

DIOCESAN ADVISORY COMMITTEE FOR THE CARE OF CHURCHES AND CHURCHYARDS

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DIOCESAN ADVISORY COMMITTEE FOR THE CARE OF CHURCHES AND CHURCHYARDS

The Faculty Jurisdiction Rules 2000 came into force on 1st January 2001 and these have made some changes to the procedure for obtaining a faculty and have substituted new forms. The Care of Churches and Ecclesiastical Jurisdiction Measure 1991 remains in force. Information regarding procedure can be obtained from the Secretary, Diocesan Advisory Committee, Diocesan House, Quarry Street, Guildford GU1 3XG. 01483 790313, as well as from the Registry.

No changes may be made to the fabric of a church or its contents, or in the curtilage of a church, or in a churchyard, nor may new contents be introduced into a church, nor existing contents removed, without proper authority.

Before the question of a formal application even arises, all persons contemplating carrying out works other than repairs of a really trivial nature are strongly recommended to consult the Diocesan Advisory Committee for the Care of Churches and Churchyards which can offer valuable assistance in the formation of projects. The Committee includes experts in many fields among its members, and it is hoped that the views of the Committee will be sought before projects are finalised. It is expected that intending petitioners will, in any event, seek a recommendation from the Diocesan Advisory Committee before lodging the petition with the Registry (*Faculty Jurisdiction Rules: 3(f)*). Meetings are normally held on the first Friday of each month but the agenda closes 10 days before each meeting. Full details, with plans and/or specifications (*all in duplicate*), with samples of material (*if appropriate*) should be sent to the Secretary of the Diocesan Advisory Committee.

After studying any proposals submitted, the Committee will give its recommendations, invite the Petitioners to reconsider some aspect of their scheme, or advise against the project altogether. One set of the relevant documents will be retained and the other returned so that they can be used in connection with any Petition that may be subsequently presented. Any advice given by the Committee must be set out in the Petition. The Chancellor or Archdeacon may also seek the advice of the Committee in connection with any Petition that is set before him.

Most changes can only be effected after a Faculty has been obtained from the Consistory Court. In the case of really trivial matters works can be carried out without any formal authority. It is not always easy to determine whether a Faculty is required, but it can, however, be generally stated that any repair work which goes beyond routine maintenance is likely to require a Faculty. In the case of new furnishings (*other than small and non-contentious ones like hassocks and prayer books*) and in the case of the removal or resiting of existing ones, e.g. altar, font and pews, as compared with hymn boards, a Faculty will certainly be required. The Chancellor of the Diocese has issued guidelines on 'De Minimis' matters (*Revised in January 2010*) and Trees in Churchyards. These have been distributed to all the parishes in the Diocese but further copies are available from the Registry or from the DAC Secretary.

The Archdeacons have authority to permit experimental reordering of churches for periods of up to 15 months, where the Parochial Church Council supports the experiment. This may be an appropriate course to take before a firm decision is made to seek a Faculty for reordering. It does not cover other works in churches.

If a temporary experiment is contemplated, e.g. moving the altar forward to take the westward position, permission can be granted by way of Licence for a limited period. A Faculty can be applied for subsequently if it is desired to make the new arrangement permanent. Application for such a temporary licence should be made by letter to the Archdeacon, not through the Registry. In all cases of doubt or extreme urgency, advice should be sought from the Diocesan Registrar, 1 The Sanctuary, Westminster, SW1P 3JT.

It should be emphasised that the object of the Church's Faculty procedure is to safeguard churches, their contents and churchyards for the benefit of future generations, to ensure that the architectural quality of buildings is preserved, to protect parishes against poor or unnecessary works and to give persons who might lawfully object to the proposals in question the opportunity to do so before a judicial and independent tribunal. Thus, in the case of a church, it is not only the extent of the works that matter, but also the effect such works will have on the character of the building generally. While the replacement of a missing slate by a similar one could hardly produce a change in the character of the building, insensitive pointing to brick work or stone work, or poor quality reglazing, could be disastrous. Such work should be done only under direction of an approved architect.

Early advice should be sought from the Diocesan Registrar in the following cases:

- (a) the proposed granting of Licence or other right over a churchyard or land vested in the Incumbent. (A Faculty is always required for this.) The proposed consideration (if applicable) and all relevant terms must be provisionally negotiated and draft Licences submitted for approval with a Faculty application;
- (b) the proposed extension of a church where the churchyard is closed;
- (c) the disposal of plate or other valuable objects belonging to the church.
- (d) Where it is intended to seek financial assistance for proposed works from one of the National Lottery grant distributors.

Faculty procedure does not apply in the case of an unconsecrated building licensed for public worship before 1st March 1993 unless the Bishop has so directed, but it does apply to an unconsecrated building licensed for public worship after 1st March 1993, and it also applies to unconsecrated land that forms part of the curtilage of a consecrated church or of an unconsecrated church which is itself subject to the faculty jurisdiction.

With regard to Churchyards, a Faculty is not required for the burial of the dead or of cremated remains. A Faculty is, however, required in order to exhume a body or cremated remains and in order to reserve a grave space. (*Grave space reservations are subject to conditions which require the applicant to see that the reserved space is properly marked, and the parish is responsible for keeping accurate churchyard plans. This is more fully explained on the grave space Petition form, only available from the Registry.*) The interment of an urn containing the ashes within the church naturally requires a Faculty. The position with regard to monuments in the Churchyard is dealt with below in the Chancellor's Regulations as to the Maintenance and use of Churchyards.

Under arrangements made between the Registry and the Diocesan Board of Finance, Faculty fees will not be payable by Incumbents, Churchwardens and PCCs on 'Parish' petitions unless they involve a hearing in Court or Chambers, or are necessary to confirm works executed without (or in advance of) a Faculty. Fees in other cases remain payable, under the Ecclesiastical Judges and Legal Officers (Fees) Orders approved from time to time by the General Synod.

The 2010 Order, which came into force on 1st January 2011, prescribes fees for a Chancellor's Faculty a minimum of £220.08. This figure (which includes VAT) may change during the currency of the Directory and additional fees are payable in certain circumstances. No money should be sent until requested by the Registrar. (*These fees will change in January 2012.*)

In opposed cases the proceedings are held before the Chancellor, normally in the church concerned or at some other location convenient to the parties, and take the form of proceedings in a Civil Court, including the right to appear by Counsel or Solicitor and to cross-examine witnesses in the usual way. Litigants in Faculty cases should be reminded that the Court has power to order any party to pay the Court costs and, if appropriate, the costs of other parties. The Chancellor has issued a short guide on Costs and Faculty Proceedings and copies are available from The Registry.

Under the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, the Consistory Court does have the power to order a person responsible for any default in complying with the faculty jurisdiction to pay the costs and expenses of rectifying that default, and the Court also has power to grant injunctions to restrain a breach of the faculty jurisdiction. The Registrar should be consulted immediately if any circumstances arise where an injunction might be sought.

GUIDANCE NOTE: Guide to Faculty Applications

Introduction

By law, a Faculty (*ie approval*) is needed for all repairs, maintenance and changes to a church or its contents. There are two exceptions: experimental re-ordering carried out under Archdeacon's licence (valid for up to 15 months), and items on the de minimis list⁹.

The purpose of this section is to describe how the procedure for obtaining a Faculty works in this diocese, so that applications are right first time and can be processed with the minimum of delay for the parish seeking permission. For larger projects there is an additional section that should be read in conjunction with this one.

It is not just the law that makes it desirable that there is control over change. The churches in England represent a unique part of our heritage. We must therefore take great care to conserve them and their contents for future generations, and to bring about necessary change in a professional and sympathetic way.

There is a presumption against unnecessary change to the fabric of historic churches but alteration may be permitted if it can be shown that such change is necessary to enable a church to fulfil its role as a centre of worship and mission. Then the system recognises that a balance has to be struck between the role of the church and the history of the building.

Process

Generally, applications for a Faculty are made by the Incumbent or Churchwardens on behalf of the PCC. Private petitions are also allowed, typically for gravestones or monuments.

