



 THE CHURCH
OF ENGLAND

OXFORD DIOCESAN
REGISTRY

The Reverend and Worshipful
Alexander McGregor
Chancellor of the Diocese

8th November 2016

New Churchyard Regulations

Churchyards are special places. They are places which exist for both the living and dead. From the early days of Christianity, Christians have taken great care to give the faithful departed decent and holy burial in places set apart for that special purpose. Our churchyards enable us to continue the Church's traditional care and respect for the dead. As a result, churchyards are places of quiet and contemplation but they can also evoke strong emotions.

The special nature of churchyards is marked by the fact that they are consecrated by the Bishop. That means they are set apart for the burial of the dead in accordance with the rites and ceremonies of the Church of England. The act of consecration makes the churchyard a place of Christian burial, a place which is under the care and protection of the Church, and gives it a special status in law.

Churchyards are provided by the Church of England as part of its mission to proclaim the Christian faith to the people of England and churchyards are distinctively Christian places. They belong to the church but are for the local community as a whole. They are not the exclusive preserve of members of the Church of England: anyone resident in a parish – irrespective of religious affiliation – is entitled to be buried in the parish churchyard (provided there is still room and the churchyard has not been closed to new burials).

Churchyards, then, are shared spaces. Those who are charged with their protection must have regard to the needs of all those whose relations and friends are laid to rest there, to the local church congregation who have the responsibility for maintaining the churchyard, of all members of the local community and of the Church and of society at large. To ensure that all of these various needs are respected, it is necessary to provide a framework of rules for the way in which the departed are commemorated in churchyards. It cannot be left to individuals simply to decide what they would like and then to impose on it the churchyard and on everyone else. The framework of rules has to achieve a balance between the need for individuals and families to mourn and to commemorate those they love in a way that is meaningful and helpful to them, and the needs of the community as a whole, including the needs of others whose relations and friends are also buried in the churchyard. The framework of rules also has to uphold the nature of the churchyard as a distinctively Christian place.

The new Churchyard Regulations establish the framework of rules and seek to achieve those objectives. They have been prepared in the light of experience and after consultation with the archdeacons of the diocese (who have a great deal of knowledge of the issues involved), the

diocesan advisory committee and others. The starting point is that nobody can introduce a memorial into a churchyard as a matter of automatic right. Permission is always needed. Because churchyards are consecrated land, authority over them belongs to the consistory court of the diocese and the judge of that court, the Chancellor. But there is a long-standing practice where the Chancellor delegates authority to the minister with cure of souls – the rector, vicar, priest in charge – to grant permission for memorials which meet the requirements of the Churchyard Regulations. That remains the position under the new Regulations.

It is important to note that the Regulations establish the limits of the authority which is delegated to the minister. The fact that a proposed monument or ledger stone meets the requirements of the Regulations does not mean that the minister must authorise it; the minister has a discretion and may decline to authorise a compliant monument or ledger stone if there is a good reason to do so. If authority is declined by the minister – either because a monument or ledger stone does not meet the requirements of the Regulations or because the minister has declined to authorise it in his or her discretion – it is open to the applicant to petition the Consistory Court for a faculty to authorise the introduction of the monument or ledger stone. Applicants should, however, be aware that in those circumstances faculties will be granted only in exceptional cases.

The new Regulations introduce certain changes. They include the following:

So far as ‘monuments’ (i.e. headstones etc.) are concerned, there is no longer a requirement for individually designed monuments to be authorised by faculty. Provided an individually designed monument meets the normal requirements of the Regulations it may be authorised by the minister.

It is now made clear that monuments (but not ledger stones) which are in the shape of a book are permitted.

The maximum size for ledger stones (which mark the place where cremated remains are interred) has been increased from 15” x 12” to 18” x 18”.

Certain etchings or carvings (in addition to inscriptions) are permitted as long as they do not cover more than a fifth of the surface of the stone. There is no longer a requirement to obtain a faculty for armorial bearings or crests. And there is no longer a restriction limiting inscriptions and other markings only to one side of a monument.

The position regarding the addition of further inscriptions to existing monuments and ledgers has been clarified. And provision is now made so that the owner of a monument or ledger stone that is less than 50 years old can temporarily remove it from the churchyard, with permission from the minister, in order to add a further inscription or to have it repaired.

Permission to introduce a monument or ledger stone now lasts for 50 years (rather than 100 years as previously). It is not proposed that monuments and ledgers should be moved after the expiry of 50 years, but this minimum period is in step with various statutory provisions which confer certain rights on the relations of a deceased person who was buried in a churchyard within the previous 50 years and ensures a degree of consistency in this area.

Various other matters have been clarified and the application form has been updated.

It is hoped that the new Churchyard Regulations will provide a clearly understood framework that balances the needs of all concerned in a way that is transparent and fair.

Alexander McGregor