

# Churchyard Monuments and Health & Safety

*A transcript of a talk given by Raymond Hemingray, Registrar of the Diocese of Peterborough, to the Eastern Region Meeting for Diocesan Secretaries held at the Diocesan Office, Barton Road, Ely, Cambridgeshire, on Wednesday 16 November 2005.*

## Introduction

Memorials can be a blessing – and sometimes a burden! It is a joy to see a well-kept churchyard, in which there are memorial stones which blend in with the stonework of the church and the surroundings.

But we are all, I am sure, familiar with the types of stone which do not look appropriate in churchyards. There is hardly a week goes by when I do not have to deal with an application from someone who wants a memorial which is outside guidelines in our diocesan churchyards regulations, or who is complaining that the local vicar will not permit a particular type of memorial. Many people cannot understand why the Church of England should not want particular types of memorial in its churchyards. I will mention later the Church of England's exemption from Listed Building Control. It is because of this exemption that the Church of England has a duty to exercise strict control over what it allows to be done in its churches and churchyards.

By and large, people do not understand that there is no legal right to place a memorial in a churchyard (or indeed to remove one). Permission can only be given by the Chancellor of the diocese, or by the clergy, to the extent that the Chancellor has delegated to them, through diocesan churchyards regulations, authority to permit memorials on the Chancellor's behalf.

Another battle we frequently have is over inscriptions, particularly over the use of words like "Dad", "Grandma", etc. There was one lady who wanted a memorial to her husband which read: "At peace – UNTIL WE MEET AGAIN"! Sometimes memorials have amusing or interesting inscriptions. I can recall a couple of years ago visiting the churchyard at Eyam in Derbyshire, the farthest spot north that the bubonic plague reached in September 1665. One particular memorial there caught my eye. It was interesting in that it was a memorial to a man called Harry Bagshaw, who had played cricket for Derbyshire. Carved into the stone was a design showing a cricket bat and a ball knocking over the cricket stumps. At the bottom of the inscription were the following words:

For when the one great scorer comes  
To write against your name,  
He'll write – not that you won or lost –  
But how you played the game.

My instinct on reading the words was that they sounded like the sort of verse Rudyard Kipling might have written, when he wasn't baking his famous cakes, but in fact the words were a very slight misquotation of words penned by an American sportswriter, called Grantland Rice, who was born in 1880 and died in 1954.

One of the distinguishing aspects of churchyard memorials is that, unlike other articles in a churchyard or church, they do not belong in law to the person or persons in whom the church and its contents are vested. The freehold of the church and churchyard is said in law to belong to the incumbent for the time being, and the contents are said to be vested in the Churchwardens.

A memorial, on the other hand, is said to belong, in the first instance, to the person who purchased it and had it installed, and after that person's death, the memorial is said to belong to the heirs at law of the person who is commemorated. Thus, whenever a Diocesan Chancellor has to deal with an application from, say, the minister and churchwardens of a church, for permission to alter or remove a memorial, the Chancellor has to take into account the legal rights of third parties.

Therefore, whenever anyone wishes to carry out work to a memorial, whether to remove it, replace it, or even do anything which might affect it in any way, one has to consider the wishes of the person or persons who own the memorial, if they can be found. Even the owners may not carry out work on a memorial without the authority of a Faculty, unless the Chancellor agrees to work being done without faculty.

### **Testing Memorials**

You will all be aware that memorials are very much a safety issue at the present time. There is perhaps more activity on this issue amongst local authorities, who seem quite worried about Health and Safety legislation, but nevertheless there are many PCCs which are actively embarking on schemes of systematic safety testing of memorials.

