

THE MANAGEMENT OF CHURCHYARDS

POLICY AND GUIDANCE

This document sets out the policy of the Representative Body in respect of Churchyards and guidance and help to Parochial Church Councils manage churchyards.

A document of this kind cannot hope to cover every situation throughout Wales but it is hoped it will help to encourage an effective approach to the management of churchyards.

CHURCHYARDS – A POLICY STATEMENT

Background

The Church in Wales holds almost 2000 burial grounds varying greatly in size and character. Ownership and the overall responsibility for these burial grounds rests with the Representative Body although they are managed by parishes in accordance with arrangements set out in various parts of the Constitution.¹

In addition to responsibilities arising from the Church's own Regulations parishes also need to be aware that:

- tombs, monuments and headstones belong to the families of the deceased who need to be contacted about any works proposed to such memorials;
- some memorials, lychgates and boundary walls are 'listed' and, as such, works to them may require listed building consent from local planning authorities (in addition to the usual faculty consents);
- works to any scheduled ancient monuments (e.g. preaching crosses and inscribed stones) require scheduled monument consent from CADW;
- trees may be within conservation areas or be subject to Tree Preservation Orders so requiring consent from local authorities for any works to them.

Where a Church closes, the Constitution provides for the Churchyard – whether open or closed for burials – to continue to be managed by the PCC unless other arrangements are made. (For example, arrangements can sometimes be made through the Representative Body for the lessee or purchaser of the redundant church to maintain the Churchyard.)

Policy

It is the policy of the Representative Body to:

- ensure that parishes have good and sufficient guidance on reasonable standards of maintenance and management of churchyards and that a process of monitoring is in place to ensure that churchyards are being managed in accordance with that guidance;
- advise on risk management practices to limit potential hazards and the consequent possibility of public liability insurance claims arising in churchyards;
- offer financial assistance for the maintenance of churchyard boundary walls;
- seek improved fee levels and other contributions for addition to parish churchyard accounts to reflect the cost of churchyard maintenance;

¹ [Constitution Volume II section 2.1, 2.2 ,2.3]

- discourage parishes from assuming more burial ground responsibilities (which should lie with the local burial authority) unless adequate financial support is provided for the acquisition and maintenance of the proposed burial grounds or extensions;
- oppose the use of churchyards where no burials currently exist for the burial of human or cremated remains;
- encourage management schemes in churchyards that respect and develop the natural flora and fauna without compromising the public liability risk management requirements of the insurers;
- support the development of imaginative design and variety in headstones and other memorials (within the constraints set by the gravestones regulations).

A GUIDANCE NOTE ON THE RESPONSIBLE CARE OF CHURCHYARDS

Introduction

This guide offers practical guidance to assist PCCs in the management of churchyards. Some high profile cases of incidents in churchyards have highlighted concerns over potential liabilities and this guide seeks to provide advice upon reasonable standards to comply with the duty of care required by insurers and statute. Significant insurance cover is carried by the Church to provide protection to the Representative Body, Parochial Church Councils and parishioners (though no insurance will cover reckless or fraudulent behaviour).

Faculty Procedure

Procedures for carrying out changes or developments apply equally in churchyards as in churches and this means that a faculty is required in most instances other than routine maintenance. There are detailed arrangements set out in the constitution for PCC's wishing to carry out significant changes to churchyards. (Regulations relating to the Removal of Monuments or Headstones) However, emergency works to make churchyards safe can be approved by the Archdeacon in advance. The Representative Body will advise on any necessary procedures for retrospective faculty consent. The Diocesan Advisory Committee Secretary can advise in more detail but the erection of standard headstones (as detailed in the Constitution) are exempt from faculty consent but do require Incumbent or Archdeacon consent (see Constitution Volume 2 Section 2.2.14-18). All other forms of memorial will require faculty consent.

Fees

The Constitution requires that fees for burials and for the erection of monuments shall be directed to a Churchyard Maintenance Fund to maintain the churchyard. These fees are set annually with the agreement of the Welsh Assembly Government. The Constitution requires that PCCs should have separate Churchyard Maintenance Funds for each burial ground in the parish and that these should not be used for any other purpose (they are Restricted Funds).

