Forest of Dean, Hornton Blue Crownstone, Nabresina/Roman stone, Portland, Purbeck, Kilkenny, Hopton Wood and Caen or other suitable oolitic limestones; Northumberland, Scottish or York sandstone;

Welsh, Cornish and Westmoreland slate;

Grey granite but not black/red granite, or any granite darker in colour than Welsh slate;

Teak or oak, but unpainted and unvarnished.

Monuments shall not be of marble.

Stone, including the lettering surface, shall not be mirror polished (i.e. polished so as to reflect) or be above what is commonly called an eggshell finish.

10.3 Shape:

Memorials must have a flat face and must (save for horizontal ledgers) be erected vertically from the ground.

A simple headstone;

A simple cross. It must not exceed 82.5cm (c.2ft 9ins) in width; or

A simple horizontal ledger. It must not exceed 180cm (c.6ft) in length. The top of the ledger must not protrude upwards above the adjoining ground

A natural stone vase. It shall be not more than 30cm (c.12ins) x 20cm (c.8ins) x 20cm (c.8ins) A vase may be incorporated into the base of a headstone. Glass containers are prohibited.

Memorial headstones provided in the standard format employed by the Commonwealth War Graves Commission or any successor body for those who have died whilst on active service may be permitted.

10.4 Inscriptions and pictures:

Inscriptions and pictures on memorials should be simple, dignified and reverent and should have a clear Christian or traditional funerary symbolism or reflect the life and work of the deceased. The creation of "shrines" to the deceased could conflict with the view that the souls of the faithful are in the hands of God. Epitaphs should honour the dead, comfort the living and inform posterity. They will be read long after the bereaved themselves have passed away and as such are not the right place for passing sentiments about how the family feel about the deceased. Instead biblical or well-known hymnal words which give a flavour of the life of the deceased are to be encouraged. Lettering should be clearly incised or carved, and may be leaded or painted or gilded white, black, duck egg blue, silver or gold but in no other colours. Pictures must be uncoloured and occupy no more than one third of the face of the memorial. Portraits of individuals are not permitted.

10.5 Position:

A headstone shall not be erected within 120cm (c.4ft) of the outer wall of the church building.

10.6 Fixture:

All memorials shall be fixed securely and in accordance with BS8415. It shall be the responsibility of the person seeking permission to introduce the memorial, and their stonemasons, to ensure that the memorial is fixed safely and securely and remains safe.

11. PROHIBITIONS

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

- 11.1 Kerbs, railings, fencing or chippings as these create difficulty or danger when mowing;
- 11.2 Memorials in the shape of a specific object, such as a heart, boulder or open book; and
- 11.3 Mementoes and objects such as statues, toys, wind chimes, windmills, photographs and candles. Such items must be removed by the incumbent or churchwardens, who may, at their discretion, allow such articles to remain on new graves for a period of up to thirteen months.

12. CREMATED REMAINS

- 12.1 At the discretion of the incumbent, subject to the right to burial described in paragraph 4 of these Regulations, cremated remains may be buried in a churchyard either in a dedicated area set aside for this purpose by faculty or elsewhere in the churchyard in a nominated plot or grave. Cremated remains should not be scattered or strewn and the burial must be carried out in the presence of ordained clergy or other licensed minister. The pouring of cremated remains directly into the earth is, from the point of view of symbolism, theology and sound practical sense, to be preferred, but they may be buried in a casket made of wood or some other biodegradable material. If the church has a book of remembrance this is the preferred method of commemoration i.e. without a tablet or plaque. However, subject to paragraph 12.2 below, the burial of cremated remains may be commemorated by tablets or plaques not exceeding 52.5cm (c.1ft 9ins) square. A vase may be incorporated into the tablet. Such tablets or plaques must be flush with the turf, and may be laid at the time of the interment.
- 12.2 Where a part of the churchyard has been specially set aside by faculty for the burial of cremated remains, no tablet, plaque or vase shall be introduced into that area except in accordance with the terms of that faculty.

13. COFFINS

Coffins should be made of wood or other biodegradable material and should not be larger than 210cm (c.7 ft) x 75cm (c.2ft 6in) unless the size of the deceased requires it.

Part III – Management Regulations

- 14. Under the Parochial Church Councils (Powers) Measure 1956 the duty to care for and maintain the churchyard is laid upon the Parochial Church Council (PCC) which has all powers necessary for that purpose. The Chancellor and the Diocesan Advisory Committee recommend that every PCC should make rules for the management of the churchyard in the proper exercise of those powers and duties. To assist them, the Chancellor has laid down the following guidelines which in the absence of specific rules being passed by a Parochial Church Council shall be deemed to apply to the churchyard:
 - 14.1 The surface of the churchyard shall be kept, as far as possible, level and free of grass mounds. The PCC may level any mound at its discretion at any time more than thirteen months after the latest interment in the grave.
 - 14.2 Bulbs and small annual plants may be planted in the soil of a grave being within the area previously excavated. Plants or flowers may be placed in a removable sunken container (preferably of unpolished aluminium). Unless they are kept tidy the PCC may remove such containers and treat the grave as part of the turf and mow it over.