Most local authorities will own one or more cemeteries, and may also be responsible for the maintenance of one or more churchyards which have been closed for further burials by Order in Council. In relatively modern times, many parish and district councils have become liable for the maintenance of churchyards which have been closed by Order in Council. A PCC has the prime legal responsibility to maintain a churchyard. Whenever a churchyard is closed by Order in Council, the PCC remains legally responsible for the maintenance of the churchyard, unless and until it gives notice to the parish council, under Section 215 of the Local Government Act 1972. Within three months of a PCC giving such a notice to a parish council, the parish council becomes responsible for maintenance of the closed churchyard, unless within that three months it serves notice on the district council, requiring the district council to take on the responsibility. I will not say any more about the 1972 Act, but those who are interested will find details at my Peterborough Diocesan Registry web site at [www.peterboroughdiocesanregistry.co.uk](http://www.peterboroughdiocesanregistry.co.uk).

We thus have three possible situations to consider with regard to the maintenance of memorials. Firstly, we have PCCs responsible for their churchyards. Secondly, there is a local authority which is responsible for its own cemeteries. And thirdly, we have local authorities (usually parish or district councils) responsible for closed churchyards.

### **PCCs responsible for their Churchyards**

The Faculty jurisdiction stems from the act of consecration by an Anglican Bishop, which gives the bishop a controlling jurisdiction over the land which has been consecrated. The Bishop does not, of course, exercise this jurisdiction personally, but through his senior legal officer, the Chancellor of the Diocese. In the case of a churchyard, this normally means that if a PCC wishes to carry out any work which affects one or more memorials, then the PCC must

apply to the Chancellor of the diocese for a faculty to authorise the proposed work. Likewise, if a private individual wishes to carry out work to a memorial, then a faculty is required, unless the Chancellor, in a particular case, is willing to dispense with the need for a faculty

### **Local Authority responsible for their own Cemeteries**

Most local authority cemeteries are either completely or partially consecrated. This means that they also are subject to the faculty jurisdiction. However, in practice, most Chancellors are content to leave local authorities to manage their own cemeteries and do not strictly enforce the faculty jurisdiction. However, the faculty jurisdiction is sometimes usefully exercised, for example where there is a dispute between someone whose relative is buried in a cemetery and the local authority which manages the cemetery. Another example, which I recently had in Northampton, was where a body had been buried in the wrong grave in a cemetery, and the Northampton Borough Council needed to apply for a faculty, in order to authorise the exhumation of the body and its re-interment in the right grave.

### **Local Authorities responsible for Closed Churchyards**

I have already mentioned the situation where a local authority, usually a parish or district council, is responsible for a churchyard which has been closed by Order in Council. In 2003, the National Association of Local Councils issued a statement which included the following statement:

"6.4 ... A [parish] council has a duty to keep a closed churchyard "in decent order" and powers to make safe memorials in their own cemetery. In addition they have the over-riding legal obligation to maintain public safety ... If these duties have any meaning a council must have the right to ensure memorials are safe and to take minimum action to render safe those which prove to be dangerous. In NALC's view these responsibilities may be exercised without further consent."

I have to take issue with the words "without further consent". In fact, the subject was raised at a meeting of Diocesan Registrars in November 2003, when there was a discussion regarding unsafe memorials in churchyards. Reference was made to the above statement, and the general view of the Registrars was that the NALC is wrong in relation to paragraph 6.4 of their statement as regards monuments erected on consecrated ground in closed churchyards, and that local authorities have no authority to topple-test, dismantle or move memorials in consecrated ground without the authority of the Chancellor. The same would apply to Parochial Church Councils.

### **Practical Approaches to dealing with Unsafe Memorials**

Given that all memorials erected on consecrated ground are subject to the faculty jurisdiction, what are the practical alternatives to dealing with the repair, maintenance or removal of unsafe memorials?

In theory, wherever there is a need to carry out the maintenance or testing of one or more memorials, an application should be made for a faculty to authorise the work. Given the number of churchyards and cemeteries in any particular diocese, this could potentially result in a large number of applications for faculties. In practice, diocesan Chancellors are adopting a variety of approaches to the problem, but most approaches involve trying to reduce the number of faculties needed.

