

DIOCESE OF YORK

CHURCHYARD MEMORIAL RULES 2013

RULES MADE BY THE CHANCELLOR OF THE DIOCESE AS TO THE EXTENT OF A MINISTER'S AUTHORITY TO ALLOW MEMORIALS IN CHURCHYARDS.

INTRODUCTION

I very much hope that these Churchyard Rules will ease the task of clergy and other church officers. I have endeavoured to produce clear rules and also to give some general guidance. It is not an easy task to produce Rules which will be of universal application throughout the diocese and I am aware of the differences which exist between one churchyard and another. But we do need to have a policy for the diocese as a whole. I trust that the Rules will help us all to keep our churchyards in a worthy state, as part of our commitment to discipleship and mission. (By contrast municipal burial grounds are usually governed by different rules regarding memorials).

I am particularly grateful to the Archdeacons, the DAC Secretary and Registrar for their work in the preparation of these latest Rules. Changes made by these Rules include:

- **INSCRIPTIONS:** how requests for an inscription in a language other than English should be dealt with and stating that Quick Response Codes are not permitted.
- **MEMORIAL MARKING THE BURIAL OF CREMATED REMAINS:** this now includes provisions from elsewhere in the Rules and the section has been substantially re-written.
- **MEMORIALS INSIDE CHURCHES:** this has been expanded and now includes a brief explanation of legal principles that need to be observed (“the five year rule”) and ownership of the memorial.
- **APPLICATIONS:** the Application Form is attached to the Rules and should always be used.

I welcome well-designed headstones, obelisks, columns or other shapes falling outside of the Rules and will consider all faculty applications on their merits. Such applications should be properly presented, with illustrations of the memorial proposed and with photographs of the churchyard concerned and the particular site.

THE GENERAL LEGAL POSITION

- 1.1 Churchyards are a valuable heritage and also a great responsibility. Churchyards are consecrated and therefore they fall under the jurisdiction of the Bishop exercised through the Chancellor of the Diocese. The Chancellor has delegated authority to the minister responsible for a churchyard to allow the placing of memorials which fall within these Rules.
- 1.2 Care must be taken to see that new memorials harmonise with their surroundings. Advice about suitable stones, appropriate designs and the composition of inscriptions may be obtained from the DAC Secretary.
- 1.3 It is important to note that the next of kin of the deceased do not own the land in which a

body is buried (“the grave”). The grave is part of the churchyard. The family has no proprietary rights over the land; and so the grave may not be marked, or delineated, by kerbs, chains, verge stones, railings or fences

- 1.4 Items which are not allowed to be placed on a grave include angel or dove statuettes, garden ornaments, bird baths, pictures, textiles, clothes or artificial flowers (other than silk flowers in good condition). Personal belongings or memorabilia belonging to or associated with the deceased may not be placed on the grave, and this includes in the case of children, toys or teddy bears.
- 1.5 However the family is the owner of any memorial stone erected or placed on the grave and is responsible for its repair. Lawful authority (which means either permission under these Rules or a Faculty from the Chancellor) must still first be obtained before any memorial is put in position.
- 1.6 Some ministers and parochial church councils have secured faculties which authorise a variation to these Rules so that the materials that may be used for memorials in the particular churchyard does not include all the materials permitted by these Rules. Details of the particular restrictions will be available from the minister and churchwardens. A list of the churchyards where such faculties is available on the Registry website.

FLOWERS

- 2.1 Cut flowers may be laid on the grave, but flowers must be removed as soon as they start to wither.
- 2.2 Where it is desired to have a container in which cut flowers may stand in water the design of a memorial may include an integral flower receptacle, but the receptacle must comply with Rule 4.5 below. Where there is no receptacle cut flowers may be placed in a removable container. This container must be recessed completely into the ground, so that when not in use there is no obstruction to churchyard maintenance. A separate free standing flower vase or container standing on the surface of or near the grave is not permitted.
- 2.3 Spring bulbs may be placed in the soil of any grave. Trees, bushes and shrubs along with planted annual and perennial flowers are not permitted. A grave should not take on a cultivated or garden appearance.
- 2.4 Traditional Easter and Christmas wreaths and Remembrance Day poppies are permitted. These must be removed after a period of not more than two months. Silk flowers are permitted but must be removed when they become faded, dirty, dishevelled or discoloured. Otherwise no artificial flowers are allowed to be laid on the grave or placed in containers in the grave.

