

Handbook for the Bereaved



Introduction

Making burial arrangements for a person you have lost is clearly something that will matter to you very much. This handbook is intended to help you decide whether you wish to have the burial in a churchyard. It will also explain how you would afterwards apply for the necessary permission for a memorial to be erected at the grave. In making a decision it is important for you to understand that:

- There are differences between the memorials that can be permitted in churchyards and what is allowed in local municipal cemeteries;
- All memorials in churchyards need legal permission before they can be installed; and
- There are rules about the size, shape and colour of memorials, the materials they can be made from, the inscription and designs on them, and other matters.

Churchyards are a part of our national history. They are consecrated ground, set aside for burials; and they are places for quiet contemplation, prayer and remembrance. They matter to many people, especially those whose loved ones' remains rest there. But they are also important to parishioners, historians, archaeologists, ecologists, visitors and many others. A churchyard is a shared place, shared by mourners and non-mourners, all of whom have an interest in its appearance. In every case a balance must be struck in respect of the particular wishes of a grieving family, the interests of other families whose relatives are buried there, the interests of worshippers at the church and the interests of all other visitors to the churchyard. That is why churchyards need rules about the types of memorials that can be permitted.

When you have read this handbook, if you do not think that the rules described here are going to allow the kind of memorial you want, you should consider other options, such as burial in a municipal cemetery. If, however, you believe the rules will enable you to plan a memorial that you would be happy with, this handbook explains the process to follow.

Right to be buried in a churchyard

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

It is for the minister to decide whereabouts in the churchyard any given burial shall take place.

It is important for anyone considering burial in a churchyard to understand that once human remains have been interred in a churchyard it is very rare for permission ever to be given to allow them to be removed from the grave ("exhumed") and relocated elsewhere. Only in exceptional circumstances would that be permitted. The Christian expectation is that once a

body has been interred it will rest in peace awaiting the final resurrection of the dead. Anyone who thinks they might at some time in the future wish to move the remains to another location should consider looking for burial in the unconsecrated part of the local cemetery, where the rules about exhumation are less strict.

The family of the deceased does not own the land in which a body is buried (the grave). However, the memorial remains the property of the person who commissioned it, and after their death belongs to the "heir-at-law" of the person commemorated. This person is responsible for maintaining the monument in good order. Where this does not occur, and the memorial becomes insecure or otherwise unsafe, the PCC may choose to take steps to make it safe, which could mean laying the memorial flat to avoid risk of personal injury or damage.

Churchyard Memorial Regulations

To help protect the special character of our churchyards, the Diocese of Durham's Churchyard Memorial Regulations ("the Regulations") give guidance about the memorials that can be introduced into our churchyards.

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

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

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

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

Sometimes people wish to have an image engraved on the memorial that depicts the life and interests of the deceased. These will usually be allowed provided that it is modest in size, not occupying more than 10% of the surface area of the inscription plate. Such images must not be in any colour other than a single colour to match the lettering of the inscription. Insignia (such as those associated with regiments and even football clubs) are very often copyrighted, in which case their use would require the consent of the body they represent.

Making an application for a memorial to be erected

If you wish to take forward the possibility of arranging a burial in a churchyard and erecting a memorial at the grave, you should meet and discuss this with the minister of the church concerned. It is important that before you do so you should read this handbook and satisfy yourself that you are content with the necessary restrictions that come with a churchyard burial.

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

One of the matters to discuss with the minister will be what type of memorial is to be erected at the site of burial. The minister is able to give permission for a memorial to be erected that meets all the requirements of the Diocese of Durham's Churchyard Memorial Regulations as to size, shape, and type of material, and the inscription and any engraving that is to be on the face of the memorial.

A standard Application Form can be downloaded at [Churchyards - Diocese of Durham](#). Alternatively, a hard copy of the form can be obtained from the Diocesan Registry at [Legal office - Diocese of Durham](#) or phone 01325 777000. It asks for details about you and your relationship to the deceased. It also asks a number of questions about what consultations about the proposal there have been with other close relatives of the deceased and what the views of other members of the family are. The minister considering the application needs to know about these things as there have been occasions in the past where family disagreements about memorials have surfaced very late in the day, to the upset of all concerned.

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

Memorial Masons

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

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

In addition to items such as kerbs, railings, chains, or chippings not being allowed, some other things such as statues, attached plaques, pictures, portraits, photographs, artificial flowers, toys, bottles, birdbaths, trinkets, souvenirs, shrubs solar lights or QR codes are not allowed either. Cut flowers and wreaths may however be left on the grave or in a vase measuring no

more than 300 x 200 x 200mm, provided the vase is sunk completely into the ground or is set into the base of the memorial and is flush with the top of the base.

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

The Minister's Decision

(a) Where the application complies with the Regulations

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

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

As indicated above the minister might not be happy with the proposal even though it complies with the Regulations. In those circumstances the minister would set out the concerns on the form and return it to the applicant. The applicant would then need to consider whether to amend the application in a way that would satisfy the minister's concerns e.g. by reducing the size of the memorial if that was the issue. If the applicant was not prepared to amend it, the applicant would need to decide whether to apply for a faculty from the chancellor. For more details of that process see below.

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

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

Memorials outside the Regulations

If the minister has declined to grant permission for the memorial, or if the family want a memorial that does not comply with all the requirements they can seek permission (by what is called a "faculty") from the Diocesan Chancellor (the judge of the Consistory Court). The family can seek guidance from the Diocesan Registry [Tel: 01325 777000](tel:01325777000), [McGarry Law, 53 Coniscliffe Road, Darlington, DL3 7EH](#) as to whether what they wish for is likely to be allowed. It is important to bear in mind that the onus would be on the family to persuade the Chancellor to grant a faculty for a memorial that does not comply with the Regulations.

Petitioning for a faculty

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

However, prior to making the formal request for the faculty process to start, there is a legal requirement that any person considering petitioning for a faculty must consult the Diocesan Advisory Committee (generally referred to as “the DAC”). Each diocese has such a body which consists of a number of people with specialist skills and experience who can advise the Chancellor about the various issues that will need to be considered when deciding whether or not to grant a faculty. Such consultation is required by the Faculty Jurisdiction Rules 2015, rule 4.1.(1). Any approach to the DAC should be made through the DAC Secretary ([Martin Howard, 07586090996, martin.howard@durham.anglican.org](mailto:martin.howard@durham.anglican.org)).

If, having carried out that consultation with the DAC, the applicant still wishes to proceed down the faculty route then the applicant needs to notify the Diocesan Registrar [Tel: 01325 777000](tel:01325777000) and ensure that the Registrar has a copy of the application form. The applicant will also have to pay the statutory fees. The application form originally sent to the minister will be deemed to be the faculty petition by virtue of the Regulations.

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

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

When all these processes have been completed the Chancellor will consider all the material that has been submitted, and make a decision as to whether or not to allow the proposed memorial to be admitted. If it is allowed it may be subject to conditions e.g. about the precise size of memorial that will be allowed or about the exact wording on the inscription plate. As already highlighted above, the burden is on the applicant to satisfy the Chancellor that a faculty should be granted in all the circumstances.

Cremated remains

Cremated remains may also be buried in some churchyards. This is usually in an area of the churchyard specifically set aside for such burials. If you are interested in finding out whether the particular church you are interested in has such an area, you should contact the relevant minister.

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