I would firstly like to explain the approach which has been adopted by my own Chancellor in the Diocese of Peterborough. Basically, my Chancellor has drawn a line between cemeteries, which are owned and maintained by parish or district councils, and churchyards, which are maintained either by PCCs or, in the case of many closed churchyards, parish or district councils.

### **Local Authority Cemeteries**

Early in 2005, I received an approach from the Peterborough City Council, who wished to embark on a scheme for safety testing the memorials in all of its five cemeteries. The Council had already prepared a policy document setting out how it proposed to go about dealing with the matter. Our Chancellor considered the proposals put forward by Peterborough City Council and, being satisfied with their proposals, directed that they could proceed with the work without the need to apply for a faculty. In other words, the Chancellor was treating the work as *de minimis*. The Council was not required to apply for a faculty, and was able to get on with the work immediately.

I subsequently received an approach from another local authority in the Diocese of Peterborough, and referred it to the Chancellor. As a result of this further approach, the Chancellor decided that, provided the local authority was prepared to give an undertaking to comply with what, in effect, was the approach of the Peterborough City Council, the Chancellor would not require an application for a faculty.

The Chancellor therefore prepared a letter addressed to local authorities, setting out the grounds on which he would be prepared for them to carry out the safety checking without the need to apply for a faculty. To accompany the letter, there is a set of conditions and a form of undertaking. (see Annexe A) This procedure has now been used with other local authorities in our diocese.

The main features of this arrangement are as follows:

1. Every memorial to be tested must first be photographed and its details recorded. Peterborough City Council also proposed the fixing of a small microchip to aid computerised recording.
2. Every memorial must first be tested by hand.
3. Having first been tested by hand, a memorial may then be tested with a mechanical tople tester, to a maximum pressure of 35kg.
4. Whenever a memorial is found to be unsafe, it should be made safe. Depending on the condition of the memorial, this might involve driving in a stake next to the memorial and tying the memorial to the stake, or else laying the memorial flat. It might also be necessary to consider fencing off a memorial, to prevent danger to individuals, especially children.
5. Having made a memorial safe, the local authority should attempt to trace relatives, and they should keep a record of the enquiries they have made, and the results of those enquiries.
6. Any relatives who are found should be given a reasonable time in which to make the memorials safe.

7. If relatives are not found who are prepared to make a memorial safe within a reasonable time, the local authority should itself take steps to make the memorial safe, if possible, in the upright position, but otherwise by laying it flat.
8. A record should be kept of how each memorial is made safe and by whom the work was done.

You will appreciate from the above list that my Chancellor places high importance on the need to keep accurate records – of the memorials themselves, of attempts to trace relatives, and of work actually carried out.

## **Churchyards**

It would have been an option for my Chancellor to have extended to local authorities maintaining closed churchyards, the same procedure as I have just described in relation to cemeteries. However, there are two factors which militate against such an approach.

Firstly, it would have been invidious to have a situation where a local authority maintaining a closed churchyard could adopt the same procedure as that agreed for the maintenance of its cemeteries, whilst a PCC might have to follow the normal faculty procedures. But, you could argue, why not allow PCCs the same informal arrangement as local authorities? The answer lies in the second reason for treating churchyards differently.

The second reason for treating churchyards differently is that most churchyards, unlike local authority cemeteries, are within the curtilage of listed buildings. Buildings which have been listed by local authorities as being of archaeological or historic interest are subject to Listed Building Control, which means that before any change can be made, the owners of a listed building must normally apply to the local authority for Listed Building Consent, even if planning consent or building regulations approval would not normally be needed.