PROCEDURE FOR APPLYING TO A MINISTER FOR PERMISSION TO PLACE A MEMORIAL IN A CHURCHYARD

- 3.1 **APPLICATION FORM** - Application to erect a memorial must be made to the minister in charge of the churchyard, on the prescribed Application Form, which is attached to these Rules. The “minister in charge” is the incumbent or priest in charge, or where there is neither incumbent nor priest in charge it is the rural dean. The minister will provide the prescribed form and the application must be on Part A. The grave where the memorial is to be placed must be identified on the form by reference to its row letter and number. A full description of the proposed memorial with measurements, details of design, material

(including colour) and its finish, and proposed inscription (with any colour of lettering) must be included.

3.2 The person who applies for the memorial must be the next of kin or the executor of the deceased (i.e. the person who commissions the memorial) and not the monumental mason or funeral director. The application form must be signed by the applicant(s) personally and not by any person on his or her behalf. The appropriate statutory fee for the erection of the memorial (the amount of which will be indicated by the minister) must be sent to the minister with the application form.

3.3 If the application is granted the minister shall sign Part B of the form and return it to the applicant.

3.4 The minister may only permit the placing of a memorial without referring to the Chancellor if:-

(i) the application is made in the manner set out in Rules 3.1 and 3.2 above, and

(ii) the memorial is of a size and type falling within the requirements of Rule 4 below.

3.5 The minister may not permit the erection of any memorial inside the church, but in such case the applicant must apply for a faculty to the Chancellor. (See Section 7 of these Rules).

3.6 Permission to introduce a memorial headstone, tablet or plaque must be obtained before accepting an estimate or otherwise entering into a contract with a funeral director or stonemason. Monumental masons must be satisfied that the ground has completely settled and the monument can be safely and securely erected. The mason must be satisfied that the soil and the grave has become stable. In any case a minimum period of six months must elapse between the death of the person commemorated and the approval of an application by the minister, unless the minister is satisfied that there are exceptional circumstances justifying the curtailment of this time limit. A period of six months also provides a pause for thought to enable a dignified and considered inscription to be chosen. However, the simple addition of a further inscription is not subject to this six month rule.

3.7 If consent is given the minister must do so by returning one copy of the form after having signed and dated Part B. The memorial must conform to that described in the application. It is the responsibility of the applicant to see that this is done.

If the memorial is not in strict accordance with the details which were given on the application form the minister who authorised the application must inform the Archdeacon. Unless the memorial is modified to bring it into line with what has been applied for the Archdeacon will be under a duty to report the matter to the Chancellor who may require the removal of the memorial. This may result in a hearing in the Consistory Court and fees and costs will be incurred. The Chancellor is likely to order the removal or modification of the memorial and that the fees and costs be paid by the applicant.

3.8 If an application is not within the authority delegated by the Chancellor to the minister under these Rules the applicant will be so informed. If the applicant wishes to pursue the application without modifying it so as to bring it within these Rules, application will have to be made to the Chancellor for a faculty. The form of petition and details of the fees currently payable on lodging a petition are available from the Diocesan Registry. The completed petition and lodging fee should be submitted to the Registrar. The Chancellor encourages

proposals which are sympathetic to their setting and are of artistic merit or craftsmanship, and do not hinder routine maintenance of the churchyard. If a hearing in court (or decision in chambers) is required the applicant may be ordered to pay the fees and costs of the court or chambers hearing in addition to the lodging fee. The same procedure is required where the minister is in doubt whether or not the application conforms to the Rules. The Chancellor will decide whether or not to grant a petition for a memorial which is not within the Rules.

SIZE AND TYPE OF MEMORIAL IN A CHURCHYARD WHICH AN AUTHORISED MINISTER MAY ALLOW WITHOUT REFERRING THE APPLICATION TO THE CHANCELLOR