The decision to grant a Faculty is made by the Chancellor of the Diocese¹ (*or in some more routine cases by the Archdeacon*). The Chancellor is required to seek the advice of the DAC² so all applications should normally come to the DAC first, via the Secretary³, except for exhumations or the reservation of grave spaces¹¹.

The role of the DAC is advisory and it is there to help parishes as much as to help the Chancellor. The Committee is made up of voluntary members (appointed by Bishop's Council) who are sympathetic to the needs of parishes and skilled in the conservation of historic buildings and churches.

The cost of faculty applications is met by the Diocese, with two exceptions. A private petitioner is required to pay (currently about £200), as is a parish that petitions retrospectively (*ie. to seek permission for works already carried out*).

In cases of genuine urgency (*e.g. storm damage*), it is possible for the Chancellor to give temporary permission at short notice. Contact should be made with the DAC Secretary or the Registrar⁴ in the first instance.

Further Explanation

The Chancellor of the Diocese, The Worshipful Andrew Jordan, determines all legal matters on behalf of the Bishop. In cases of emergency, he can be contacted through the Diocesan Registrar⁴.

The DAC (*Diocesan Advisory Committee for Churches and Churchyards*) is appointed to advise the Chancellor and applicants for faculties on the proposals submitted. It aims to work with parishes and others to help them to put before the Chancellor proposals which both meet their needs and comply with the law. It has experts in a number of fields related to church practice, buildings and contents, but it is for the Registrar and the Chancellor to interpret the law.

The DAC Secretary is Ruth Walker, who is based at Diocesan House (01483 790313 or fax 01483 790333; email: ruth.walker@cofeguildford.org.uk). Contact Ruth informally for early advice (*before plans are too advanced*), for help in preparing submissions and with procedures. The Diocesan Registrar is Peter Beesley, of solicitors Lee, Bolton & Lee (020 7222 5381; fax 020 7222 7502; email: guildford.registry@1TheSanctuary.com). The Registrar records all the decisions taken and advises on legal aspects of complex issues. All enquiries should be addressed in the first instance to Stephen Borton (*the clerk to the Diocese*).

Every parish must appoint an Inspecting Architect or Surveyor, approved by the DAC, to inspect its church buildings every 5 years. This person should be consulted about all but minor repairs. The Inspecting Architect may be the architect for major alterations or extensions but there may be good reasons to consider another architect.

Planning permission is also likely to be required if there is to be a material change to the external appearance of a building. In addition, there must be consultation with English Heritage, any relevant national amenity society and the local planning authority for:

Alterations to a listed building which may affect its character as a building of special architectural or historic interest;

Works involving demolition affecting the exterior of an unlisted building in a conservation area;

Works likely to affect the archaeological importance of the church or archaeological remains within the church or its curtilage.

This consultation should take place in parallel with consultations with the DAC. These bodies must be given a statutory 28 days consultation period. At the end of the period the parish must notify the DAC which bodies have been consulted, state when the statutory period of consultation ended and provide copies of any responses received.

The DAC Secretary³ can provide further details and advice.

The DAC is not able to recommend a Faculty if it feels that the works are likely to have an adverse affect on the fabric or appearance of the church and its surroundings. In practice, the DAC will not initially refuse to recommend a Faculty but will explain its concerns to the parish. The parish will then have the opportunity to reconsider and amend its proposals or to provide more information to help the DAC understand its intentions better. The DAC will make a site visit to look at all major proposals with representatives of the parish, including the architect. At the end of this process (which may take several months for major and/or contentious proposals) the DAC will, recommend, make no objection to, or not recommend a faculty for all or part of the proposals.

When submitting detailed proposals to the DAC, the following list of documents should be considered:

A covering letter explaining the proposals. Note that no special forms are required at this stage; the DAC secretary will issue the formal petition papers when a recommendation is made.

Scaled drawings and full specifications (with site plans, wiring diagrams and pipe routes as appropriate) showing the current and proposed layouts for all proposals involving reordering, extensions, lighting, sound systems, heating systems, plaques, gardens of remembrance, building works, etc.

Drawings or photographs of new items, e.g. light fittings, speakers, radiators, plaques, chairs & furniture, wrought iron, textile designs, stained glass, etc.

Samples and colours of new items, including carpets and textiles.

Names of contractors (*if known*) and costs

Details of disposals and photographs (including the origin of gifts and efforts to locate surviving relatives of the donors).

Details of consultation with English Heritage, national amenity societies and local planning authorities (if required), together with the date of expiry of the consultation period and copies of any responses received.

For faculty works to trees, (see Churchyard regulations) you must submit a special petition form, obtainable from the DAC Secretary³.

For significant changes, the PCC must provide a **Statement of Needs** (*why the works are necessary for the continued worship and mission*

of the church) and a **Statement of Significance** (summarising the historic development and importance of the building). For all new building works the architect must also provide a Design Statement.

All of these documents, including photographs, should be provided in duplicate with A3 copies of plans and also, if possible, electronically by e-mail or on a CD.

Every parish should have a copy of the Chancellor's Guidance on **De Minimis** items that do not require a faculty. In summary they are as follows (*articles in italics require consultation with the archdeacon first*): Most moveable items including cruets, vases, kneelers (*but not a substantial replacement*), service books, choir and organ music, altar linen (*but not frontals or falls*), hymn boards, decorative banners (*for display for up to 3 months*), bookcases and display stands, lawnmowers and churchyard equipment, surplices, cassocks, choir and vergers' robes, registers, furniture and furnishings in vestries, furniture in church halls.

Routine maintenance, up to a cost of £5,000, of electrical fittings and minor church fabric. Maintenance of bells, bell-frames, clocks and pianos, tuning of organs and pianos. Maintenance of paths (*not full re-surfacing*) and notice boards.

Replacement of carpets and curtains in the same material.

Churchyard Regulations for the Diocese deal with memorials and trees in the churchyard and a copy is held by every parish

Faculties for exhumation or the reservation of grave spaces (*which are normally private, rather than PCC petitions*) are dealt with directly by the Registrar. Application should be made on forms available from the Registry ⁴.

This paper is only a guide. Please consult the DAC Secretary³ or Registrar⁴ if you are in any doubt. Copies of the Faculty Jurisdiction Rules 2000 are obtainable from Church House Bookshop.

GUIDANCE NOTE: Guide to Faculty Applications for larger projects.

This is a supplementary guide to the DAC process and should be read in conjunction with the 'Guide to Faculty Applications'

Background

The faculty process in the Church of England is in many ways the ecclesiastical equivalent of the secular planning process. However, it has several major advantages: it is consultative (*DAC members work with the parish to achieve their objectives*), the DAC is there to support the parish, it has a considerable body of experience and much of this experience is with our church heritage and mission. It means that the members understand the issues and can often come up with practical and imaginative suggestions towards achieving the parish's objectives.

The DAC's advice usually falls into a number of broad categories of change:

Liturgical change - how will it affect worship?

Pastoral – will it enhance the ministry and mission of the parish?

Aesthetic change - will it enhance or at least not be detrimental to the building?

Technical - are the proper materials being used, will it work technically and is it specified clearly and unambiguously?

When there is a conflict between the need to conserve the heritage of the building and the need to adapt to the needs of mission, the DAC is always sensitive to the parish's requirements. We want to conserve our heritage but we recognise that the church is a living, dynamic organisation that has always adapted and evolved over time. The DAC can often help to balance these conflicting needs in an acceptable way.

Large Projects

Large projects can be very stressful for parishes not used to the special demands and focused time required to make good decisions, to manage and to plan the work. It is good practice to break the project into discrete stages and to deal with each stage systematically in turn. The Royal Institute of British Architects define a work stage approach where

Stages A and B are concerned with identifying the needs and writing the project brief;

Stage C is the preparation of outline proposals (for review and confirmation) and

Stage D is for detailed proposals (suitable for a planning application).

It is also good practice to have a project structure where only one person is allowed to issue instructions on behalf of the parish and to agree variations with the appointed architect. This individual (*who might perhaps be the chairman of the PCC sub-committee handling the project*) needs to establish clear lines of communication with the project manager (*known as the 'lead consultant' in building projects*) who might well be the appointed architect but who must not be one of the building contractors. Many projects also benefit by talking to other parishes which have faced similar problems. The DAC secretary can provide contact details for such parishes.