However, the Church of England enjoys what is called “the ecclesiastical exemption”, which means that, because the Church of England has its faculty jurisdiction, church buildings in use are exempt from the listed building control which applies to secular buildings. The exemption extends to memorials in churchyards, except in the case of any memorials which is separately listed, in which case it is subject to listed building control. It is therefore advisable, whenever dealing with a scheme affecting memorials in a churchyard, to enquire whether any of the memorials affected is separately listed by the local authority. You may be tempted to think that a separate listing of a memorial is an uncommon occurrence, but I can tell you that some years ago the local authorities in Northamptonshire sent officers around all the churchyards in Northamptonshire, looking at memorials, as a result of which a large number of individual memorials received separate listings. Something similar may have happened in other local authority areas.

## **Alternative approaches**

A month ago, knowing that I was going to come and give a talk to you, I decided to email all my fellow Registrars and enquire of them how they were approaching the issue of testing memorials in their own dioceses. I received quite a number of replies. The following is a summary of the varying approaches.

## **A Faculty is required in every case**

Certainly with regard to churchyards, some dioceses insist on a faculty being applied for in respect of any work to any memorial. Some Chancellors may apply the same rule to local authorities, but by and large Chancellors leave local authorities to maintain their own cemeteries without having to apply for faculties every time they wish to carry out work in a cemetery. In the case of **Re Keynsham Cemetery (2002)**, reported in The Times on 14 October 2002, the Chancellor of the Diocese of Bath & Wells said that, when exercising its powers under Article 16(1) of the Local Authorities Cemeteries Order (SI 1977 No. 204), to put in order any tombstone or other memorial in a cemetery, it is not necessary for the local burial authority to apply to the Consistory Court for a faculty for minor works associated with maintaining the safety of monuments, including testing up to a pressure of 35kg. Where, however, pursuant to a policy of safety inspection, it was desired to lay flat a potentially large number of tombstones, it was necessary for the local authority to obtain a faculty.

The Diocese of Oxford has followed the Bath & Wells approach, and allows mechanical topple testing up to a force of 35kg, but no other work is allowed without a faculty.

## **De Minimis**

At the opposite end of the spectrum of possibilities would be for a Chancellor to take the view that all work relating to the making safe of memorials in any cemetery or churchyard is a minor matter not requiring a faculty. However, in allowing work to be treated as de minimis, or in granting informal approval of work, a Chancellor will want to impose conditions under which works may be carried out, even though there is no faculty. In the Diocese of Norwich, the Chancellor recently gave informal approval for a local authority to carry out a programme of inspection of the memorials in all of its cemeteries without faculty, provided that formal faculty approval would be required for:

1. Any work requiring the removal of memorials from their locations.
2. Any work to a memorial which is separately listed, or which is otherwise of architectural or historic merit or importance.
3. Any work whatsoever to memorials commemorating persons of national or local historical significance or interest.
4. Any memorials dating from prior to 1900.

## **Omnibus Faculties**

A Chancellor may decide to grant a Faculty to cover, for example, all the cemeteries belonging to a local authority. This is the procedure which has been adopted in the St. Albans Diocese. In the diocese of Bath & Wells, the Chancellor granted to the Bath and North East Somerset Council permission to lay flat any dangerous memorials in any of the closed churchyards for which the local authority was responsible. (See Annexe B)

In theory, there would be nothing to stop a Chancellor granting one faculty authorising all PCCs throughout the diocese to test and make safe memorials in their churchyards, subject to appropriate conditions.

## **Urgent action**

Occasionally it happens that a memorial suddenly becomes dangerous. The placing of a safety barrier around a dangerous memorial does not require a faculty and should be done immediately. It is possible to apply immediately to the Chancellor for an emergency faculty to authorise whatever work is thought to be necessary. Bearing in mind the legal liability of PCCs for churchyards, a PCC must always be seen to have taken reasonable steps to make a churchyard safe.