A. MEMORIALS MARKING THE BURIAL OF A COFFIN

- 4.1 A vertical or standing memorial stone may be erected at the head of the grave if it complies with these Rules and is authorized by the minister in accordance with the procedure prescribed by these Rules. Otherwise an application by Petition for Faculty to the Chancellor must be made. A flat or ledger stone laid on the surface of the grave is not permitted.
- 4.2 **SIZE MEASUREMENTS** - Headstones shall be no larger than 1200mm (4') high, measured from the surface of the ground, 900mm (3') wide and 150mm (6") thick. They shall be no less than 750mm (2'6") high, 500mm (1'8") wide and 75mm (3") thick, except in the case of a slate memorial which may be thinner, but shall be no thinner than 38mm (1.5"). The metric equivalents given above are slightly less than the Imperial dimensions, but are those recommended by the National Association of Monumental Masons.
- 4.3 **FOUNDATIONS** – Any foundation below the stone base should be secure and must be below ground level. Care needs to be taken to ensure that the foundation is so constructed that it remains completely covered at all times. Many modern memorials have only a very small foundation slab and quickly become unsafe, so the traditional method of setting the stone directly into the ground for a substantial depth is encouraged. Due regard should be paid to the nature of the ground and the possibility of settlement. The base of the memorial may be so shaped that it can be inserted directly into the ground at sufficient depth to ensure stability. Methods of fixing approved by the National Association of Monumental Masons Code of Practice are acceptable.
- 4.4 **BASES OR PLINTHS** - The headstone may stand on a stone base or plinth, above the foundation, providing that it is an integral part of the design and does not project more than 102mm (4") beyond the headstone in any direction, except where a receptacle for flowers is provided.
- 4.5 **INTEGRAL RECEPTACLE FOR FLOWERS** - A built in receptacle for flowers may form part of the memorial in which case this should be flush with the top of the base. If the whole of the receptacle is not contained within the surface area of the base it must not project more than 4" beyond the side of the headstone or more than 8" in front of the headstone.
- 4.6 **MATERIALS** - Monuments shall be of natural native stone (such as local limestone or sandstone) or slate or may be of hardwood (e.g. oak). The best stones are those in harmony with the stone of the Church and other mature local buildings. The surface of the stone shall not be polished so as to reflect. "Part honed" is the term used for the smoothest finish which is permitted.

The following materials shall not be used: black, blue or red granite, all polished granite of whatever colour, marble, synthetic or artificial stone or plastic. A grave shall not have upon it chippings of any sort, or glass shades, or any kerb, railing, chain, or fencing of any kind. The grass sward must be allowed to grow naturally so that the whole churchyard can be managed tidily.

- 4.7 SHAPE - Every memorial shall be simple in shape. The Chancellor encourages examples of good design and craftsmanship, but anything outside these Rules must be the subject of a petition for faculty.

Stone crosses, hearts and open books are not allowed under the Rules.

Stone crosses may not be structurally safe due to their design and/or construction; as a consequence and to ensure safety they are only permitted with faculty.

Wooden crosses (preferably made from hardwood and from a sustainably grown oak) with a maximum height of 4 feet (or metric equivalent) (no specified dimensions for width of cross or thickness of timber) may be authorized by the minister to mark coffin burials. The minister may not permit metal crosses to mark coffin burials.

- 4.8 INSCRIPTIONS – These should be composed with care. A gravestone in a churchyard is a public memorial in a public place and may be there for a long time. Simple information like full names, dates and forms of address like “mother” and “father” are the most dignified inscriptions. Private names used by members of the family are not suitable, but shortened names by which the deceased was known may be included in brackets or quotation marks along with the full name.

If additional words are considered necessary they must be simple and not incompatible with Christian faith. They should be words which the family will still feel comfortable about many years later. Three principles should be observed. Such words should honour the dead, comfort the living and inform posterity. The most usual sources are the Bible, the Book of Common Prayer, hymns and appropriate literature compatible with the Christian faith. Inscriptions should be without punctuation.

Particular thought must be given to requests to inscribe the reverse side of the memorial. If the minister is confident that the inscription is in accordance with the three above principles then the minister may approve it, but in any case of doubt the minister should refer the matter to the Chancellor through the Registrar.

In referring to family members, the full form of address (e.g. “mother”, “father”) is to be preferred on a memorial (being in a public place). The minister should encourage applicants to use the full form. However, if after considering this advice the applicants still wish to use diminutives, the minister has discretion to approve diminutives in common or regional usage (e.g. “mum”, “dad”). The minister may similarly approve the inclusion of shortened names by which the deceased was commonly known.

The wording of an inscription must be included in the application form and be approved by the minister (see Section 3 of these Rules).

An addition may be made to an inscription (on an existing memorial) at a later date following a subsequent burial in the same grave or for some other good reason, but an application must be made to the minister. The lettering, layout and wording of an additional inscription must be similar in design to those of the original inscription.