DAC Involvement

Early DAC involvement is essential if unnecessary costs are to be avoided. If too much work is done before consultation two problems are likely to arise when the DAC make comments and suggestions – the architect (*or designer*) may feel obliged to defend the existing proposal and changing the proposals will mean wasted work and additional cost. It is up to the church architect to decide the right time to consult the DAC but as a guide it is often wise to do so before Work Stage C starts (*to submit the Brief, the Statement of Need, the Statement of Significance and the Design Statement*) and again before Work Stage D starts (*to go through the outline proposals*). Then when the final faculty application is submitted there will be no surprises.

In complex cases the appointed architect may request to attend the DAC meeting, or be invited to do so by the DAC, perhaps supported by the parish project leader and Incumbent, to explain his/her thinking and to answer any detailed questions. Note that the DAC meets on the first Friday of every month and that it needs reasonable time both to understand complex proposals and to slot architect's visits within the busy agenda. It may also be the case that the DAC wish to visit the site of the work to see the proposals in context. In this case the secretary of the DAC will arrange a date.

It is very rare that major proposals can be recommended by the DAC at its first meeting (*although there are often pressures from the parish for a quick decision*). The discussion between the DAC, the parish and the architect should be seen as a collaborative process where we are all striving to achieve the best possible solution for the parish and the enhancement of the church (*taking into account all the circumstances*). To take an extra month or two to get it right is not unreasonable, but the timescale can often be shortened if the DAC is consulted early in the process.

Information required for the Faculty Application

As a minimum, the documentation required to make a faculty application for a larger project is the same as that listed in the Guide to Faculty Applications.

The DAC places much emphasis on the Statement of Significance (*summarising the development and history of the church*), the Statement of Need (*why the proposals are necessary for continued worship and mission*) and the Design Statement (*taking account of the need for good design in the proposals*). These documents should be prepared as early as possible and certainly before any detailed proposals are drawn up. They should be updated in line with any amendments made to the proposals.

To make a final recommendation, the DAC requires sufficient information about the proposed works to make a reasoned judgement on the faculty application. If the steps outlined above are followed then the progression will be a natural one for the architect who will know the nature of information necessary for planning applications. Whether or not an application for planning permission is necessary, the same or very similar supporting documentation is required for submission to the DAC.

Location, site and whole churchyard plans are necessary to put the proposals in context as well as full elevations and full floor plans. Contract details, specification notes and material samples are often appropriate to explain the design concept and avoid misunderstandings.

The DAC is also anxious to avoid the use of inappropriate materials, particularly when used in historic buildings, and generally will follow the broad conservation principles recommended by the SPAB (*Society for the Protection of Ancient Buildings*) in this respect. Architects cannot be expected to be experts in everything and so the parish should appoint their own consultants in specialist areas (*for example structural & services engineers, acoustic, fabric, stained glass and liturgical s as necessary*) to support the submission to the DAC.

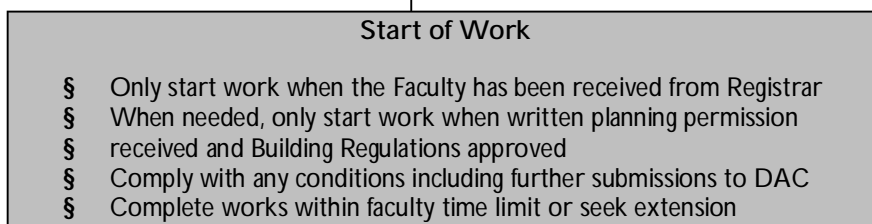
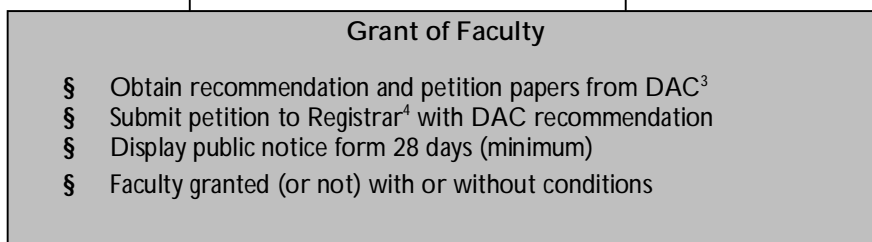
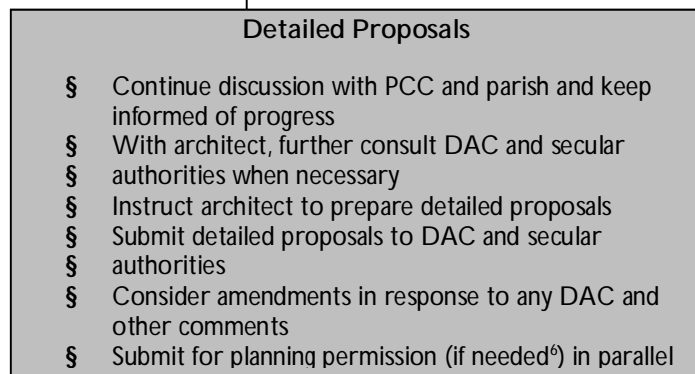
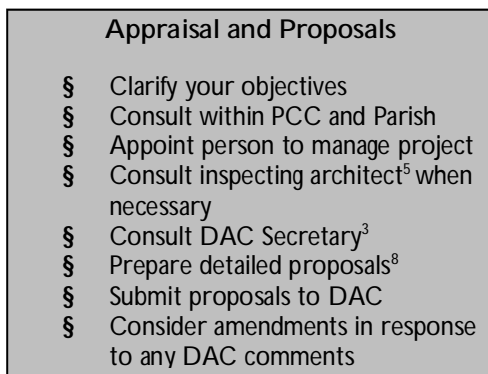
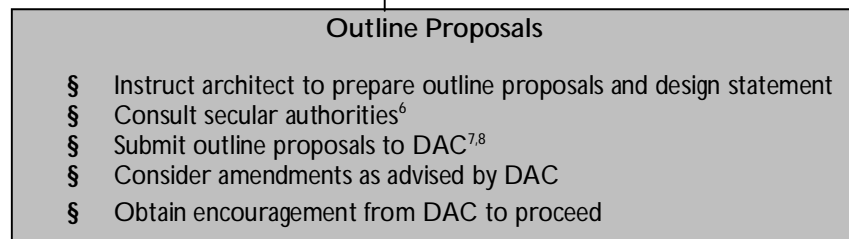
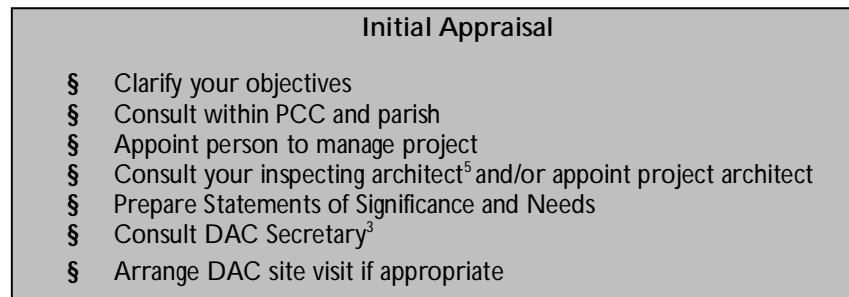
With regard to listed buildings, all the above are necessary plus additional information to show that SPAB principles are being followed. Again this is equivalent to the information required for a full listed building application (*even though one would not be required by the local authority*) plus any additional information that might be required in response to a conditional approval.

Consultation with secular authorities

In parallel with the application to the DAC, parishes are required to consult English Heritage (*for Grade I and Grade II* buildings*) and the appropriate amenity society depending on the age of the church – the SPAB, Georgian Group, Victorian Society or Twentieth Century Society. Planning permission will also be required for material changes to the external appearance of the building. It is good practice to involve these authorities at an early stage in the process so that any concerns can be addressed before detailed proposals are formulated. The DAC cannot recommend a faculty until the views of these authorities have been obtained and planning permission granted.