## **Insurance**

This leads me on to the question of insurance. The freehold of a churchyard, as I have already mentioned, is vested in the Incumbent for the time being (and even if there is no incumbent, the priest-in-charge may be treated in law as the “occupier”), and a PCC has the legal responsibility for maintaining a churchyard. It is possible that if anyone is injured as the result of a dangerous memorial, and is minded to sue, then the minister and the PCC are likely candidates for being sued. Therefore, when we are dealing with applications from PCCs for permission to carry out the testing of memorials, it is important to remind them that they should have adequate public liability insurance, and they should try to ensure that their insurers will cover the PCC, the minister and perhaps even the churchwardens against liability. If the work of testing or moving memorials is to be carried out by a contractor or by members of the local congregation, then there are further insurance implications which will need to be considered.

## **And finally ...**

At the beginning of my talk, I told you about an inscription on a memorial in a Derbyshire churchyard. I will conclude by telling you a story which often comes to mind in connection with inscriptions on memorials. Some years ago there was a chat show in which one of the people taking part was Clement Freud. The conversation got around to death, and Clement was asked what inscription he would like to have on his memorial. He thought for a moment and then said that he thought that, after his name, he would like the date of his death, preceded by the words “Best before:”.

## **Annexe A**

The following three pages contain the documents settled by the Chancellor of the Diocese of Peterborough for use where a local authority wishes to carry out a scheme of safety testing of memorials in one or more of its cemeteries:

1. Letter from the Chancellor.
2. List of conditions which must be observed.
3. Undertaking by the local authority.



## PETERBOROUGH DIOCESAN REGISTRY

**RAYMOND HEMINGRAY, LL.B.**, *Solicitor (Regulated by the Law Society)*  
*Diocesan Registrar and Bishop's Legal Secretary, Lay Canon of Peterborough Cathedral*  
4 Holywell Way, Longthorpe, Peterborough PE3 6SS Tel : (01733) 262523 Fax : (01733) 330280  
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Registry Clerk: Mrs. Linda Irons

To all District Councils  
And Parish Councils  
In the Diocese of Peterborough

As a result of recent Health and Safety legislation, Local Authorities which control cemeteries of their own are currently considering what steps need to be taken to ensure that memorials are safe. Topple-testers are being used for this purpose and in some cases headstones are being laid flat whenever a headstone is found to move when pressure is applied to it.

As Chancellor of the Diocese of Peterborough I have overall responsibility for consecrated churchyards and cemeteries to ensure that the law is being complied with. In relation to the day-to-day management of the consecrated parts of cemeteries owned by District Councils and Parish Councils, I do not interfere with proper management decisions by local authorities. However, the matter of widespread use of the topple-tester and the steps which might follow raises broad considerations, which give rise to this letter.

It would be open to me to require every Local Authority intending to test headstones in a consecrated cemetery or churchyard to apply for a faculty so that I could check that the steps which are to be taken are acceptable. A particular concern would be to see that reasonable enquiries were made to find the surviving next-of-kin of the person commemorated before a headstone were laid flat. There have been a few examples of laying stones flat without any enquiry for relatives, and in some instances this has led to avoidable annoyance.

I have decided that if Local Authorities will state in writing that they will operate in accordance with certain rules I will not require such authorities to apply for a faculty before embarking on testing of memorials and taking of remedial action. These requirements are set out in the Appendix to this letter. I am aware that some Local Authorities (for example the City of Peterborough) are already meeting these requirements, so there should be no particular difficulty.

Therefore will you please return to me a signed copy of the attached Appendix, stating that either you own one or more public cemeteries which are wholly or partly consecrated and that you will carry out your work any consecrated areas of a cemetery in accordance with the Appendix (or mention any particular difficulty in complying), or that you own no consecrated public cemetery. Where you are able to act in compliance with the Appendix, I will not require a faculty application. Otherwise we must either reach agreement on your proposals or there must be a faculty application. This may be for all the consecrated cemeteries for which you are responsible if you propose to follow the same procedures in all of them.

Where you are responsible for a churchyard under Section 215 of the Local Government Act 1972, you must apply for a Faculty to authorise topple-testing of memorials.

