

## DIOCESE OF BRISTOL

### CHANCELLOR'S GUIDANCE ON RE-USE OF CHURCHYARDS FOR BURIALS

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1. First and foremost churchyards are consecrated to God, Father, Son, and Holy Spirit. Accordingly, they must be treated and cared for in a manner consistent with that consecrated status. Churchyards can also fulfil important spiritual rôles and can be a powerful part of the Church's witness to the world. They provide appropriate settings for Christian places of worship and as such send out a message of the Church's commitment to worshipping God in the beauty of holiness. They contain memorials to departed Christians demonstrating the Church's continuing love for them and its belief in the communion of saints. The circumstances of interment and the memorials in a churchyard can be powerful evidence of the Church's love for the local community. Churchyards are places of solace and relief for those who mourn. In addition many people find comfort in knowing that their mortal remains will be interred in a particular churchyard and in a particular setting. In that knowledge this guidance is issued to all incumbents, ministers, priests, priests in charge, curates and PCCs. Re-use and re-burial in Churchyards has been permitted in many Dioceses in recent years and successive governments have been concerned about the shortage of space for burials and have encouraged re-use.
2. Until the late eighteenth century when monuments began to be introduced generally and the identity of graves was preserved, the reuse of graves was common. Today there is an urgent need to provide space for further burials as churchyards and burial grounds become full.
3. As Chancellor I am keen to encourage the re-use of old (i.e. over 100-years old) grave spaces. If a petition comes in for the reservation of a grave space in a churchyard which has few spaces left, from now on I will take account of whether old spaces are being re-used or at least whether there are plans to do so. If that is the case, I will be more inclined to allow reservation, the rationale

being that if re-use is happening or is planned the rights of the parishioners at large are less likely to be prejudiced by the grant of a reservation. But if space is limited and there are no plans to re-use old spaces, I am likely to refuse a petition for reservation in the absence of exceptional circumstances.

### **Summary of the law relating to burial in churchyards and parish burial grounds**

4. At common law parishioners and those dying in a parish have a right of burial (through their personal representatives) in the churchyard or parish burial ground. This right now extends to those whose names were on the church electoral roll on the day of death. A person who has a right of burial in a churchyard or other burial ground in a parish also has a right of burial there of cremated remains. In all other cases the consent of the minister is required who should seek general guidance from the parochial church council. In any event it is for the minister to decide on the precise place of burial.
5. If a churchyard or other burial ground has been wholly closed by Order in Council, no further burials of bodies may take place there unless the Order contains exceptions, for example for the burial of relations in existing vaults or graves. An Order in Council does not however prevent a faculty being granted for the burial of cremated remains either in a particular case or by means of a general faculty, which would include provision setting aside an area for that purpose.

### **Further burials in existing graves**

6. Any proposals to re-use an existing and unclosed churchyard should be widely debated within the parish. All options should be considered, including acquisition of additional land. If this is not possible then a coherent and pastoral plan for re-use must be made.

7. Assuming the churchyard or burial ground has not been closed by Order in Council, further burials of relations may take place in existing graves on the authority of the minister and without a faculty, save in the circumstances set out in paragraph 9 below. The minister should be satisfied that a further burial would be acceptable before granting permission.
8. In the case of a closed churchyard further burials may only take place in existing graves (or elsewhere) if the Order in Council makes specific provision for them, e.g. the burial of further family members. In such cases no faculty is required.
9. Clearly care must be taken not to disturb a coffin or human remains that lie below unless a faculty has been granted for that purpose. The same applies where an existing coffin is to be deliberately lifted and lowered to make more room.

#### **Reuse of land already used for burials**

10. Subject to the consent of the minister, the existence of any reservation or Order in Council and any health and safety legislation, there is nothing to prevent land which has been used for burials in the past being used again for that purpose.
11. In the case of an individual burial where there may have been burials in the past, no further authority is required although it would clearly be wise to proceed with caution lest human remains are disturbed in which event a faculty should be sought for the new burial and the appropriate reburial of any disturbed remains. For details of what is to be done in this eventuality, see below.

12. Any application to reuse a known grave will be treated on its merits and should in the normal course only be permitted after a faculty petition. This will mean that relatives and other parishioners have a say as well as giving access to an appeal process.
13. In the case of a large area being prepared for reuse, where grave mounds may have to be levelled, monuments removed and resited, and human remains are likely to be disturbed and reinterred elsewhere, a faculty is clearly required and careful planning and preparation including publicity is essential. Provided the human remains are reinterred in the same churchyard or in other consecrated ground a Home Office licence would not be required.
14. There are no prescribed periods before which such reuse should not take place but it would seem to be generally accepted that a period of 50-100 years should elapse since the last known burial, the precise period depending on all the circumstances of the case.
15. Burial does not confer a right to erect a tombstone or other monument and, subject to diocesan churchyard regulations giving the minister authority to permit the erection of monuments falling within certain categories as to size, shape and nature, a faculty is required. Once lawfully erected a monument may not be removed permanently without a faculty although a further interment which merely requires the lifting and replacement of the monument and the addition of a further name on shall not be regarded as requiring formal faculty authorisation, especially if the grave is subject to a reservation by faculty.
16. Any existing monument which will have to be removed and sited elsewhere has to be the subject of faculty proceedings. However a PCC may apply for a faculty to re-use and re-order the whole of a specified area of the Churchyard. This should be considered as part of the plan for the Churchyard.

17. The plan should be implemented pastorally and consideration should be given to the following:

- a. The possible use of existing space between burials which does not involve disturbing existing graves or burials,
- b. Any burials within any space reused should be maintained and cared for, and such care should be identified explicitly within the parish reburial plan,
- c. Where buried remains are discovered they must, subject to a faculty being obtained, be reburied decently and reverently under the supervision of the incumbent or other appropriate Clerk in Holy Orders selected by the rural Dean,
- d. Church records must be checked and maintained rigorously to identify plots reserved by faculty or where family graves, tombs or vaults permit additions,
- e. Consideration should be given to re-use particular areas of the churchyard, that area should be assessed by a competent local undertaker to ascertain the age of previous burials,
- f. Headstones and memorials will require a faculty to be removed, in addition:
  - i. Every effort should be made to trace and consult the heirs of those who paid for them and who therefore remain the lawful owners of them,
  - ii. Provision must be made and identified clearly within the faculty application for the safe preservation of such memorials,
  - iii. No headstone or memorial should be removed which is less than 100 years old, depending on local connections and pastoral considerations including regularity of visiting
  - iv. War graves and those of a special aesthetic, artistic or historic significance, listed monuments or otherwise notable memorials should not be removed,

- v. A full record in diagrammatic and photographic form of all headstones and memorials should be made and preserved as part of church archives or records.

John Jan  
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