Larger Projects: Alterations, Extensions

HOW TO SET ABOUT OBTAINING A FACULTY



You should not enter into any arrangements or begin any works until you receive the written faculty from the registrar.

DAC membership

The DAC membership reflects the breadth of skills available to help parishes.

Membership is typically:

- 7 clergy (*the two archdeacons and two Incumbents from each archdeaconry plus aliturgical adviser*). The clergy representatives are available to parishes to help make the case for pastoral change and to discuss DAC working processes
- 8 to 10 architects, structural engineers and surveyors (*with experience of working with historic buildings/churches*)
- 4 to 6 generalists (representing the 'person in the pew')
- 8 to 10 specialists (in such subjects as textiles, design, lighting, heating, sound, clocks, bells, organs, stained glass). Some of the specialists do not attend every meeting but are available to provide expert opinions when needed.

The lay membership are volunteers who give their time without charge.

Further information

Church extensions and alterations booklet published by Church House Publishing, Church House, Great Smith St, London SW1P 3NZ

For a copy of the Guide to Faculty Applications, please consult the DAC secretary - Ruth Walker 01483 790313 – ruth.walker@cofeguildford.org.uk

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DEPOSITING ITEMS WITH THE CATHEDRAL TREASURY

A Faculty is normally required where a parish parts with possession of church plate, ornaments or other moveable goods (*for example by depositing them in a museum*), but the Chancellor has issued a special direction enabling articles to be deposited in the Guildford Cathedral Treasury without the need for a Faculty provided the correct procedure is followed and an agreement is entered into between the Dean and Chapter and the parish. Further details can be obtained from the Treasury Curator at the Cathedral Office.

DIOCESAN SCHEME FOR THE INSPECTION OF CHURCHES

Under the Inspection of Churches Measure 1955, all dioceses are required to establish a scheme for the regular inspection of churches. This revised scheme, incorporating changes arising from the introduction of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and agreed by the DAC, was approved by the Diocesan Synod on 27th November 1993 and certified by the Chairman in accordance with the requirement of Section 1(4) of the Inspection of Churches Measure 1955.

SCHEME

(definitions of terms used)

- (1) Every church* in the diocese shall be surveyed by a named and suitably qualified person† at five yearly intervals.
- (2) Such named qualified person shall be appointed by the parochial church council with the approval of the Diocesan Advisory Committee and arrangements for inspection and payment shall be the responsibility of the PCC. A list of qualified persons approved by the Diocesan Advisory Committee for the inspection of churches in the Diocese of Guildford can be obtained from the Secretary, Diocesan Advisory Committee, Diocesan House, Quarry Street, Guildford Surrey GU1 3XG. If a parish wishes to appoint a qualified person not on the Advisory Committee list, it will be necessary for such a person to offer themselves for approval, normally by interview.
- (3) The qualified person shall furnish a report to the PCC and shall send three copies to Diocesan House, (*one for the Archdeacon, one for the Rural Dean, and one for safe custody*).
- (4) The qualified person's report shall include:
 - (a) structural condition, settlements, etc.
 - (b) walls and masonry
 - (c) tower and spire.
 - (d) roofs, timbers, coverings.
 - (e) rainwater disposal system.

- (f) glazing and ventilation.
 - (g) interior, including floors.
 - (h) fittings.
 - (i) bells and bell frames.
 - (j) heating.
 - (k) lighting (*if electric light, a full report on the condition of the electrical installation, including an opinion whether an inspection by a qualified electrical engineer is necessary*).
 - (l) lightning conductor
 - (m) boundary walls and gates.
 - (n) fire precautions.
 - (o) any moveable article in the church which he is directed by the Archdeacon concerned, after consultation with the Advisory Committee, to treat as being, and such other articles as the person inspecting the church considers to be:
 - (i) of outstanding architectural, artistic, historical or archaeological value; or
 - (ii) of significant monetary value; or
 - (iii) at a special risk of being stolen or damaged.
 - (p) any ruin in the churchyard (*open or closed*) which is for the time being designated by the Council for English Archaeology and The Royal Commission on the Historical Monuments of England acting jointly being of outstanding architectural, artistic, historical or archaeological value.
 - (q) any tree in the churchyard (*open or closed*) belonging to the church in respect of which a tree preservation order under the Town and Country Planning Act 1990 is for the time being in force.
 - (i) details of any items that were not inspected, e.g. inaccessible roofs, boundary walls, drains, and so forth;
 - (ii) a recommendation on:
 - (a) immediate repairs required.
 - (b) eventual repairs required.
 - (c) care of the building.
 - (iii) a reminder that the legal authority of a Faculty will be required to cover any work other than day to day maintenance.
- (5) Where the Archdeacon finds at a survey of the churches in his jurisdiction that a church has not for a period exceeding five years been inspected to his satisfaction by a qualified person appointed as in (2) above, he may serve upon the parochial church council a notice in writing requiring the council to cause the church to be inspected in accordance with this scheme. At any time after the expiration of three months from the date when the said notice was served, the Archdeacon with the consent of the Bishop, may himself, if the church has not been so inspected in the meantime, make arrangements for the required inspection and report.
- (6) The Measure requires that a fund shall be established 'by means of contributions from parochial, diocesan, or other sources' for the payment of the cost of quinquennial inspections. In practice PCCs are normally responsible for the payment of the qualified person's fees and other expenses. In the event of an inspection being carried out under arrangements made by the Archdeacon in accordance with clause (5) above, the cost of the inspection, if not paid by the parish, shall be defrayed from the Diocesan Church Inspections Fund.
- (7) Where no parochial church council exists, the duties required by this scheme shall be carried out by the Churchwardens.

* For the purpose of this scheme, "church" means:

- (a) any parish church.
- (b) any other church or chapel (*not being a church or chapel which is not subject to the jurisdiction of the Bishop of the Diocese*) which has been consecrated for the purpose of public worship according to the Rites and Ceremonies of the Church of England.
- (c) any building licensed for public worship according to the rites and ceremonies of the Church of England other than:
 - (i) a building which is in a university, college, school, hospital or public or charitable institution but which has not been designated under Section 29 (2) of the Pastoral Measure 1983 as a parish centre of worship.
 - (ii) a building which has been excluded from the provisions of the Inspection of Churches Measure by direction of the Bishop with the approval of the Advisory Committee.
 - (iii) a building used solely for the purpose of religious services relating to burial or cremation.

† "qualified person" means: a person registered under the Architects Registration Acts 1931 to 1969 or a member of the Royal Institution of Chartered Surveyors qualified as a chartered building surveyor.

^ "ruin" means: any site comprising the remains of a building above the surface of the land, not being

- (a) a monument (*within the meaning of Section 3 of the Faculty Jurisdiction Measure 1964*); or

- (b) a site which is for the time being used for the purpose of public worship according to the rites and ceremonies of the Church of England.

Instructions to Incumbents and parochial church councils

Record keeping

Every PCC should keep a log book, containing:

- (a) copies of all previous reports made under the diocesan Scheme for the Inspection of Churches,
- (b) records of tests of electrical installations etc.,
- (c) records of all work carried out on the church.

This log book should be kept in the church safe and should be examined by the Rural Dean at his triennial inspection.

Preparation for Inspection

It is most important that ladders of adequate length should be provided to enable the qualified person to reach every part of the building likely to be inspected; in some cases scaffolding may be necessary. The log book and other documents mentioned in the paragraph above should be made available to the qualified person.

The cost of all preparation for inspection is payable by the parish.

Repairs

Church repair work is highly specialised and should be carried out by suitably qualified craftsmen and contractors and inspected by the qualified person appointed by the parish. Following the quinquennial inspection, the qualified person appointed by the parish should be engaged to prepare specifications for the work recommended in the report (where appropriate) and to inspect it while it is in progress. The DAC will not normally recommend a faculty for repairs (other than very minor works) unless it is clear that the qualified person has been consulted.

Archaeological considerations

If the church is medieval or stands on the site of a medieval church, and the repairs recommended in the quinquennial report are going to disturb any of the fabric (including plaster rendering and repointing), or involve digging operations in or around the church, the diocesan archaeological consultant should be alerted well before any work is put in hand. This procedure could remove a possible cause of delay in the granting of a faculty. The name and address of the diocesan archaeological consultant may be obtained from Diocesan House.