Where a family is of a nationality other than British and request to have an inscription in their native tongue on the memorial, the inscription must be in English as it is in a public place; but in addition they may include a translation in their native language. This may be permitted by the Minister

- 4.9 LETTERING – This may be incised or in relief. The cut surface can be coloured one shade lighter or darker than the stone. It must not be gilded or silvered and no plastic or inserted lettering is allowed.
- 4.10 LIKENESSES OF THE DECEASED – There must not be any kind of picture, portrait, photograph or likeness of the deceased or any other human person.
- 4.11 ETCHINGS - Up to one-fifth of the front of the stone can be carved or etched with a religious subject or a depiction of the interests or occupation of the deceased. It may be coloured one shade lighter or darker than the stone but may not otherwise be coloured.
- 4.12 TRADEMARKS – No advertisement or trademark may be inscribed on any memorial. A mason’s name may be inscribed at the side or on the reverse of a headstone near to the bottom of the stone. This must be in uncoloured letters no larger than 15mm (0.5”) high.
- 4.13 GRAVES OF THE COMMONWEALTH WAR GRAVES COMMISSION - Gravestones provided by the Commission are distinctive in design and dimension so as to indicate their particular nature. The standard dimensions are 2'8" high by 1'3" wide. These measurements are smaller than the minima permitted in these Rules, but the minister may give permission upon proof that the monument is supplied by the Commission.
- 4.14 QUICK RESPONSE (QR) CODES - This is a unique barcode on the grave which provides an instant link to a memorial internet page showing a virtual memorial of the deceased’s life. No gravestone to which a Quick Response Code has been attached should be installed and no Quick Response Code should be added to an existing gravestone without a faculty.

B. MEMORIALS MARKING THE BURIAL OF CREMATED REMAINS

- 5.1 In an area set aside for the burial of cremated remains, a stone tablet or plaque, no larger than 18" by 18" may be laid flush with the ground. This will not be permitted if the faculty which authorised the setting aside of the area does not permit individual tablets.
- 5.2 Where cremated remains are buried individually in the existing grave of a close relative or an otherwise unused and small area of the churchyard (see Section entitled “Burial of Cremated Remains” in Guidance on Various Churchyard Matters from the Chancellor of the Diocese), the burial may be marked by a stone tablet or plaque laid flush to the ground surface measuring not more than 18" by 18". Such a tablet may be square, rectangular, circular or oval in shape, but not triangular.
- 5.3 Stone tablets or plaques must comply with Rule 4.6 as to materials and finish, Rule 4.8 as to Inscriptions, Rule 4.9 as to lettering, and Rule 4.11 as to etchings.
- 5.4 A stone tablet or plaque marking the burial of cremated remains may include an integral flower receptacle, the top of which must be flush with the tablet or ground surface.
- 5.5.1 No upright memorial may be permitted by the minister in charge of the churchyard under these Rules to mark the burial of cremated remains.

- 5.5.2 A faculty is always required to introduce an upright memorial to mark the burial of cremated remains. The Chancellor has indicated that he is not willing to authorize upright memorials to mark cremated remains in an area already set aside by faculty for cremated remains because such a memorial is out of proportion to the size of each plot and may cause a tripping hazard. Management of the ground between upright memorials in narrow rows can be difficult. In churchyards where there is no area set aside by faculty for cremated remains the Chancellor will consider a petition on its merits which requests the introduction of an upright memorial for cremated remains in a plot which is not suitable for a coffin – perhaps close to the perimeter wall, hedge or fence of the churchyard or some other discreet position in the churchyard where the dimensions available are not suitable for a coffin burial.
- 5.6 Where cremated remains are buried in a churchyard the minister may also grant permission for the following forms of commemoration:-
- an inscription on a single communal memorial in the churchyard (where such a memorial exists pursuant to a previous faculty)
 - an additional inscription to an existing stone relating to a close relative.
- 5.7 APPLICATION FORM - Application for commemoration under Rule 5.1 – 5.6 shall be made in writing to the minister on the prescribed Application Form, which is attached to these Rules. If consent is given the minister must do so by returning Part B of the form and he must direct the type of commemoration allowed; if a tablet or plaque is to be placed he must direct the precise location for it. The applicant must pay the fee required by the minister and must comply with all directions given.

OTHER COMMEMORATION AFTER CREMATION

- 6.1 The minister may grant permission for commemoration in a Book of Remembrance of a person whose remains have been cremated. The Book of Remembrance shall be kept in church.
- 6.2 Commemoration in a Book of Remembrance usually occurs where the cremated remains are buried in the churchyard of the church where the Book is kept, but a minister may exceptionally grant permission where this is not so. Where the application is limited to the entry of the deceased person's name in a Book, the prescribed form need not be used, but the application should be made in writing to the minister and if permission is granted this should also be in writing. No fee is payable to the minister for obtaining this permission, but the PCC may make an appropriate charge for having the entry written.