- 14.3 Wreaths or cut flowers may be laid direct on any grave or in any vase authorised by these regulations. Where a vase incorporated into the headstone has ceased to be used for a period of thirteen months or more, the PCC may insert a matching core.
- 14.4 No artificial flowers (other than “silk” flowers i.e. having a mixture of polyester/cotton) may be placed in the churchyard and if they are so placed the PCC may remove them.
- 14.5 The PCC may remove flowers of whatever kind and wreaths at their discretion if such flowers and wreaths have wilted or died or otherwise having regard to their state.
- 14.6 Otherwise than as stated above no object or other thing may be placed upon or near a grave. In the event that any such object or thing is so placed the incumbent or churchwardens must remove it. A member of the family of the deceased should be notified of such removal (directly where this is reasonably practicable or otherwise by a notice on the grave) by informing him or her of the place from which the object or thing so removed is available for collection. The incumbent and churchwardens may, at their discretion, allow such articles to remain on new graves for a period of up to thirteen months.
- 14.7 Any power exercisable by the PCC under these regulations may be delegated by the Council to a person or persons deputed to care for the day to day upkeep and maintenance of the churchyard.
- 14.8 PCCs should give careful consideration to the question of whether it may wish to restrict the materials used or design of memorials in specific parts or all of their churchyards. It may be appropriate to specify that only stones of a similar material and design should be used when filling in gaps in rows of older headstones. Where those headstones are all free-standing limestone or sandstone memorials, for example, it will be preferable not to allow darker granite or lawn type memorials to be used to fill in gaps.

Any query on the interpretation of these Regulations should be referred to the Diocesan Registrar at:

Birketts LLP
Kingfisher House,
1 Gilders Way
NORWICH, NR3 1UB

Telephone: 01603 756501

These Regulations replace the previous Churchyard Regulations dated May 2010.

The Worshipful Ruth Arlow
Chancellor of the Diocese of Norwich

Ash Wednesday 2016

DIOCESE OF NORWICH

GUIDANCE ON THE CHURCHYARD REGULATIONS 2016

In this guidance, the word “incumbent” includes priests-in-charge. The word “item” covers anything that might be brought into a churchyard and placed or left there including memorials, vases, objects left on or around memorials, flowers and floral tributes.

1. This guidance supplements the Churchyard Regulations 2016. It does not alter or replace them.
2. It is unlawful for anything to be placed in the churchyard without the permission of the Consistory Court. The Chancellor and Deputy Chancellor are the judges of this court.
3. To save people having to obtain the formal permission of the court (a faculty) to place uncontroversial items in the churchyard, the Chancellor has granted to each incumbent in the diocese, within his or her sole discretion, the power to permit the introduction into his or her churchyard of items that are permitted by the Churchyard Regulations 2016 or any local variant of them that has been authorised by the court and published. There is a general permission, without specific reference to the incumbent, to place flowers or floral tributes (including wreaths) on or around graves *provided they are permitted by the regulations and displayed as the regulations require.*

Introduction into a churchyard of memorials and other items:

4. If the item is permitted under the Churchyard Regulations then the incumbent may allow it to be introduced into the churchyard without any action by the court. It is sensible to draw *clearly* to the attention of the bereaved applicant(s) the Churchyard Regulations 2016 and to make clear to him or her that he or she will be bound by them. If the people concerned are not content to abide by the regulations then they will need to consider burying or interring the deceased elsewhere, such as in a cemetery – although they need to be aware that cemeteries generally also have regulations. Once a person is buried in a churchyard, that is generally final. Exhumation is only ever granted in very limited and special circumstances, justifying the use of the word “exceptional”.
5. If the item is not permitted under the Churchyard Regulations then the incumbent has no power to permit its introduction and, if he or she purports to give permission, the item will be being introduced unlawfully. The only lawful way to have the item brought into the churchyard will be by the court granting permission through a faculty.
6. Each faculty application is decided on its merits. The court will look at all the relevant facts and circumstances. However, it will generally follow the regulations because that is only fair to everyone else. The court also has to bear in mind that if it makes a particular decision that allows something outside of the regulations, others will say the same would be only fair in their cases also. Exceptional and very special individual cases sometimes do arise – particularly in relation to memorials – and in those cases the court may allow something that is generally not permitted. The cost of such petitions will almost always be born by the applicant.
7. So, where the incumbent decides something is outside of the Churchyard Regulations 2016 then the only course open to an applicant who still wishes to introduce a particular item or items is to apply for a faculty.
8. If the incumbent cannot resolve whether a particular item is or is not allowed, then

an enquiry may be submitted to the Registry. It must be in writing and can be sent electronically. A photograph (or in the case of a proposed memorial a detailed drawing) should be submitted together with the dimensions of the item in question where such dimensions are relevant (such as with a memorial or a vase) and a description of its material substance (stone, plastic, marble etc.). A brief description of the issue causing concern should be given. The Chancellor will give guidance as to whether the item is within the regulations and may be allowed or whether it would require a faculty.