CHURCHYARD REGULATIONS (2005)

The 2005 Churchyard Regulations are a step forward from previous legislation in that:

- I. An attempt has been made to use plain English rather than legal-speak
- II. Incumbents are given greater freedom with memorials
- III. Information about churchyard management matters is included with the regulations
- IV. Perhaps the most important single change is that giving the newly-bereaved just the most immediately relevant sections from the regulations is encouraged.

These Regulations are issued by the Chancellor of the Diocese after consultation with the Bishop of Guildford, the Archdeacons and the Diocesan Advisory Committee (*DAC*). Any query should be referred to the Diocesan Registrar. The addresses of the Registrar and the Secretary of the *DAC* can be found below. The Regulations apply generally to all churchyards in the Diocese of Guildford unless the Chancellor has, at the request of the Incumbent and the Parochial Church Council (*PCC*), agreed a special Scheme to meet particular local circumstances.

These Regulations replace the Churchyard Regulations 1981 and came into force on January 1st 2005. A copy of these Regulations shall be kept in the vestry of every church where burial rights exist or there is an area set aside by Faculty for the interment of cremated remains, and it should be available for inspection.

A notice issued by the Registrar drawing attention to these Regulations shall at all times be displayed in the church porch or on the notice board.

Reading

The Churchyards Handbook (*4th Ed*) published in 2001 by Church House Publishing, Church House, Great Smith Street, London SW1P 3NZ.

The Association of Burial Authorities / Zurich Municipal Guide to Safety in Burial Grounds.

Useful addresses

The Secretary, Diocesan Advisory Committee, Diocesan House, Quarry Street, Guildford, Surrey GU1 3XG. Tel. 01483 790313; Fax. 01483 790333. e-mail. DAC@cofeguildford.org.uk

The Registrar, The Bishop of Guildford's Registry, 1 The Sanctuary, Westminster, London SW1P 3JT. Tel. 020 7222 5381; Fax. 020 7222 7502. email. guildford.registry@1TheSanctuary.com

The Coroners Unit, Ministry of Justice, 5th Floor, Steel House, 11 Tothill Street, London SW1H 9LH. 020 7210 0066.

The Arboricultural Association (maintains a Directory of Consultants) Ampfield House, Ampfield, Romsey S051 9AP, Tel. 01794 368717. Arboricultural advice can also be obtained from the Royal Horticultural Society at Wisley (Tel. 01483 224234) and from Merrist Wood College of Agriculture and Horticulture (Tel. 01483 884000).

1. Introduction

The purpose of the Regulations

2. Burials

Rights of burial

Graves and memorials

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Appendices

Memorials in churchyards
Model regulations for a Garden of Remembrance
Trees in churchyards
Model extract from the regulations for the bereaved

1. Introduction

- 1.1 The purpose of these regulations is to summarise the relevant law relating to churchyards; Provide a framework of rules so that the beauty of our churchyard heritage is maintained; Give practical guidance for Health & Safety as well as Maintenance issues. The churchyard is the setting for the Parish Church and it needs to be a place where people can be quiet, remember and pray, without the distraction of things that are unsightly or inappropriate.
- 1.2 Because this document contains rules it is difficult to make it reader-friendly. It also contains rules for matters which seldom concern the bereaved (*for example Exhumations, Trees in Churchyards*). What is needed therefore is an 'Extract from the Regulations' which is Relevant to the bereaved particular to the parish. PCCs can help their Incumbents (*who have at times a very delicate pastoral duty to discharge in discussing with bereaved relatives the appropriate type of memorial*) by creating their own 'Extract'. A model 'Extract' is included as Appendix D.
- 1.3 The word 'Incumbent' is used in these regulations to refer to the vicar, rector, Priest-in-Charge, team vicar or, in the case of a vacancy, the rural dean. It does not include the curate who does not have the Incumbent's delegated authority.

2. Burials

2.1 Rights of Burial

- 2.1.1 Parishioners (*including all those on the Church Electoral Roll*), and others who die in the parish, have a right to burial in the churchyard if there is still space available and if the churchyard has not been closed by Order in Council. This right applies to both bodies and cremated remains ('ashes'), (*see section 3 below*)
- 2.1.2 Permission for others to be buried may be granted by the Incumbent, who must have regard to any general guidance given by the Parochial Church Council (PCC).
- 2.1.3 If the churchyard or burial ground has been Closed by Order in Council, no burial of bodies may take place (*unless the Order makes exceptions, e.g. for the burial of family members*). Different rules apply to the burial of ashes (*see section 3 below*).
- 2.1.4 The Incumbent is responsible for deciding where in the churchyard burials will take place. It is usually possible to reserve a particular grave space by means of a Faculty (*see section 2.3 below*) if there is a good reason for so doing.
- 2.1.5 The reservation of a grave space, the exercise of a right of burial and the erection of a memorial do not alter the ownership of any part of the churchyard, which remains the legal property of the Incumbent. Any fee paid in connection with the use of the churchyard is solely for services rendered or in return for permission granted. It is not possible to 'buy' a space under any circumstances.
- 2.1.6 All burials must be recorded in the Burial Register.

2.2 Graves and memorials

- 2.2.1 Incumbents have discretion to authorise the erection of any headstone which falls within the types and classes authorised in Appendix A (*Memorials in Churchyards*). They may refuse to permit the erection of an authorized headstone if they believe it would be detrimental to the churchyard. However they have no discretion to allow the erection of a headstone that falls outside those authorised.
- 2.2.2 No memorial should be erected within six months of a burial (*the Incumbent may increase this minimum to 12 months depending on the type of soil in the churchyard*).
- 2.2.3 If a family (or executor) wishes to erect a memorial which falls within the Incumbent's discretion they should apply on form CR1 (*available from the stonemason or Incumbent*). Permission is always required and no work should be ordered or put in hand until permission has been granted.
- 2.2.4 If a family (or executor) wishes to erect a memorial which falls outside the Incumbent's discretion they may apply for a Faculty giving the grounds for their request. The Incumbent will advise them how to approach the DAC.
- 2.2.5 Graves should normally be on a 9ft (2700mm) by 4ft (1200mm) grid unless ground conditions dictate otherwise. No grave

or memorial should be placed within 4 ft (1200mm) of the church so as to facilitate access and help reduce damage during maintenance and repair of the building.

2.2.6 Local Authorities have regulations regarding the minimum depth of a grave. Generally the depth must be not less than 750 mm (30 ins) above the coffin.

2.2.7 In the event of any memorial being erected or placed in the churchyard without the written consent of the Incumbent or a Faculty granted by the Chancellor, those responsible may be required to remove the same and pay the costs (*including the costs of any legal proceedings compelling them to do so*).

2.3 Reserving a grave space

2.3.1 It is sometimes desired to reserve a grave space in a particular location. The only way this can be done is by Faculty. Informal arrangements such as promises or understandings have no legal force and may lead to disappointment and distress. A Faculty is the only guarantee. Special application forms are available from the Diocesan Registry.

2.3.2 Once the Faculty has been granted, the site of the grave space in the Churchyard shall be marked so that it can be located at the time when it will be required for use. The responsibility for such marking rests with the person to whom the Faculty is granted (*the petitioner*). The petitioner shall discuss the method of marking with the Incumbent and agree it with him/her and then carry out the marking. Marking must take place within three months of the grant of the Faculty. The petitioner will be responsible for ensuring that the marker remains adequate for its purpose. It is not the responsibility of the Incumbent, Churchwardens or PCC.

2.3.3 The following method of marking must be used unless, upon written application to him, the Chancellor directs otherwise: A durable wooden or metal stake placed at the head of the grave space, marked with the initials of the person to be buried, followed by the year of reservation in brackets; e.g. "A.B.C. (99)"

2.3.4 The marking of a grave space in this way will be a condition of any Faculty granted for the reservation of a grave space. A copy of the Faculty will be sent by the Registrar to the Incumbent of the Parish. It must be kept with the Churchyard Plan. The position of the grave should be marked on the Churchyard Plan and identified by name and the date of the Faculty. The responsibility for this rests with the Incumbent and Churchwardens.