Funds and Grants

PCC's should consult with the Representative Body concerning sources of funding for Churchyards. The Representative Body holds a limited reserve of money specifically to assist parishes with repairs to churchyard boundary walls. In exceptional cases, funding from the Emergency Aid Fund can be made available, sometimes by way of a grant and sometimes upon loan where the full criteria are not met. More details can be obtained from the Property Services department.

Insurance Position

The principal insurance cover in place to protect PCCs and PCC members is the Parishguard Policy from Ecclesiastical Insurance Group. This provides a range of cover for the church and its activities including public liability and employers' liability and full details are shown in the policy document.

PCC members have public liability protection up to the value of £5,000,000. The cover also provides an indemnity to the incumbent and churchwardens the employees and volunteers of the PCC. The cover includes protection against legal liability for:

- accidental death or bodily injury to third parties (other than employees)
- accidental loss of or damage to third party material property not in the custody or control of the PCC other than hired or rented premises and the property of employees and authorised volunteers.

The PCC members have employers' liability cover with a limit of indemnity of £10,000,000 and this cover provides an indemnity in respect of legal liability for bodily injury to or death, illness or disease of employees (including authorised volunteers) in connection with their duties on behalf of the PCC.

From 2006 the Parishguard policy also includes cover to assist with disputes with contractors such as builders.

Church Halls are covered by a separate policy with the Ecclesiastical Insurance Group called HallGuard.

Suggestions for Good Practice*Management and Administration*

- The PCC should put in place a regular system of inspection and monitoring of the Churchyard and in particular should carry out an annual inspection of the safety of gravestones, tombs and vaults.
- Nominate PCC members who will take a special interest in the care of the churchyard
- Keep a churchyard diary to record all inspections and actions taken in a churchyard including routine maintenance
- Set up a "Faults Book" – where people can record problems – let your parishioners help to keep an eye on things
- Develop a Churchyard Management Policy which sets out:
 - Who does what
 - The maintenance regime
 - The policy for grass cutting
 - Any conservation policies being adopted
 - Arrangements for inspection and survey
 - Key contacts
 - Reporting of Faults

A model policy document is attached at Appendix A.

- Ensure that this is agreed by the full PCC and recorded in the Minutes and then display it prominently to show that the churchyard is being cared for. This will be the formal record that the churchyard is being managed responsibly.
- Develop a system for management of health and safety based on identification of potential hazards, the risk of serious harm they present, and the steps you will take to mitigate those risks (this is called Risk Assessment). The EIG can give detailed guidance on health and safety management. Many Parishes appoint a Health and Safety Officer for this purpose.
- It is a requirement of Statute and Canon Law that a register of burials is kept by each Parish. It is recommended good practice that a register of graves is also kept which records the precise (as far as possible) location of each grave and who is buried there. The register should include a plan with measurements so the locations of a

grave can be identified. This register can also record those graves where space has been reserved (reservation of grave space can only be done by Faculty).

- If a sexton is employed ensure they have a written contract of employment. The Human Resources Department of the Representative Body can advise on this.

Churchyard Maintenance

- The churchyard will often be maintained by volunteer labour. The following considerations should be applied:
 - Inspect and service maintenance machinery and equipment regularly
 - Provide and wear appropriate safety clothing e.g. safety boots, ear defenders, safety goggles, gloves
 - Take special care when clearing litter and rubbish – wear heavy-duty gloves. Watch out for broken glass and discarded hypodermic needles
 - Only use machinery or equipment if you are trained to do so. Some equipment will have a minimum age limit for use.
 - Always have two people present when work is undertaken
 - Use of ladders needs careful consideration. Consider hiring specialist access towers or contracting such work to specialists. Always secure ladders appropriately. See <http://www.hse.gov.uk/falls/casestudies/gutters.htm> for advice on risk assessment prior to using ladders
- If possible, it is advantageous to arrange for churchyard maintenance to be undertaken by responsible outside contractors where possible. Such contractors should :
 - Carry public liability insurance
 - Be competent and experienced to undertake the work
 - Satisfy the PCC that they have an appropriate health and safety policy
 - Provide their own machinery

Grass cutting

- Keep grass to a height that kerbs and graves are clearly visible – a major source of claims is people tripping over concealed stones
- If close mowing of the whole churchyard is impossible, ensure paths and well visited areas are cut as a priority.
- Where an area of churchyard is to be left to grow for conservation purposes under a recognised and planned scheme, consider making this area 'out of bounds' for the duration or mow clear paths through the area for visitors to follow