I am hoping that we can find a way forward on the basis of agreement wherever possible.

Yours faithfully

His Honour Judge T. A. C. Coningsby, QC  
Chancellor of the Diocese of Peterborough

**Topple-Testing of Memorials  
in Cemeteries in the Diocese of Peterborough**

**Appendix**

**To a letter from the Chancellor of the Diocese of Peterborough**

1. Before testing each memorial shall be photographed and recorded. The records may be kept on a computer. A small microchip may be placed at the base of the memorial to aid with computerised recording.
2. The memorial shall first be tested for security by hand. If the memorial does not move the topple-tester may be used to confirm that it is secure.
3. The maximum push-force of the topple-tester shall be 35 kg.
4. Safety notices shall be placed on all memorials found to be unsafe.
5. Wherever possible unsafe memorials shall be made safe in their current position. Laying-flat shall not be the automatic result of a memorial being unsafe.
6. Each local authority shall have its own method of making a memorial safe for a period of six months in order to give time to enquire for surviving relatives of the person commemorated and to give them an opportunity to make the memorial safe. A suitable method of temporary making safe will be to place two steel rods into the ground next to the memorial and to strap the memorial to the rods.
7. As soon as the memorial has been temporarily made safe, the local authority shall make reasonable enquires to find any surviving relatives. It shall record what enquiries were made and the result.
8. Relatives who are found shall be given a reasonable time in which to make the memorial permanently safe.
9. If relatives have not made the memorial safe during the time provided the local authority shall take appropriate steps for that purpose. It shall endeavour to make the memorial safe in the upright position. However if this is impracticable the memorial may be placed flat on the ground, after first ensuring that the ground is level and soft and that any surface of the memorial which will not touch the ground is supported (to avoid fracturing of the stone).
10. The method of making safe shall be recorded and by whom the work was done.

Name of District or Parish Council : .....

Contact Name and Tel. No. : .....

Address for correspondence :  
.....  
.....  
.....

The above-named Council is responsible for the maintenance of the cemeteries or churchyards listed below and agrees to carry out topple-testing of memorials in consecrated parts of public cemeteries in accordance with the conditions contained in the Appendix to a letter dated January 2005 from His Honour Judge T.A.C. Coningsby, Chancellor of the Diocese of Peterborough, subject to any variations set out below and approved by the Chancellor.

Location of Cemeteries or Churchyards for which the Council is responsible:

.....  
.....  
.....  
.....  
.....

Dated: 20

Signed on behalf of the Council: .....

Name in CAPS .....

The Council hereby applies to the Chancellor for approval of the following variations to the conditions set out in the attached Appendix :

*Continue on a separate sheet, if necessary*

Chancellor's Directions:

Signed : .....  
Chancellor of the Diocese of Peterborough

## **Annexe B**

### Documents issued in the Diocese of Bath & Wells

1. Faculty dated 11 June 2003
2. Faculty dated 16 July 2003
3. Archdeacons' Notes for Guidance on Testing of Monuments

## **FACULTY**

In the Consistory Court of the Diocese of: Bath and Wells

**Cemeteries and Parishes of: Bellotts Road (Bath Twerton on Avon); Haycombe (Bath St Barnabas); Locksbrook (Bath St Saviour, Bath Walcot and Bath Weston All Saints); Smallcombe & St Johns (Bath, Bathwick St Mary); St James (Bath Widcombe, Bath St Bartholomew and Bath Abbey with St James); St Michaels (Bath St Michael and St Paul); Harptree open (East Harptree with West Harptree and Hinton Blewitt).**

**Timothy John Briden Master of Arts Bachelor of Law Chancellor of the Diocese and Official Principal of the Right Reverend Peter, the Lord Bishop of Bath and Wells**

**To: Bath and North East Somerset Council Haycombe Cemetery Whiteway Road Bath BA2 2RQ**

A petition presented by you has been submitted to the Registry of this Court together with designs, plans, photographs or other documents, requesting a faculty authorising the works or other proposals specified in the petition.