2.3.5 No markers may be placed until the granting of a Faculty and any markers so placed should be removed.

2.4 Exhumations

2.4.1 No human remains (*including cremated remains*) may be moved (*exhumed*) without a Faculty and sometimes a Home Office Licence.

2.4.2 The process of obtaining a Faculty to permit an exhumation, which can only be granted in exceptional circumstances, is often lengthy and complex.

3 Cremated Remains

3.1 Interment of Cremated Remains

3.1.1 Parishioners (*including all those on the Church Electoral Roll*) and others who die in the parish, have a right to the burial of their cremated remains (*ashes*) in a churchyard and the remains of non-parishioners can also be buried there if the Incumbent consents. Where possible Incumbents should ensure that cremated remains are buried in an area set aside by Faculty for that purpose (*often called a 'Garden of Remembrance'*) or in a family grave.

3.1.2 If a churchyard has been closed for burials by Order in Council, the burial of cremated remains may continue in an area set aside for that purpose by Faculty. Following closure, a Faculty can still be granted (a) setting aside a new area for cremated remains or (b) for the burial of cremated remains in an individual plot e.g. a family grave. It is normally possible to allow for the burial of ashes to continue as part of the closure Order.

3.1.3 Cremated remains disposed of in a churchyard should normally be buried without their container. At the discretion of the Incumbent, such remains may be reverently strewn or may be buried in a casket or urn (*but it must be made of a biodegradable material*).

3.1.4 Once cremated remains have been interred they may not be disturbed without Faculty. This restriction should be borne in mind when cremated remains are interred in an existing grave if it is expected to be used for further burials.

3.1.5 The PCC may apply for a Faculty so that an area where ashes are interred may be used for the interment of other ashes after 50 years. The PCC should always make reasonable attempts to enquire from members of the family of the deceased whether they object to its re-use. Should such objection be made, then re-use will be deferred for a further period of 25 years.

3.1.6 A Faculty is always required before cremated remains may be deposited in a church. Such a Faculty will only be granted in exceptional circumstances.

3.1.7 All interments of cremated remains must be recorded in the Burial Register.

3.2 Gardens of Remembrance

3.2.1 It is good practice to set aside, by Faculty, plots which may be dedicated for the exclusive burial of ashes. The form of such Gardens of Remembrance depends very much on individual circumstances and calls for vision and sensitivity. The PCC should seek assistance in the creation of a suitable design. The design should envisage the interment of no more than 50 cremated remains before the design should be re-considered. When applying for a Faculty, the parish are encouraged to consider a flexibility of approach, paying specific attention to the particular circumstances of the location and the amount of space that is available. The DAC has experience of such projects and should be consulted at an early stage in the design.

3.2.2 A Garden of Remembrance should not be immediately adjacent to the church, churchyard wall or other building, so that it is not disturbed by necessary repairs or maintenance.

3.2.3 Often the Garden of Remembrance is designed as a tranquil space with no permanent markers because the burials are recorded in a Book of Remembrance. Sometimes there is, however, a pastoral need for some more tangible marking. The DAC is willing to give advice on ways this need might be achieved.

3.2.4 Every parish, if it has not already done so, will need to draft regulations for a Garden of Remembrance and to obtain a Faculty for its use. Model Regulations for a Garden of Remembrance are in Appendix B.

4 Management of the Churchyard

4.1 Maintenance

4.1.1 Under the Parochial Church Councils (*Powers*) Measure 1956, the duty to care for and maintain the churchyard is laid upon the PCC, which has all the powers necessary for that purpose. The following rules are appropriate for the proper exercise of those powers but may be varied, by agreement with the Chancellor, to meet the needs of the local situation. The surface of the churchyard shall be kept, as far as possible, level and free from mounds. The PCC may at its discretion level the ground at any time more than twelve months after the latest interment in the grave. 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, but unless they are kept tidy, the PCC may treat the grave as part of the turf and mow over it. Wreaths or cut flowers may be laid directly on any grave or placed in any vase authorised by these Regulations. If a built-in vase ceases to be used for a period of twelve months or more, the PCC may insert a matching stone stopper in the vase hole. Artificial flowers of good quality may be placed on a grave at the discretion of the Incumbent & PCC. Both natural and artificial flowers will deteriorate after periods of time. The PCC may remove flowers and wreaths of whatever kind at their discretion if they judge them to be unsightly and all artificial flowers after two months. Any power exercisable by the PCC under section 4 of these Regulations may be delegated (*by the PCC*) to a person or persons deputed to care for the day to day upkeep and maintenance of the churchyard.

4.1.2 Where a churchyard has been closed by Order in Council, the PCC may request the local authority to take on the responsibility for its maintenance (*Local Government Act 1972 section 215*). Careful thought should be given before such a request is made, since the PCC then loses control.

4.1.3 Whether the maintenance of a closed churchyard is undertaken by the PCC or the local authority, it remains the property of the Incumbent and also subject to Faculty jurisdiction. A Faculty is still needed for all works which would require a Faculty in an open churchyard.

4.2 Health and Safety

4.2.1 The PCC together with the Incumbent are occupiers of the Churchyard for the purposes of the Occupiers' Liability Acts 1957-1984. These Acts place upon the occupiers a duty of care to see that the visitor in the churchyard will be reasonably safe. Therefore there is a duty to ensure, particularly but not exclusively, that walls, trees and memorials are regularly inspected and the PCC should take reasonable steps to reduce or minimise foreseeable risk. Such an inspection should typically form part of the Quinquennial Inspection and should also be carried out following exceptional weather conditions. Where the churchyard is closed and responsibility for maintenance has been passed to the local authority, the local authority is also an occupier, but not to the exclusion of the Incumbent and PCC.

4.2.2 The person who erects a memorial is responsible for seeing it is kept safe and in proper repair. However, when such person moves or dies, it is often not possible to trace them or to locate the heirs to enforce repairs or recover the cost. The burden of maintenance in effort and cost thus often falls on the PCC. Should it come to the attention of the PCC that any memorial may be unsafe, it should be roped off immediately. Where the family can be traced, they should be contacted as responsibility for its maintenance rests with them. Where those responsible for the maintenance of the memorial cannot be

traced, the PCC must, by default, take appropriate action. If they have any doubt about the safety of a memorial they should seek professional advice and should contact the Archdeacon. A Faculty may be required if major repairs are necessary. Memorials of particular distinction may be separately listed.

4.3 Trees in Churchyards

4.3.1 The Regulations as to the care of trees in churchyards appear in Appendix C.

4.4 Recording the Churchyard

4.4.1 Incumbents and Churchwardens are responsible for ensuring that the Churchyard Plan and related faculties are kept securely in the church or elsewhere, a note being kept as to where they may be found. During a vacancy in the living, it is the responsibility of the Churchwardens to ensure that any Priest-in-Charge or other clergy person responsible for burials is kept fully informed about the Churchyard Plan. Unless this course is followed, a burial could take place in a grave space which had been reserved for someone else resulting in unnecessary distress.

4.4.2 If there is no Churchyard Plan or the existing Plan is not up-to-date the PCC must take steps to create an up-to-date plan. It should record the location of the church in the churchyard, the location of all trees, bushes, hedges and fences as well as the location of all memorials. The DAC is willing to give advice as to the preparation of such a plan.

4.4.3 All parishes should maintain a record of all memorials in the Churchyard including the inscriptions and the names and addresses both of the persons who caused the memorial to be erected and the mason who carried out the work. This will help the PCC both to locate the appropriate person should repairs to the memorial be required and to assist those carrying out family or other research. The DAC is willing to give advice as to the preparation of such a record.

4.5 Alterations

4.5.1 The PCC will wish, from time to time (*and typically to coincide with the Quinquennial Inspection*), to review the churchyard to see what alterations are desirable. Such a review may encompass Health & Safety, disabled access, the condition of the existing fabric, lighting, tree planning and landscaping. A Faculty is always required before any alteration can be made in a churchyard or burial ground, (*other than burials and interments, the erection of memorials as provided in these Regulations and routine maintenance*).

