

## **Diocese of Blackburn Churchyard Regulations 2014**



These Regulations which repeal and replace the existing regulations apply throughout the Diocese of Blackburn and have been approved by the Chancellor after consultation with the Diocesan Advisory Committee on 13 December 2013 and shall come into force on 1 January 2014

## 1. Introduction

Although many people have a right to burial in the churchyard of the Parish church, there is no corresponding right to erect a memorial to the deceased. **Permission is always required.** It would, however, be heavy handed to insist that everyone wanting to erect a memorial to a family member or friend should obtain permission through the faculty jurisdiction<sup>1</sup> process, when most proposals for memorials are uncontroversial.

These Regulations are therefore framed to cover those applications that are not going to raise issues of concern about size, material, design or any other feature. If an application meets the criteria laid down in the Regulations then the Parish Priest has the authority to give permission for the memorial to be erected.

The preliminary purpose of the Regulations is to specify when the Parish Priest may give permission to erect a memorial under his or her delegated authority, so that there is no need to proceed by faculty.

**If an application falls outside the criteria laid down in the Regulations then the Parish Priest has no authority to grant it and accordingly a faculty must be sought from the Diocesan Chancellor.** However there are bound to be cases that are borderline, or where for some reason, strict adherence to the Regulations may be inappropriate; in such cases the Parish Priest is required to consult with the Archdeacon as to what is to be done.

Where a proposal is plainly outside of the Regulations the applicants should proceed by petition for a faculty. Further information about how to make an application for a faculty can be obtained from the Parish Priest.

These Regulations have also been designed to protect the appearance and setting of church buildings, many of which are of considerable age or are 'listed' as being of special architectural or historic interest. The Regulations are therefore concerned to ensure that memorials erected in churchyards respect their surroundings, harmonise with existing memorials and enhance the character of the particular church or churchyard in which they are located.

Some may view the Regulations as being unduly prescriptive and to have been designed to encourage blandness and uniformity in the design of what is chosen. However those wishing to have a memorial outside of the criteria contained in the Regulations may seek the necessary permission from the Chancellor by way of the faculty jurisdiction process. Many hand-crafted and individual memorials would not be allowed under the criteria laid down by the Regulations but their design may merit approval as beautiful works of art, which enhance the overall appearance of the churchyard, as well as providing a fitting memorial to the departed.

Applicants should, in conjunction with their monumental mason, be encouraged to carefully consider the criteria laid down by the Regulations before making a final decision as to the design of their particular memorial. Applicants should be advised not to commission any work until they have obtained the Parish Priest's approval of their design.

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<sup>1</sup> Faculty jurisdiction – the Church of England's legal process by which permission is granted. See also Glossary

## **2. Churchyards generally**

### **2.1 Who grants permission**

**2.1.1** Nothing is to be erected or placed, or works undertaken nor any rights or way-leaves granted, in churchyards without the authority of a Faculty; or, in such cases as are mentioned in 3 below, without the written consent of the Incumbent<sup>2</sup>

**2.1.2** Where there is no Incumbent but the Bishop has licensed a Priest-in-Charge of the parish, the Priest in Charge may, under these Directions, act as though he were the Incumbent and any references hereafter to an Incumbent extend to him or her. Where there is a vacancy, the authority of the Incumbent shall pass to the Area Dean.

### **2.2 Right of burial**

The parishioners, those whose names are on the Parish Electoral Roll and persons who die in the parish have a right of burial, including the right to have their ashes buried, in the churchyard. The Incumbent may also allow others to be buried there, with the consent of the Parochial Church Council<sup>3</sup> (PCC). If the Incumbent declines to give his consent, there is no appeal from his decision. It is for him also to decide the grave space to be used, unless a space has been reserved beforehand by Faculty.

### **2.3 Reservation of Grave Space**

Grave spaces are reserved only by Faculty, and fees as laid down by the Chancellor.<sup>4</sup>

### **2.4 Setting aside ground for cremated remains**

Many Faculties for schemes for setting aside part of the churchyard for the disposal of cremated remains have been granted. Such schemes require careful thought and planning. The Diocesan Advisory Committee<sup>5</sup> (DAC) has, through the experience of many parishes in and beyond the diocese, learnt how cremated remains may best be interred and how memorials commemorating those cremated might be arranged in churchyards. Incumbents and PCCs contemplating setting aside part of a churchyard for this purpose should consult the DAC at an early stage.