Gravestones and Tombs

- The starting point is that gravestones and tombs are the property of the families that erected them. They have primary responsibility for their care. However, they are located on church land and the church has a duty to manage the risks they present. The following is a recommended management approach:
 1. Inspect all gravestones, tombs and vaults at least annually (this can be done by PCC members and does not require a specialist)
 2. Each stone should be physically handled to check for loose mountings, disintegrating mortar or undue spalling caused by age or frost. Stones should be graded according to the risk they present.
 3. Identify immediately dangerous stones: such stones should, with the Archdeacon's consent, be repaired or laid flat. It is possible to support a

headstone by driving a wooden stake behind the headstone and strapping the stone to the stake. This should be undertaken with care to ensure it is secure. A headstone laid flat is the safest approach.

4. For stones that require repair but do not pose an immediate risk, reasonable steps must be taken to identify family members to carry out repairs to make the stones safe within a timescale appropriate to the degree of risk involved. The family should be advised in writing and informed of the action that will be taken if the timescale is not met (this should be the minimum necessary to make the stones safe and will usually mean laying the stone flat). If no action is taken, a follow up letter should be sent informing the family that the work is to be carried out. A Faculty will need to be made in respect of this work.
 5. Where the family cannot be traced, the stone should be labelled with the work proposed to the stone listed. Advertising in local papers that work is intended and that interested parties should visit the churchyard to inspect proposals is recommended.
 6. Stones requiring repair should be clearly marked with appropriate signage (use symbols as they are clear to all) and/or tape without delay
 7. Stones that pose a potential concern should be clearly identified/recorded for ongoing, regular monitoring
 8. Keep a record of when and who undertook the inspection and any specific action recommended or taken. Report this to the next PCC and record it in the Minutes
- It is recommended that only experienced and professional memorial masons are permitted to work in Church in Wales churchyards. It is good practice that all work should be undertaken in accordance with the National Association of Memorial Masons Code of Working Practice (which supports British Standard 8415) and that masons are asked to confirm in writing that work has been done in this way. It is advisable to ask for a record drawing of how monuments have been erected.

Walls and other structures

- Ensure that your quinquennial architect inspects all boundary walls and significant structures in the churchyard so that repairs are identified in good time e.g. large monuments
- If any structures are identified as unsafe, action should be taken to remedy them as soon as possible with appropriate safety fencing erected to keep people away from the area until a repair can be undertaken.
- Sometimes, walls and other structures may be separately listed and works may require listed building consent as well as faculty permission

Wildlife and Nature Conservation

- Churchyards can become havens for wildlife and an area set aside for wild flora and fauna can be particularly picturesque. However, these areas tend to consist of longer grasses that can conceal hazards.
- Encouraging wildlife is generally to be supported but specialist advice should be sought and an appropriate management plan prepared setting out the management regime and any measures to accommodate visitors to the area such as signs and temporary fencing during certain periods

- Consideration should be given to the long term future of the churchyard in any wildlife scheme as encouragement of wildlife in an area of churchyard which may be needed in the future for a different purpose (new graves, church extension etc) could prevent that new purpose being achieved

Visitors

- The PCC, together with the Representative Body, owes a duty of care to all persons entering the churchyard including trespassers. This duty is to take such care as is reasonable in all the circumstances to see that the visitor does not suffer injury on the premises.
- Children need to be carefully considered as they will find the churchyard an exciting place to play in but may not understand signs and other warnings
- Erect signs at the entrances to the churchyard highlighting the hazards and the precautions in place. Use symbols so that all can understand them.
- Paths should be reasonably level and free from anything which might cause someone to slip or trip
- Dug graves awaiting burial should always be covered with appropriate boarding etc
- Fence off temporarily hazardous areas such as areas where work is being carried out
- Erect warning signs (with symbols) at particular hazards
- Lock crypts and boiler houses etc
- Take particular care to check around honey-pot areas such as famous graves, seats and benches or memorials – more people go to these places and the likelihood of an injury occurring is greater
- Consider management of visitors by establishing preferred routes around the churchyard