4.6 Closure of a Churchyard

4.6.1 Where a churchyard becomes full of burials and there is no further useable space, the Incumbent and PCC may seek to have it closed. Closure of a churchyard for further burials can only be ordered by Her Majesty in Council. Application should be made in the first instance to The Coroners Unit of the Ministry of Justice, (*see useful addresses at the beginning of these regulations*). The fact that closure is irreversible should be borne in mind, as well as the fact that closure imposes significant limits on the future use of the land, for example for any form of building. The Registrar should be consulted before any action is taken

4.6.2 Alternatively the Incumbent and PCC may prefer to adopt a policy for the reuse of graves where burials took place at least, say, 75 years ago. This is to be encouraged in view of the increasing shortage of land for burials but requires very careful and sensitive treatment. It will probably involve a Faculty as memorials may have to be moved. Advice should be sought from the Registrar as to the legal position and the Secretary of the DAC as to the manner in which it should be carried out.

APPENDIX A

Memorials in Churchyards

An appropriate variety of design is encouraged in choosing memorials. Relatives should take the surroundings of the grave and churchyard into account. A suitable choice can often be made from the range of memorials offered by some masons, but individually designed memorials are encouraged. In order to ensure quality and suitability of material and design, memorials which are outside the range of simple designs commonly found in churchyards, whilst not necessarily discouraged, must be authorised by Faculty. The Faculty process will be explained by the Incumbent or you can speak to the Secretary of the Diocesan Advisory Committee on 01483 790313. Incumbents may authorise the erection of memorials which comply with the following provisions provided the Inscription is acceptable to them.

1 Materials

1.1 Memorials must be of weathering natural stone or slate, or hardwood, so that they harmonise with the surroundings. Stones traditionally used in local buildings or closely similar to them in colour and texture are to be preferred. The stone (*including the*

lettering surface) shall not be finished with a polished or reflecting surface. It may not be black, dark grey or red, and no memorials or vases shall be of synthetic stone or plastic.

2 Design

- 2.1 Memorials may comprise a simple headstone, cross, stone vase or urn. A stone wedge or a stone book may also be appropriate for the churchyard but will require a Faculty. A headstone may have maximum dimensions of 1200mm high above ground level, 900mm wide, 150mm thick (*4ft x 3ft x 6ins*). A cross may have a maximum height of 1500mm above ground level, 900 mm wide and 150mm thick (*5ft x 3ft x 6 ins*). The permitted design requires the cross to be made from a single piece of stone whose width in the earth is at least equal to the width of the cross. A stone vase or urn may have maximum dimensions of 300mm in height by 200mm by 200mm (*12ins x 8ins x 8ins*).
- 2.2 The Incumbent may specify a minimum size, in the regulations given to the bereaved, for all memorials (*consistent with other memorials in the churchyard*). A typical minimum size would be 350mm high, 500mm wide and 50 mm thick (*and usually smaller for a child*).
- 2.3 All headstones and crosses must be securely fixed in the ground and due regard must be paid to the nature of the ground and the risk of settlement. Masons/funeral directors are strongly encouraged to have regard to the Guidelines issued by the Association of Burial Authorities. The PCC may decide to lay flat any memorial which, in its opinion, is unsafe.
- 2.4 A headstone or cross may stand on a base provided that it is an integral part of the design and firmly fixed to it with non-ferrous dowels. The base may project no more than 100mm (*4ins*) beyond the headstone in any direction, except where a receptacle for flowers is provided, in which case this must be flush with the top of the base and may extend up to 200mm (*8ins*) in front of the headstone. The base must be securely fixed on a foundation slab which is flush with or below the ground so that a mower may pass freely over it. The foundation stone must extend from 75mm (*3ins*) to 150mm (*6ins*) all round the base.

3 Exclusions

- 3.1 There are many practical reasons (*e.g. maintenance, appearance*) why horizontal ledgers, raised kerbs, railings and stone or other chippings are no longer normally permitted as part of memorials. Similarly, memorials in the shape of a statue or bird bath, or including any image of the deceased or any photograph or coloured drawing are specifically excluded from the delegated authority given to the Incumbent.

4 Memorials over Cremated Remains

- 4.1 Where cremated remains have been interred in a Garden of Remembrance then any memorial must follow the terms of the Faculty creating the Garden.
- 4.2 Where cremated remains have been interred in an existing grave, an inscription should be added to an existing memorial wherever possible. If there is insufficient space, an additional stone not exceeding 500mm (*1ft 8ins*) square may, with the consent of the Incumbent, be laid flush with the turf in front of the existing memorial. The stone should match the existing memorial and may incorporate a vase for flowers provided that the top of it is level with or below the surface of the stone. Any other memorial will require a Faculty. A fee is payable for an additional inscription or stone.
- 4.3 For good reason, an Incumbent may agree to the interment of cremated remains in any other part of the Churchyard (*provided it is not closed*). Any memorial over such a burial must fall within the Incumbent's delegated authority or be authorised by Faculty.

5 Inscriptions

- 5.1 Inscriptions must be simple and reverent and appropriate to a churchyard. The Christian and surnames of the deceased should be given, with the dates of birth and death (or age and date of death). Relations named should normally be limited to parents, children and spouse or partner. Quotations compatible with the Christian faith are permitted. The terms of any epitaph must be agreed with the Incumbent as part of the necessary permission.
- 5.2 Lettering should normally be incised and may be leaded, but plastic or other inserted lettering is not permitted. Incised lettering may also be painted in black or white, as appropriate for the colour of stone. It should be noted that paint may become illegible in a relatively short period, and may require re-painting.
- 5.3 No advertisement or trademark shall be inscribed on any memorial but the name of the mason may be inscribed low down on the side or reverse of the stone in unpainted and unleaded letters no larger than 13mm (*1/2 in*) in height.

APPENDIX B

Model Regulations for a Garden of Remembrance

In the parish of XXXXXX PCCs will wish to adapt this model to suit their church and any Faculty already granted (e.g. for Memorials other than those provided for below)

1 Rights of Interment

- 1.1 A parishioner has a right to the burial of his/her cremated remains ('ashes') in a churchyard and the remains of non-parishioners can also be buried there if the Incumbent consents. *[The PCC should replace the word Incumbent by Vicar or Rector as required for all occurrences]*
- 1.2 Applications for the interment of ashes must be made to the Incumbent, who will decide the place of interment
- 1.3 The names of those whose ashes are interred, together with a record of where they are interred, will be recorded in the Burial Register to be kept in the Church safe.
- 1.4 A memorial 'Book of Remembrance' will be kept in the Church in which entries may be made, subject to the approval of the Incumbent, by a calligrapher approved by the Incumbent.

2 Garden of Remembrance

- 2.1 Cremated remains may be interred in a family grave but otherwise will be buried in the Garden of Remembrance.
- 2.2 The ashes should normally be buried without their container. (At the discretion of the Incumbent, such remains may be scattered or may be buried in a casket or urn, provided it is made of a biodegradable material).

3 Memorials

- 3.1 [The PCC should choose either] 'Our Garden of Remembrance is designed as a tranquil space with no permanent markers because the burials are recorded in the Book of Remembrance' [or] 'No marker may be placed on the burial plot but permission can be sought from the Incumbent to erect a plaque on the Memorial Wall. The Incumbent's approval is required for the wording, design, dimensions and materials. The PCC secretary will provide a form of application'. *[The exact wording here will depend on the Faculty approval given to the PCC]* [or] *[Where a Faculty has been granted for the burial plot to be marked by a tablet]* Permission can be sought from the Incumbent to place a tablet, subject to the Incumbent's approval of the wording, design, dimensions and materials.
- 3.2 Flowers, or good quality artificial flowers, may be placed at the foot of the Memorial Wall but not on the burial plot. Both natural and artificial flowers will deteriorate after periods of time. The PCC may remove flowers of whatever kind and wreaths at their discretion if they judge them to be unsightly and all artificial flowers after two months.
- 3.3 The fees for the interment of ashes are contained in the current Parochial Fees Order. Those for inscriptions in the Book of Remembrance shall be fixed by the PCC.