MEMORIALS INSIDE CHURCHES

- 7.1 Such memorials are subject to special provisions. No memorial may be erected in a church without a faculty and such faculties should be 'sparingly conceded'. The form of petition for this purpose, together with a list of additional questions and current fees, may be obtained from the Diocesan Registry.
- 7.2 An application for a memorial monument or plaque inside a church should demonstrate that the person in whose memory the memorial is being introduced was a person of distinction who made a contribution to the nation, region, county or locality which is, and is likely to

continue to be in years to come, of unique exceptional or historic interest. *In Re St Margaret, Earthem* [1981] 1 W.L.R. 1129, the Court of Arches held that the word “exceptionality” meant “The character of, or outstanding service to church, country or mankind by the person to be commemorated”.

- 7.3 A memorial monument or plaque inside a church (as with a memorial stone on a grave in the churchyard) remains the property and responsibility of the heirs at law and does not pass to the incumbent, or parochial church council.
- 7.4 A memorial to a lay person will not be allowed in the sanctuary of a church and is unlikely to be allowed in the chancel. Caution is exercised about allowing wall memorials or plaques in any part of the church because of the tendency for such memorials to proliferate. As a result a memorial to a lay person is usually allowed only if that person has given outstanding service to the church or the nation.

APPLICATION FOR STRICTER RULES TO APPLY

8. The Church officers and PCC having responsibility for a particular churchyard where it is considered desirable to have stricter rules (e.g. not allowing imported granite or not allowing any stone other than Yorkshire stone) may apply by petition for a faculty to introduce stricter rules. Where a faculty is granted there will be a condition of notice to all interested parties. [For further guidance see Guidance on Various Churchyard Matters from the Chancellor of the Diocese and the section entitled Management and Maintenance of the Churchyard.]

GENERAL COMMENT

9. The Chancellor may grant a faculty for a type of memorial which is not within these Rules. The Chancellor welcomes designs for memorials which are artistic and creative but which are also in keeping with the natural peace and beauty of the churchyard. For further information about churchyards and memorials, forms of application to a minister and forms of petition for faculty please consult:

the minister of the church concerned
the DAC Secretary
the Diocesan Registrar

**The Feast of St Luke the Evangelist
18 October 2013**

**HIS HONOUR CANON PETER COLLIER QC
CHANCELLOR OF THE DIOCESE**

These Rules were first published as the Churchyard Memorial Rules 1992 and were revised and replaced by the Churchyard Memorial Rules 2005. The 2005 Rules were adopted and re-issued on the 29 September 2009 by His Honour Canon Peter Collier QC, Chancellor of the Diocese.

DIOCESE OF YORK

**APPLICATION FOR MINISTER'S AUTHORITY FOR PLACING OF A
MEMORIAL IN A CHURCHYARD OR ADDITIONAL INSCRIPTION
GIVEN UNDER THE CHURCHYARD MEMORIAL RULES 2013**

PART A

Is this a new memorial OR an additional inscription?

CHURCHYARD.....

Name of deceased.....

Date of Death.....Date of Burial.....

Burial row and number.....Coffin burial Cremated remains

Applicants name and address.....

.....

.....Post code.....Telephone.....

Monumental Mason.....

DETAILS OF MEMORIAL

Description of materials (including shade/colour).....

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Dimensions: height.....width.....thickness.....

Details of any decoration.....

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Full wording of the inscription.....

.....

.....

SKETCH An attached sketch of the proposed memorial must show the dimensions of the stone, the positioning and dimensions of the base (and foundation slab, if any) in relation to the ground level, the design and extent of any carving, the layout of the inscription and a sample of the proposed lettering. The finish of all exposed surfaces must be indicated. If the site is not easily identifiable by row and number, a simple sketch plan, showing adjacent graves and/or features should be supplied

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DECLARATION

I confirm that the memorial will conform to the Churchyard Memorial Rules in every respect. I fully understand that no work may be put in hand until authorisation has been obtained.

Signature of Applicant.....Date.....

PART B

AUTHORISATION

If the application is approved by the incumbent, the duplicate copy duly signed should be returned to the Applicant

Approved.....Date.....

TWO COPIES OF THIS FORM MUST BE SUBMITTED