### **2.5 Exhumations**

**2.5.1** Applications are sometimes made to exhume human remains, whether following a burial or after cremation. The Chancellor alone has authority to allow this, but sometimes a licence from the Home Office is also required. Permission is sometimes sought because a body has been buried in the wrong grave or in a space reserved by Faculty for someone else. These rarely present a problem as the mistake is usually discovered quickly and steps have to be taken to put things right. Such applications are more frequently made for personal reasons, for example, because the widow has moved away to be closer to the children and so can no longer tend the grave herself, or visit as she would wish.

**2.5.2** Such applications will always be examined with care, because of the deep feelings and emotions involved. Nevertheless, such petitions can only rarely be granted. Human remains are committed to the ground as a final resting place, as the

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<sup>2</sup> See Glossary

<sup>3</sup> See Glossary

<sup>4</sup> See Glossary

<sup>5</sup> See Glossary

form of our burial service makes clear, and can be moved or disturbed only in special cases. Remains - even cremated remains - are not intended to be potentially transportable. Further, an exhumation is a distressing and unpleasant business for all concerned, particularly after a lapse of years from the interment, and even in those not personally involved, it often causes upset.

## **2.6 Disturbance of remains**

Those who are considering proposals which may involve disturbance of human remains, for instance when planning to extend the church building, should be aware that they are likely to face much local opposition, and that they have a heavy burden to discharge in persuading the Court that other factors override the duty to protect the remains of those who have been buried in the churchyard from interference.

## **3. Monuments in churchyards**

### **3.1 Monuments**

As explained above, certain persons have a right of burial in the churchyard. Neither the fact a grave space has been reserved, nor the exercise of a right of burial, allows a monument to be erected without permission. Once a memorial has been set up, it cannot be removed except by a Faculty granted for that purpose. A monument is the property of the person who erected it and after his death, the heirs or heirs at law of the person in whose memory it was erected. They are responsible for its maintenance, although the PCC also have duties to ensure the churchyard is reasonably safe for those who come there.

### **3.2 Consent**

It would obviously be inconvenient and expensive to require all those who want to erect a memorial to apply for a Faculty. Therefore, Incumbents are hereby given authority to consent in writing to the erection of gravestones, tombs and monuments complying with the regulations given below. Those who erect monuments not in compliance with these regulations and without a Faculty, whether or not they have obtained the Incumbent's consent, may be required to remove them and to pay the costs of the proceedings compelling them to do so. (Applications for the Incumbent's consent must be made in writing a recommended form is found in appendix 1 and on the Diocesan Website). They should give a full description of the proposed work, including all maximum dimensions and any inscription to be made upon the memorial. The Incumbent may consult the Archdeacon, DAC or the Registrar (see Glossary) before giving or withholding his consent and is, in every case, entitled to require the applicant to petition for a Faculty.

### **3.3 Materials**

**3.3.1** The **choice of stone** for a memorial needs to be in harmony with the church building, if applicable, and with existing memorials in the churchyard. Unpolished naturally quarried limestone, sandstone, slate or granite are preferred. Highly polished granite, coloured granite or other marbles are not permitted. The exception to this is for churchyards, where, on the date that these Regulations came into force, at least ten percent of the existing memorials are constituted of a similar material, or where a separate section of a churchyard has been constituted to allow for the erection of such monuments as a result of a change in policy made prior to the coming into force of these Regulations.

**3.3.2** If there is in any doubt as to the colour or suitability of the stone for a particular churchyard, the Incumbent should ask for a sample.

### **3.4 Finish**

**3.4.1** Polishing shall not be greater than that required to give a good smooth finish and must be confined to the face of the gravestone on which the inscription is to be cut. The finish of this face must be non-reflective.

**3.4.2** However, as noted at paragraph 3.3.1 above, a finish that is not allowed by reason of paragraph 3.4.1 above, will be allowed provided that, on the date that these Regulations came into force, a minimum of 10% of the same finish is present in the churchyard in which the memorial is to be located – maintaining a harmony with the stonework of the church building and the rest of the churchyard.

### **3.5 Dimensions**

**3.5.1** Headstones, being the upright part of the monument, must be no larger than 48" (120cm) high, 36" (90cm) wide and 6" (15cm) deep, and must be no less than 24" (60cm) high, 20" (50cm) wide and 3" (7.5cm) deep but in the case of slate 2" (5.1cm) deep.

**3.5.2** The plinth and/or base of the monument must not be more than 18" (45cm) and not less than 9" deep; the height and width of the plinth and/or base above ground will be taken to form part of the headstone for the purposes of paragraph 3.5(a) above, i.e the portion of the plinth and/or base above ground plus the headstone will not be permitted to exceed a height of 48" (120cm) or a width of 36" (90cm) and must be no less than 24" (60cm) high and 20" (50cm) wide.