And a public notice was duly displayed giving an opportunity to all persons interested to object and give reasons why a faculty should not be granted and there are no objections under the Rules to the granting of a faculty.

This Court now grants a faculty until further order authorising you to carry out the works or other proposals in accordance with the designs, plans or other documents accompanying the petition and subject to the conditions set out in the Schedule below.

A copy of this faculty is to be supplied by you to the architect or surveyor and contractors to be employed in respect of the authorised work before any work is commenced.

This faculty is duly authenticated by the seal of this Court.

**Dated 11 June 2003**

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Signature of Deputy Registrar

## SCHEDULE

### Description of Works or Proposals and any conditions attached to the faculty

To lay flat on its appropriate grave any tombstone or other monument found on inspection to be unstable or dangerous in some other respect.

This faculty issues upon condition that:-

- (i) Whenever it is reasonably practicable to do so the Petitioner ( ie Bath & North East Somerset Council) shall give any person known to have an interest in a monument notice that it has been found unstable on testing and afford that person reasonable opportunity to remedy the defect.
- (ii) The Petitioner shall abide by any further direction which the Court may give in relation to any monument affected by the faculty.
- (iii) Any person having an interest in a monument so affected may make application to the Registry by letter for directions under the faculty.
- (iv) A list of monuments displaced under the faculty shall be maintained by the Petitioner and a copy of such list, updated annually, shall be lodged at the Registry.
- (v) A photographic record shall be kept of each monument displaced pursuant to faculty.

Form No 5

Rules 7(4), 12(2), 16(6) and 27

**FACULTY**

In the Consistory Court of the Diocese of: Bath and Wells

Parish	Closed churchyard
Bathwick St Mary	St Mary
Bath Widcombe	St Mark's Road
Bath Walcot	Walcot Street
Bath St Stephen	Lansdown Road
Bath Weston All Saints	Church Road and Twerton Howhill
Bath Widcombe	St Thomas a Becket, Widcombe Hill
Bath, Bathwick St John	St John's Road
Bath Abbey with St James	Ralph Allen's Drive
Batheaston with St Catherine	St John the Baptist
Midsomer Norton with Clandown	Clandown
Claverton	St Mary
Bath Combe Hay	Combe Hay churchyard
Dunkerton	All Saints
Englishcombe	St Peter
Freshford with Limpley Stoke and Hinton Charterhouse	St Peter, Freshford
Midsomer Norton with Clandown	St John's churchyard, Midsomer Norton
Paulton	Holy Trinity
Radstock with Writhlington	St Mary Writhlington
Timsbury	St Mary
Wellow	St Julian
East Harptree with West Harptree and Hinton Blewett	St Mary West Harptree and St Laurence East Harptree
Bishop Sutton	Holy Trinity

Timothy John Briden Master of Arts Bachelor of Law Chancellor of the Diocese and Official

Principal of the Right Reverend Peter, the Lord Bishop of Bath and Wells

**To: Bath and North East Somerset Council**

A petition presented by you has been submitted to the Registry of this Court together with designs, plans, photographs or other documents, requesting a faculty authorising the works or other proposals specified in the petition.

And a public notice was duly displayed giving an opportunity to all persons interested to object and give reasons why a faculty should not be granted and letters of objection to the granting of the faculty have been taken into account by the Chancellor in reaching a decision that a faculty should be granted

This Court now grants a faculty until further order authorising you to carry out the works or other proposals in accordance with the designs, plans or other documents accompanying the petition and subject to the conditions set out in the Schedule below.

A copy of this faculty is to be supplied by you to the architect or surveyor and contractors to be employed in respect of the authorised work before any work is commenced.

This faculty is duly authenticated by the seal of this Court.