APPENDIX C

Trees in Churchyards

1 General

Every PCC has the responsibility for properly caring for the trees within its churchyard or churchyards, whether open or closed to the public. The responsibility covers all aspects, including planting, routine maintenance, lopping, topping and felling. Even if a churchyard is maintained by the local authority, the PCC is not absolved from its primary legal responsibility.

2 Expert advice

- 2.1 Assessing the safety of trees and planning future planting programmes requires expert skills. Every PCC, therefore, should be prepared to seek and follow expert advice concerning the trees and large shrubs within its churchyard or churchyards.
- 2.2 Many local authorities employ an arboricultural officer, who may well be prepared to give advice with regard to the safety of a tree within a churchyard, and what, if any, maintenance or remedial work is necessary. Alternatively, advice can be obtained from an experienced arboricultural consultant. The DAC can assist with regard to names.
- 2.3 The prior consent of the Archdeacon is required for all actions (*planting, lopping, topping, felling*) as explained below. The purpose is to ensure proper advice has been sought.

3 Inspection

- 3.1 There should be a regular inspection of all mature trees in a churchyard approximately every five years. This inspection should normally be part of the Quinquennial Inspection and the urgency of any work should be categorised. The Tree Report can be

annexed to the Quinquennial Report and is obligatory in the case of a tree subject to a Tree Preservation Order (TPO) (*Schedule 3, Para. 3 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991*). If the Quinquennial Tree Report is undertaken by the architect or surveyor inspecting the church, any concern which he or she expresses with regard to the safety of any particular tree or trees should be referred to an expert.

3.2 If any report reveals the need for emergency works, the PCC must obtain the consent of the Archdeacon. If the Report reveals the need for major work, but of a non-urgent nature, the PCC should seek advice from the DAC about the need for a Faculty.

4 Planting

4.1 In general seek expert advice before deciding to plant any tree in any particular part of a churchyard. The growth and spread of a tree must be considered as well as the fall of leaves in gutters and the likely impact of the root system on foundations and archaeological remains.

4.2 Before any tree or substantial shrub is planted in a churchyard the PCC must obtain the consent of the Archdeacon. Where a major scheme of planting is proposed, the PCC must seek the advice of the DAC and obtain a Faculty for the scheme.

5 Lopping and topping

5.1 All trees are capable of shedding deadwood, particularly beech, ash and sycamore. Standard remedial work, such as the removal of dead, split or hanging branches, and minor pruning with secateurs, can be undertaken without reference to the Archdeacon. More serious surgery, such as cable bracing, crown reduction or the removal of main, but live trunks, or branches, however, calls for expert advice and also needs the consent of the Archdeacon who in his discretion may refer the matter to the DAC. When major tree surgery is contemplated obtain a written report from an expert and submit it to the Archdeacon.

5.2 No substantial work should be entrusted to volunteers, however willing. Such work is not normally covered by church insurance policies. It is vital to ensure that any contractor is adequately insured against public liability, including third party injury, loss or damage.

5.3 If a tree is subject to a TPO or is in a Conservation Area, see paragraph 7 below.

6 Felling

6.1 Where the PCC is advised by an expert that a tree or trees should be felled for safety reasons or otherwise because of disease, the consent of the Archdeacon must be obtained before felling commences. Except in cases of extreme urgency when an oral Report will suffice, a written Report must be submitted to the Archdeacon for his consideration. A photograph of the tree or trees in question should be submitted with the Report. A copy of the Report and the photograph should be retained with the PCC records. Where time permits, a PCC Resolution is advisable to demonstrate that the matter has been properly considered.

6.2 Where the PCC wishes to fell a tree which is sound but is occupying a space in the churchyard required for some other use, a Faculty is required. This rule does not apply to self-seeded saplings which may be removed by the PCC without the need for a Faculty or reference to the Archdeacon.

6.3 The principles set out above apply equally to hedges in, or bordering churchyards. Where the PCC wishes to remove a substantial churchyard shrub, whether by reason of disease or otherwise, the prior consent of the Archdeacon must be obtained.

7 Tree preservation orders

Where any tree is subject to a TPO or is in a Conservation Area, the consent of the local planning authority must, in general be obtained before any lopping, topping or felling. Small trees with a diameter less than 7.5cm (*circumference of 24cm*), measured at 1.5m above ground, are exempt; nor is the consent needed when the tree is dead, dying or dangerous (*Section 198 (6) (a) of the Town and Country Planning Act 1990*). The local planning authority consent is in addition to the Arch deacon's consent or Faculty.

8 Sale of timber

Where a tree in a churchyard is felled, topped or lopped, the PCC may sell the timber or dispose of it in some other way. The PCC should apply the proceeds to the maintenance of any church or churchyard which it is liable to maintain, (*Section 6 (2) of the 1991 Measure*).

9 Faculties

If a Faculty is required for works in connection with trees it must be applied for on Form 16 (*Faculty Jurisdiction Rules 2000*) available from the DAC Secretary. Note: PCCs are expected to adapt this model to fit their church (*or churches*) and to attach Appendices A and B, again adapted (*the DAC Secretary can email you a copy*). There will thus be a simpler document which can be given to the bereaved. The document should be sent to the Registrar for checking prior to being adopted by the PCC.

APPENDIX D

Model Extract from Diocesan Churchyard Regulations for the Bereaved as they apply to XXXXX parish

1 Introduction

This extract from the Churchyard Regulations gives guidance on the procedure for burials and the interment of cremated remains within the churchyard. The full set of Diocesan Churchyard Regulations is available from the Incumbent. *[The PCC should replace Incumbent by Vicar or Rector as appropriate every time it appears]* Our churchyards are places of great beauty and historical value. The Regulations are designed to maintain and enhance these values with a minimum of bureaucracy. There are also practical reasons for some of the rules to allow for ease of maintenance. The family of the deceased bear the cost of any memorials and of maintaining them but they do not own the grave space and the Parochial Church Council (PCC) has the task of keeping the churchyard in good order.

2 Burials

2.1 *[Closed Churchyards]*

Our churchyard has been closed for burials by Order in Council. The Incumbent can advise if there are any exceptions to this Order.

[Open Churchyards]

Parishioners (including all those on the Church Electoral Roll), and others who die in the parish, have a right to burial in the churchyard if there is still space available. Permission for the burial of other persons may be granted by the Incumbent. The Incumbent will decide where a burial will take place but will endeavour to respect the family's wishes. There is a special procedure if you wish to reserve a particular grave space.

3 Memorials

3.1 Incumbents have discretion to authorise the erection of any headstone which falls within the types and classes authorised in Appendix A (Memorials in Churchyards). They may refuse to permit the erection of an authorised headstone if they believe it would be detrimental to the churchyard. However they have no discretion to allow the erection of a headstone that falls outside those authorised. *[If the PCC has agreed a special scheme with the Chancellor for all or part of the churchyard, then include reference to it here and attach it to the Extract.]*

3.2 If individuals wish to erect a memorial which falls within the Incumbent's discretion they should apply on form CR1 (available from the stonemason or Incumbent). Permission is always required and no work should be ordered or put in hand until permission has been granted. If individuals wish to erect a memorial which falls outside the Incumbent's discretion they may apply for a Faculty giving the grounds for their request. The Incumbent will advise them how to approach the Diocesan Advisory Committee (DAC) before seeking a Faculty.

3.3 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, but unless they are kept tidy, the PCC may treat the grave as part of the turf and mow over it. Wreaths or cut flowers may be laid directly on any grave or placed in any vase authorised by these Regulations. If a built-in vase ceases to be used for a period of twelve months or more, the PCC may insert a matching stone stopper in the vase hole. Artificial flowers of good quality may be placed on a grave, but both natural and artificial flowers will deteriorate after periods of time. The PCC may remove flowers of whatever kind and wreaths at their discretion if they judge them to be unsightly and all artificial flowers after two months.

4 Cremated Remains

4.1 A Garden of Remembrance has been set aside in the churchyard for Cremated Remains. *[The PCC to reword as appropriate]*

4.2 A copy of the Regulations as they apply to our parish are attached as Appendix B.

5 Approval

5.1 This extract from Diocesan Churchyard Regulations has been approved by the Diocesan Registry and came into force in 1995.