**3.5.3** If an applicant wishes to erect a horizontal slab as a memorial these shall be no larger than 84" x 36" (213 cm x 90 cm) including any base flush with the ground extending not more than 5" (12.5 cm) around the stone.

**3.5.4** All headstones and/or horizontal slabs must be erected by a monumental mason who can demonstrate his competency (for example by way of registration with a national body etc.) and must conform to the National Association of Memorial Masons Code of Working Practice and British Standard BS8415 and their successors.

### **3.6 Design**

**3.6.1** Headstones may be placed on a base of the same material and fixed to the foundation/plinth flush with or below ground level, so that the upper base does not project above the ground level more than the thickness of the headstone, and does not project more than 8" (20cm) beyond the headstone.

**3.6.2** A flower vase may be incorporated in the base of headstones, but separate vases must not be placed elsewhere in the grave space, except where it is intended that no headstone or other memorial will be erected; then, a vase, in permitted stone material, not more than 12" (30cm) high x 8" (20cm) wide and 8" deep (20cm) with a memorial inscription may be placed in the approximate position where the headstone or other memorial would have been had there been one.

**3.6.3 The following are not permitted:** kerbs, railings, plain or coloured chippings, free-standing containers of any kind, statues, open books, bird baths, pictorial etchings, (see 3.6.4 and 3.6.5 below) memorials in unusual shapes (such as a harp, heart or teddy bear), cameos, portraiture or photographs. If the Incumbent feels that

the design is not appropriate and a compromise is not agreed, the applicant has the right to apply for a Faculty<sup>6</sup>.

**3.6.4** Simple decorative carving may be allowed provided that the design is submitted to the Incumbent but in such cases the Incumbent may require an application to be made for a Faculty.

**3.6.5** Designs/ornaments cut into memorials which reflect an occupation or hobby of the deceased and/or light use of colour in the design may be allowed at the discretion of the Incumbent following consultation with the relevant Archdeacon.

### **3.7 Inscriptions**

**3.7.1** The inscription must be consistent with Christian beliefs and must read well now and be appropriate in the future. If the Incumbent feels that the inscription is not appropriate and a compromise is not agreed the applicant has the right to apply for a Faculty.

**3.7.2** The inscription should include a full Christian name and surname of the deceased with age and date (or year) of death, or the years of birth and death. In expressing these dates it is preferable to use the notation 1 January 1992 rather than 1/1/92; however, it is acceptable to state only the year eg 1929-2012. In addition, if space permits, it is good to include occupation, title or honour and where he or she lived.

**3.7.3** The object of epitaphs is “to identify the resting place of the deceased, to honour the dead, to comfort the living and to inform posterity”. They should, therefore, be simple and relevant. Nick-names are not considered suitable and if a scripture text is used it is unnecessary to give the reference. Quotations may be taken not only from the Bible; the Prayer Book, hymns, poetry and prose are all suitable sources so long as the quotation is consistent with Christian belief. It should be borne in mind that not all phrases which express present grief will read well in, say, thirty years’ time.

**3.7.4** Lettering may be unpainted, painted, gilded or leaded.

**3.7.5** Additions may be made to an inscription at a later date following a subsequent interment in the same grave, but approval of the Incumbent is required and the wording and style must be consistent with the original inscription.

**3.7.6** Appropriate familial terms of endearment may be allowed at the discretion of the Incumbent following consultation with the relevant Archdeacon.

**3.7.7** A wider variety of design than those often seen is possible within the terms of these regulations. If an Incumbent is asked to approve a design not within the Regulations, he should decline to do so and advise that a Faculty must be obtained.

**In any case, where the Incumbent believes that the requirements of the Regulations should be modified in a particular churchyard or part of it, he should seek the Chancellor’s approval for the change, and not simply seek to adopt a stricter set of rules or seek to relax the Chancellor’s Regulations. It is**

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<sup>6</sup> See Glossary

recognised that circumstances for different provisions in relation to a churchyard or part of a churchyard may exist, but the object of general regulations is defeated if each individual churchyard operates under different rules.

#### **4 Cremated remains**

**4.1** Cremated remains may be interred in an existing grave or otherwise in a part of the churchyard specially reserved for the purpose under the authority of a Faculty.