Disturbance of human remains

- Within the Church in Wales, a licence from the Department of Constitutional Affairs (DCA) is required to authorise the disturbance or removal of any human remains including cremated remains whether this be full skeletal remains or isolated bones. This will be in addition to faculty permission.
- Except where graves are very old, the permission of the heirs-at-law and family members will need to be obtained before a licence and faculty will be granted. Reasonable attempts should be made to identify the people concerned and adverts in the local press may be appropriate. Where building work is proposed in a Churchyard there is a requirement under the Disused Burial Ground (Amendment) Act 1981 to advertise in two newspapers in the locality, together with a notice upon the land, the nature of the work to be undertaken and the details of graves being disturbed. The notice should also specify the time within which objections can be made (minimum of 6 weeks). The DCA will advise on this procedure.
- Prior to carrying out any work within a churchyard, the archaeological advisor for the Diocesan Advisory Committee should be consulted and an assessment made whether remains are likely to be present.
- It is possible that an archaeological watching brief may be required to record any findings. Sometimes, the archaeological contractor will obtain the DCA licence and it is sensible to have early discussions with the contractor regarding the monitoring procedure. An estimate of the likely cost should be obtained, as this will have to be paid by the PCC.

- If extensive removal of remains is likely, a more extensive brief will be required and the PCC will need to consider re-burial arrangements.
- In cases where remains are discovered unexpectedly, any work should be stopped immediately and the Diocesan Advisory Committee Secretary informed. A DCA licence will have to be obtained before any further work can commence. The Police may become involved if the location of remains is unexpected and suspicious.

Green Burials

- The term Green or Natural Burials refers to an approach to burials that are deemed 'environmentally friendly'. There are three elements to the approach – the burial site, the type of shroud or coffin and the form of service.
- There are two main types of green burial site - hay meadows and woodlands. The hay meadow type has flowers planted by the site provider or, sometimes, is just a grassed area with no markings. The woodlands type appears to be often managed in conjunction with a woodland trust or the Forestry Commission and generally consists of a tree planted to mark the grave. Permanent manufactured monuments do not feature in a natural or green burial ground.
- Cardboard, reed, willow, paper or other material that is from a sustainable source is used as a shroud or coffin.
- The Constitution of the Church in Wales does not prescribe the exact details of burials and thus it is possible for a PCC to decide to adopt a green burial approach by setting aside part of the burial ground as a green burial site. Generally, the hay meadow type will be more appropriate as memorial trees in a woodland type area are a potential future liability.
- If a Parish wishes to acquire additional land specifically for a Green Burial Ground, the consent of the Representative Body will be required. Similar criteria apply to such a requests as for traditional burial grounds as detailed in current policy particularly the need to ensure proper and permanent provision for maintenance. However, it should be appreciated that a green burial ground may impose unacceptable limitations on families wishing to bury their relatives in that particular churchyard. A green burial ground is probably better as an alternative rather than a substitution for a traditional burial approach.
- The decision over whether to allow a new area of land for green burials must be made after an assessment of costs and liabilities and the degree of financial support in the long term for the area. The decision of a PCC to adopt a green burial approach would need a PCC resolution setting out their rules and approach to the green burial area.

Further Information

Further information and advice can be obtained from the The Representative Body of the Church in Wales, Property Services Department at 39 Cathedral Road, Cardiff CF11 9XF, Tel: 029 2034 8200.

Diocesan Registrars and DAC Secretaries will be able to advise on faculty procedures and legal aspects of burials and disturbance of graves.

The Ecclesiastical Insurance Group can offer guidance on management of churchyards and can be contacted at Montpellier House, Montpellier, Gloucester GL1 1LF Tel 01452 528533.

EIG also publish some useful guidance on the subject particularly Guidance Notes for Churches Section 3 Health and Safety.

Useful web links

<http://www.ecclesiastical.co.uk/>

<http://www.hse.gov.uk/>

<http://www.churchcare.co.uk/>

More information on green burials can be found at www.naturaldeath.org.uk.

The department of Constitutional Affairs has useful information on licensing at

<http://www.dca.gov.uk/corbur/buriafr.htm#3>

Useful Church House Publications (largely with a Church of England focus but still relevant):

The Churchyards Handbook - Thomas Cocke (Ed.) ISBN 0715175831

Responsible Care of Churchyards - ISBN 0715175645

Wildlife in Church and Churchyards – Plants Animals and their management 2nd Ed.

ISBN 0715175874

The Natural Death Handbook (Rider Books) 4th Ed. – ISBN 1-8441-3226-9

A GUIDANCE NOTE ON TREES IN CHURCHYARDS

Trees are an important feature of Churchyards providing landscape and environmental benefits. They are also a potential liability and should be managed with care. This note is intended to offer guidance in the care and management of trees in Churchyards.

