



The Church of England
in Essex and East London
Diocese of Chelmsford

Chancellor's guidance on re-ordering and re-use of churchyards for burials

Background

Historically parish churchyards were re-used for burials many times over. Graves then were unmarked. It is only in relatively recent times that it has become customary to bury earthly remains in coffins and, from the late eighteenth century, to mark burials with memorials which preserve the identity of graves.

A Chancellor will usually refuse to grant a faculty for a reserved grave space if there is room for 5 years of burials or less. This is why the question about "number of burial spaces available" is included in the Petition form for a reserved grave space.

PCC's with full churchyards are not obliged to provide further space for burials. When a churchyard becomes full, one option is for the PCC to apply to the Ministry of Justice for an Order in Council to close the churchyard. But the PCC may consider that re-use is a more positive approach in their parish.

The shortage of space for burials or cremated remains has meant that the re-use of burial space is encouraged. The consent of the Incumbent or Priest-in-Charge must be obtained. The existence of any reserved grave spaces or Order in Council can be checked by contacting the Ministry of Justice Coroners and Burials Division. Any health and safety legislation must be checked. But other than these, there is nothing to prevent land which has been used for burials in the past being used again for that purpose.

The decision as to whether to close your churchyard by Order in Council, and then to pass responsibility for its maintenance to the local authority, under statute, or to re-use it for burials is one you may wish to discuss with your Archdeacon.

Options

There are two main options that can be considered where a churchyard is short of space or is full.

1. Acquisition of additional land. Sometimes adjoining landowners are very generous in giving land to the PCC. Purchase of land may however not be viable for the PCC, on the grounds of finance or lack of available land.
2. Allow the re-use of land previously used for burials. If re-use of some of the churchyard is proposed the following must be considered.
 - a. A detailed and coherent plan for re-use must be prepared.
 - b. Consultation must be undertaken with the wider community, not just the regular congregation. The publicity must be such that their attention is gained. Notices – for 3 or 4 months – in the parish magazine, posters and inserts in local papers can achieve this. A public meeting to explain the proposals is always helpful.
 - c. In the case of an area being prepared for re-use, where grave mounds may have to be levelled, headstones and memorials removed and re-sited and human remains

may be disturbed and reinterred elsewhere, a Faculty must be obtained. Careful planning and preparation is essential.

- d. A petition for Faculty must be supported by an accurate survey plan showing existing features which will not be disturbed, areas which are proposed for re-use and an indication of the number and location of proposed new grave sites. If any memorial or headstones are to be moved the plan must indicate which stones are to be moved and where they are to be re-sited.
- e. There is no prescribed period before which re-use should not take place. A period of approximately 100 years is generally required since the last known burial. This can depend on all the circumstances of the case. A local undertaker might be able to give advice as to the soil conditions and how long it would take for human remains, coffins and coffin furniture to have become unrecognisable. The issue is a pastoral one. It is not a legal issue.

Preparing the plan

In preparing a plan, the PCC should give careful consideration to the following points:

1. Even if the churchyard is full or nearly full there may be spaces available between burials which would not involve disturbing existing graves or burials. Adequate pathways and access to graves must however be maintained.
2. Areas containing burials within the last 100 years, or where spaces have been reserved by Faculty, should be avoided. On no account may spaces reserved by Faculty be used until the reservation period has expired. The parish's records will need to be checked in every case. It may be possible to reserve a different space if this is helpful. The person for whom the grave space is reserved must agree to this.
3. A strip approximately 15ft (4.5m) wide should be left round the walls of buildings to provide access for maintenance and repair. This also helps to avoid disturbance of drains and ancient footings.
4. Where re-use of an area involves the removal of headstones and memorials, the following points must be addressed.
 - a. The headstone remains the property of the owner, who is the person who erected the monument. After his death the heir or heirs at law of the person or persons in whose memory the headstone is erected are the owners. In practice the Consistory Court will need to pay attention to anyone who indicates an interest in the given headstone and shows a fairly close relationship to the person(s) commemorated. Every effort has to be made to trace them and then to consult them before applying for a Faculty to remove a headstone. I shall need to see the results of the consultation.
 - b. A suitable method must be identified to safeguard and preserve the headstone or memorial. This can, for example, be by standing or laying them in an appropriate place. The PCC may wish not to place the headstones against the churchyard wall, as this could present problems of future maintenance to the wall and possible damage. A line of old headstones leaning against a short wall can look quite attractive.
 - c. The removal of headstones less than 100 years old should be avoided. Removal can cause distress or offence to the family.
 - d. Graves older than 100 years, where the family is still resident in the community or visit regularly, may also require special consideration and sensitivity.

- e. War graves, graves with a War Graves Commission headstone, graves of special aesthetic, artistic or historic significance or listed monuments should not be disturbed.
 - f. Careful diagrammatic and photographic records of the churchyard and headstones/memorials, before and after removal, should be made. A copy should be kept in the church logbook and a further copy lodged with the Diocesan Records Office.
5. It is important that any new headstones should be in keeping with existing stones in other parts of the churchyard.
 6. Care should be taken to avoid disturbing existing buried remains as far as possible. Where buried remains are discovered, they should be re-buried decently and reverently under the authority of the incumbent or similar Clerk in Holy Orders.
 7. Any proposal should also give consideration to and make provision for incorporating any existing or proposed plans for a garden of remembrance or other space for cremated remains.

Advice

1. Incumbents and Priests-in-Charge and PCCs thinking about re-use of their churchyard should seek guidance before petitioning for a Faculty from (i) the Archdeacon and (ii) the DAC.
2. I will want to see in a petition for Faculty that all the issues set out in preparing the plan have been addressed by the PCC, and in particular evidence that extensive consultation with the wider community has taken place, and what its results are.

Resources

The Churchyards Handbook, Thomas Cocke (Editor), published by Church House Publishing



The Worshipful George Pulman, QC
Chancellor of the Diocese of Chelmsford

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Date