**4.2** If an area of the churchyard is set aside by Faculty, then conditions will be laid down as to the manner in which the deceased may be commemorated. Usually, and preferably, this will be done by means of a Book of Remembrance in church. The Faculty may contain specific rules about memorials and the placing of flowers which apply only to that area. Any specific rules, e.g. about size or wording modify the general rules above and do not override other requirements, e.g. about the types of stone allowed.

**4.3** Burial of cremated remains is the proper method of interment. Scattering of ashes in a churchyard is not appropriate and can be distressing to the bereaved.

**4.4** It is preferable that the cremated remains are committed directly into the earth from the point of view of symbolism and practical sense. If the bereaved are unwilling to accept this, any container should be of a perishable material.

#### **5 Maintenance of churchyards**

**5.1** PCCs have a duty to see that churchyards are kept generally in such an orderly and decent manner as becomes consecrated ground and that boundaries are defined and maintained. This extends to churchyards closed by Order in Council<sup>7</sup> but in these cases the PCC may require the Local Authority to undertake this responsibility.

**5.2** Safety in churchyards is also the responsibility of Incumbents and PCCs and appendix 2 contains advice from the DAC about unsafe memorials and reordering.

**5.3** Incumbents and PCCs are reminded that no scheme for the removal of gravestones or monuments or other alteration to the churchyard may be undertaken without a Faculty. In particular, works of drainage will require a Faculty in order that provision can be made for the proper treatments of any archaeological artefacts uncovered thereby. Subject to this, the surface of the churchyard should be kept level and free from grave mounds so that the grass may be conveniently cut by machine. Hard paths need to be suitably maintained and treated to reduce the risk of falling.

**5.4** Incumbents and PCCs are strongly advised to draw up regulations for the upkeep of graves and the planting of flowers or placing of wreaths, flowers etc., but care should be taken to ensure that they are not contrary to these regulations (Please refer to Section 3.7.7).

**5.5** Valuable advice on the care and maintenance of churchyards is to be found in “**The Churchyards Handbook**”, published by Church House Publishing, Church House, Great Smith Street, London SW1P 3NZ.

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<sup>7</sup> See Glossary



## **6 Trees in churchyards and within the curtilages of churches**

Regulations governing this subject are set out in a separate document which is to be found on the Churchcare website:

[http://www.churchcare.co.uk/images/Guidance\\_Notes/Summary\\_Trees.pdf](http://www.churchcare.co.uk/images/Guidance_Notes/Summary_Trees.pdf)

[http://www.churchcare.co.uk/images/Guidance\\_Notes/PCC\\_Trees.pdf](http://www.churchcare.co.uk/images/Guidance_Notes/PCC_Trees.pdf)

[http://www.churchcare.co.uk/images/Guidance\\_Notes/Trees.pdf](http://www.churchcare.co.uk/images/Guidance_Notes/Trees.pdf)

## **7 Fees**

Where application is made for a Faculty the fee is payable to the Diocesan Registry. Incumbents and PCCs are reminded that where application is made for a Faculty they must not charge an additional fee save for those authorised by the Parochial Fees and Scheduled Matters Amending Order 2012 and its successor legislation and or such additional fees as may be directed from time to time by the Chancellor.

## **8 Application rules**

**8.1** All sections may be varied only by the Chancellor. However, where Incumbents consider that, by reason of past practice or for other good reasons, strict compliance with the churchyard regulations is not desirable in any individual case, they must consult with the Archdeacon and follow any directions.

**8.2** In any case of difficulty or where a query arises an approach should be made to the Archdeacons who are always ready to give advice.

**8.3** 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 be available for inspection.

**8.4** These Regulations come into force on the 1<sup>st</sup> January 2014 and replace any Regulations previously issued.

## **Glossary and explanations**

### **Archdeacon**

The Diocese of Blackburn is divided up into two Archdeaconries. Each one is looked after by an Archdeacon, who looks after church buildings, clergy housing, and particularly the welfare of the clergy. They ensure that on a day to day basis, due regard is given to Canon law.

There are two Archdeacons in the Diocese of Blackburn – the Ven Michael Everitt, Archdeacon of Lancaster, and the Ven John Hawley, Archdeacon of Blackburn. Their contact details are on the Diocesan website.

### **Chancellor**

Churchyards are a valuable heritage and also a great responsibility. Because churchyards are consecrated they fall under the jurisdiction of the Bishop, exercised through the Chancellor of the Diocese who is the ecclesiastical Judge in the Diocese and ultimately responsible for decisions affecting churchyards. His decisions carry legal force under Canon Law.