Constitution

The Churchyard Regulations of the Constitution contain the following provisions concerning trees:

- No trees shall be planted in a Churchyard without the written consent of the Archdeacon
- The PCC may, with the consent of the Incumbent, apply to the Archdeacon for permission to cut down trees in a churchyard and without prejudice to the rights of the Representative Body and subject to any Tree preservation Order or Conservation Area controls, the Archdeacon shall have the power to grant such permission. Any proceeds from a sale of such timber shall be credited to the appropriate parochial fund.

Management of Trees

Trees should be regularly inspected to ensure they are healthy and do not pose a significant threat to people or property. It is advisable to have a tree condition survey undertaken by a qualified arboriculturalist who can advise on an appropriate frequency of inspection. Between these inspections a member of the PCC should be responsible for checking trees for any obvious signs of ill health or damage. Such signs will include dead or dying foliage, broken branches, prominent roots, weeping of sap etc.

The consent of the Archdeacon should be sought for any tree work. The details of such work should be submitted in writing, in advance, to the Archdeacon including details of the proposal and who will be undertaking the work. Any work to a tree should only be undertaken by suitably qualified people holding public and professional indemnity insurance for at least £5 million. Instructions for work should be given in writing to a written specification. A risk assessment should be prepared prior to work being carried out which considers the hazards resulting from the work and appropriate safety measures that will be implemented especially in relation to protection of the public. Whilst it is tempting to allow 'a parishioner with a chainsaw' to carry out works to a tree this is not recommended. Chainsaw use requires proper certification and tree work is inherently dangerous. Accurate and skilled work to a tree can prolong its life and improve safety – ill-informed tree surgery can reduce tree life and increase risks.

Churchyards are often home to ancient trees especially yews and particular care should be taken in the management of these trees with specialist advice being sought at all times.

Other Consents

Work to trees will often require consent from the Local Authority. Consent will generally be required for surgery, pruning or felling where a tree is located:

- Within the churchyard of a listed building
- Within a conservation area

- When the tree is subject to a Tree Preservation Order

It is advisable to take the advice of the local Council's Tree Officer when significant works to a tree are proposed. Generally, where emergency work is identified (where there is imminent risk of injury to people or property) this can be undertaken without permission but it is important that it is clear that a genuine emergency exists.

Boundaries

Trees on boundaries present particular issues as they can have an effect on such things as a neighbour's right to light and drainage etc. Advice should be sought when instigating works to boundary trees.

Retention of trees within churchyards is clearly desirable and, despite the potential liability, they can continue to enhance our Churches in the future through careful and professional management.

APPENDIX A

Model Churchyard Management Policy

Name of Parish:

Name of Churchyard/Burial Ground:

1. **Management (Who does what)**
*Detail here the people involved in the management of the Churchyard. Who will take the lead on the PCC to monitor the churchyard; who will organise the grass cutting, gravestone checks, tree checks and works, health and safety assessments etc.
Detail any contractors and consultants that will be used
Detail any delegated authority given by the PCC to any individuals*

2. **The Maintenance Regime**
Detail the regular tasks that will be undertaken and approximately when. This should include grass cutting, hedge trimming, safety inspections, leaf and litter clearance, ice and snow clearance/gritting, etc. Detail the arrangements for handling waste (especially commemorative flowers debris).

3. **The Policy for grass cutting**
Detail the grass cutting regime including the areas to be cut and how regularly. If areas are to be left with long grass, explain why and any measures taken to prevent injury (fencing off, signage etc). Detail the grass paths that will be kept mown on a plan.

4. **Conservation Policies**
If part of the churchyard is being managed for wildlife, detail the management plan here. This should include details of the wildlife interests being promoted and the key activities to achieve this including mowing regimes etc.

5. **Arrangements for inspection and survey**
Detail how safety inspections will be undertaken and who will carry out this work. The timing and regularity of each inspection must be noted. This section should refer to gravestone safety, tree safety, safe access, boundary checks etc

6. **Key contacts**
Who is who and how can they be contacted.

7. **Reporting of Faults**
Outline the arrangements for PCC members, parishioners and visitors to report any faults of wants of repair and how these will be dealt with e.g location of faults book, telephone contact and how this will be promoted.