Dated 16 July 2003

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Signature of Registrar

## SCHEDULE

### Description of Works or Proposals and any conditions attached to the faculty

To lay flat on its appropriate grave any tombstone or other monument found on inspection to be unstable or dangerous in some other respect.

This faculty issues upon the following conditions:

1. The Petitioners shall consult with the PCC of the parish in which the churchyard is located and shall give one or more representatives of the PCC the opportunity to attend inspections and other operations connected with the faculty.
2. The Petitioners shall consult (at their expense) with the church architect before taking any action to displace or repair any listed monument or any monument set up before the year 1800 or any of the tombs or monuments of the Pinch family in Bathwick.
3. The Petitioners shall liaise with the DAC and the Georgian Society throughout and at a stage to be agreed between them shall make a presentation to the DAC concerning future strategy.
4. Whenever it is reasonably practicable to do so the Petitioner shall give any person known to have an interest in a monument notice that it has been found unstable on testing and afford that person reasonable opportunity to remedy the defect.
5. The Petitioner shall abide by any further direction which the Court may give in relation to any monument affected by the faculty.
6. Any person having an interest in a monument so affected may make application to the Registry by letter for directions under the faculty.
7. A list of monuments displaced under the faculty shall be maintained by the Petitioner and a copy of such list, updated annually, shall be lodged with the appropriate PCC.
8. A photographic record shall be kept of each monument displaced pursuant to the faculty.
9. Liberty to apply without need for fresh Petition to repair damaged monuments in lieu of (or subsequent to) dismantling.

# THE DIOCESE OF BATH & WELLS

## MONUMENTS IN OPEN CHURCHYARDS

### **Archdeacons Guidance Notes on Testing of Monuments**

Churchwardens and PCCs are bound by law and Christian care to take all reasonable measures to ensure that their churchyards are safe.

The following guidelines, agreed by the Chancellor of the Diocese and the Ecclesiastical Insurance Group should be followed, please.

1. All gravestones, tombs and vaults should be inspected at least annually. The inspection need not be carried out by experts. A churchwarden, churchyard officer (if appointed) or other PCC member may undertake the work. Each stone should be physically handled to check for loose mountings, disintegrating mortar or undue spalling caused by age or frost, thus rendering the stonework unsafe.
2. A note of the survey should be recorded in the PCC minutes, stating the date and names of the personnel undertaking the survey, that all stones were inspected, together with a record of the number of stones actually laid or other action taken.
3. We do not advocate the use of Topple Testers.
4. By “handling” we mean that the gravestone must be sufficiently secure so that it does not topple over if someone held on to it to help themselves up if they had knelt down to read the inscription.
5. We do not expect every gravestone to be perfectly upright. If it is leaning, but meets our test as described above, we would not expect any further action to be taken.
6. There is no suggestion that an inventory of every stone be made.
7. In order to defend a claim against the PCC in the event of injury caused by a dangerous monument an annual inspection would demonstrate that the PCC had taken reasonable care to ensure the safety of persons visiting the churchyard, and we do not feel this is an undue burden on parishes. We think that any longer interval than this between inspections would not demonstrate reasonable care.

8. Where you find a monument is not secure and a possible danger, please rope it off or firmly secure upon it a clear notice that it is dangerous. Having done so, if it is possible to locate the family whose monument it is, inform them that they must repair it. It is their property and responsibility in law. If you are unable to locate the family, the PCC must deal with it.
9. The Chancellor has issued a faculty to the Archdeacons permitting them to authorise the removal or laying down or other permanent works on monuments in open churchyards which are deemed unsafe. You should apply to the Archdeacon for this authority when you have identified the works.
10. Under the faculty conditions you are required to contact the Lichen Society before any works are done on monuments where lichen are growing at: British Lichen Society C/o Dr F Blatchley, 3 Durham Avenue, Bromley, Kent BR2 0QA. The Society will then have to send a representative to make a record within a reasonably short time.
11. If you are in any doubt over how to proceed, please check with the Archdeacon.

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