### **Diocesan Advisory Committee**

The role of the Diocesan Advisory Committee (DAC) is to advise the Chancellor of the diocese, the parishes, the bishop and many others on matters relating to the granting of faculties, the use and care of churches and all ancillary matters relating to church buildings, their contents, and churchyards.

Guidance and support is offered to incumbents, churchwardens and their professional advisers on a wide range of topics including maintenance, the introduction of services and new facilities, furniture and soft furnishings, and improvements to the churchyard.

### **Faculty and applying for a Faculty,**

A Faculty is the name of the licence or permission given by the Chancellor or Archdeacon to make a change by adding to, altering or taking away from the fabric of a church, its furnishings or goods, or carrying out repairs, or doing work in the churchyard.

Information regarding applying for faculties is to be found on the Diocesan website:

<http://www.blackburn.anglican.org/faculties>

### **Faculty schemes**

A faculty scheme is the name of the arrangement for which a licence has been given.

**Incumbent** The word `Incumbent` is used in these Regulations to refer to the Parish Priest, Vicar, Rector, Priest-in-Charge, Team Vicar or, in the case of an interregnum, the Area Dean. It does not include the Assistant Curate in training who does not have the Incumbent's delegated authority.

### **Parochial Church Council**

The PCC, as it is commonly known, is responsible for the upkeep of the Church and its property, and, with the Incumbent, for the whole mission of the church within the parish.

### **Registrar**

The Diocesan Registrar is responsible for providing legal advice to the Bishop and Archdeacons and also to Churchwardens and Parochial Church Councils. S/he is also responsible for the routine preparation of deeds and licences, including Faculties

**Appendix 1**

**Request for consent from Incumbent**



**APPLICATION FOR PERMISSION  
TO ERECT MEMORIAL**

<b>Name of Deceased</b>	
<b>Date received</b>	
<b>Memorial Mason</b>	
<b>Family Contact</b>	
<b>Approval Date</b>	
<b>Fee received</b>	£



**CHURCH OF**

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**APPLICATION FOR PERMISSION  
TO INTRODUCE MEMORIAL IN THE  
CHURCHYARD**

*Please read carefully*

<b>Full names and addresses of Applicant(s)</b>	<b>Relationship of Applicant to Deceased</b>
<b>Full name of deceased:</b>	
<b>Date of death of deceased:</b>	
<b>DETAILS OF MEMORIAL – to be completed by Memorial Mason</b>	
<b>Type of Memorial:</b>	
<b>Type colour and finish of stone:</b>	
<b>Design/shape:</b>	
<i>NB A scale drawing – not less than 2.5 cm = 25cm – of the memorial must be provided</i>	

## TO BE ANSWERED BY MEMORIAL MASON

<b>DIMENSIONS OF MEMORIAL</b>	
<b>Please use metric measurements</b>	
<b>Plate:</b> Maximum height measured from ground surface:	
Maximum width:	Thickness:
Minimum width:	
<b>Plinth:</b> Maximum height above ground surface:	
Maximum width:	Depth:
Distance between front of plate and front edge of plinth:	
<b>Foundation:</b> <i>please insert material and dimensions</i>	
<i>NB The foundation must not project above ground level and should be covered by soil</i>	
<b>Dimensions and shape of cremated remains tablet</b>	
<b>PROPOSED INSCRIPTION</b>	
Is the lettering to be coloured painted or gilded, if so, please give details?	
What is the proposed style of lettering?	
Please provide the exact wording of the proposed inscription:	
Please provide details of any ornamentation:	

**To be completed by Applicants**

**I/We the Applicants confirm and agree as follows:**

- 1. I/We understand that I am/we are the owners of the memorial and are responsible for its security and safety.**
- 2. I/We have read and understand the Churchyard Regulations and will comply with them. We consent to and authorise the removal of anything introduced placed or planted on the grave of the memorial which has not been previously approved in writing in accordance with the Churchyard Regulations and any rules adopted by the PCC and approved by the Diocesan Chancellor.**
- 3. I/We understand and agree that if the memorial becomes insecure and unsafe the memorial may be laid flat immediately in order to avoid the risk of injury and damage.**
- 4. Our representative for future contact regarding the memorial – who will notify you of any change of address – is:**  
*(Insert name and address of contact person)*
- 5. If our nominated representative is no longer able to carry out this role, we shall nominate a new representative for future contact.**
- 6. Our representative will contact the Church in five years' time to check the safety of the memorial.**
- 7. I/We consent to our names and addresses being recorded in the Church records (paper filing system or electronic database) for these purposes.**

*Signature(s) of Applicant(s)*