9. If the item is within the regulations, then the incumbent still has a discretion to refuse permission. However, if the applicant then seeks a faculty and the Chancellor grants it and decides the incumbent has withheld consent unreasonably, this may be reflected in costs. In other words, there would have to be a very good reason why the incumbent had withheld permission otherwise the faculty will be granted.

Items introduced into a churchyard unlawfully:

10. If something has been brought into a churchyard without permission, then unless a faculty is sought and granted to remedy the position, it is liable to be removed. Items that have been introduced lawfully, such as flowers and wreaths, can also be removed if they have wilted or died.
11. The method by which items can be removed depends on what they are. Memorials unlawfully introduced and items attached to them including kerbstones or chippings should only be removed by the grant of a faculty. The faculty, if granted, will include directions as to notice and disposal.
12. Loose items unlawfully introduced into the churchyard such as mementoes placed on or around graves, memorial stones and the like may be removed from graves provided they are placed elsewhere for the obtaining of a faculty to deal with disposal. Notice must be given as soon as possible after removal to a member of the family of the deceased preferably by written notification. Where this cannot be done for good reason then a ticket should be left on the grave. Alternatively, the incumbent may leave the items in situ on the grave and seek a faculty for their removal and disposal. It is very important there should be a proper record of what is removed and where it is placed. The simplest way is to photograph any loose items in situ and again photograph where it or they are placed. A written record should be made of the item, its photographic reference, the applicable grave, how notification was given and when this happened.
13. Items of value that appear to have been dropped, mislaid or left in the churchyard do not require a faculty to remove them to a place of safety whilst enquiries are made. The assistance of the police may be required, particularly to deal with disposal. The incumbent should be careful to observe the requirements of the civil and criminal law.
14. Litter includes items that have been discarded having served their purpose such as packaging and broken articles together with dead or wilting flowers and wreaths. Any loose items that have been blown away from a grave will often regrettably have to be treated as litter unless they can be properly associated with a particular memorial and are not broken, or in the cases of flowers and wreaths wilted or dead. Litter may be disposed of without notice or faculty.

Clear-ups:

15. Where a clear-up of the churchyard or part of it is contemplated, particularly if this is occurring after a lengthy period in which the regulations have not been observed, the best way to proceed is to seek a faculty beforehand: this means the court can

see the proposal in advance and give directions about consultation, notice and any particular precautions that need to be undertaken. The faculty will also set down a timetable for disposal of items that have not been collected or have been returned unlawfully to graves.

16. The incumbent and churchwardens are responsible for the actions of any volunteers who assist in a clear-up so it is very important that they are properly instructed.

Repeated breaches:

17. Where a loose item is collected pursuant to a removal and then placed again unlawfully on a grave or graveside after the issue of a faculty authorising its disposal unless collected, it may be removed and disposed of without further notice.
18. If fresh unlawful items are introduced to the same grave or graveside in the churchyard, they should be removed, notice given and a faculty sought for their disposal where the owner may expect the period allowed for collection to be very short.
19. If there are continued breaches by an identifiable person in respect of the same grave or graveside, that person may find him or herself barred from entering the churchyard and visiting the grave altogether.

The 13 month extension:

20. The incumbent has a discretion to allow mementoes to be left on or at new graves or memorials for a maximum of 13 months. This is to help people grieve at a time when it may be difficult to come to terms with the loss of family or friends. If an incumbent declines to exercise that discretion, a faculty may be sought by the person or family who wish to leave such items.
21. The best course will be to discuss the matter with the incumbent first for guidance over what mementoes would be suitable and how many. This will depend clearly on the circumstances of the death and the age of the deceased. Letters and cards left on or at gravesides are not encouraged because they will not survive long in the open air and will simply become litter. Sometimes putting things on paper can be a very helpful aid to grieving and imaginative use such as families reading them out together can be both emotional and helpful. They are not so suitable for graves. Foodstuffs and plastics, glass items and those that may attract the attention of wildlife can be unsafe and may also be fouled. Thought with the incumbent as to what is practical and best expresses the feelings of those involved is much the better way to proceed.
22. If agreement cannot be reached in respect of mementoes allowed under the 13 month provision application for a faculty is possible.

November 2020
The Worshipful David Etherington
Chancellor of the Diocese of Norwich