

## **THE CHURCH OF ENGLAND**

### **DIOCESE OF BLACKBURN**

# **HEALTH AND SAFETY IN CHURCHYARDS AND BURIAL GROUNDS – A GENERAL GUIDE**

Churchyards are an important part of the heritage of the Church of England and are usually places of peace and tranquillity. They are not only green spaces but often double up as important and informal wildlife reserves. But their prime use is as the last resting place of deceased persons either in terms of burial or the interment of cremated remains. Many of them are historical places of antiquity which are frequently visited by members of the Church, deceased relatives, historians, school children and members of the public generally.

The Archdeacons and the Registrar thought it would be useful to prepare an up to date guide for the maintenance of Churchyards paying particular attention to health and safety issues, unsafe memorials and hazards which can be avoided. With careful thought and strategic planning, Parishes should be able to avoid the pitfalls, both actual and legal, of memorials and headstones falling into disrepair and becoming unsafe and dangerous.

Although much of what is written here will be commonsense, it is hoped that the guide will be useful to Parishes with churchyards which may or may not need some reorganising and useful contacts and addresses are contained at the end of the guide should further information be necessary.

## **1. The Law**

- 1.1 A Parochial Church Council (PCC) is legally responsible for the care and maintenance of their churchyard and this obligation extends to the safety of the churchyard and in particular memorials.
- 1.2 The PCC's duty is to exercise reasonable care and to fulfil this obligation they must carry out regular inspections of the churchyard and checks of memorials. A PCC cannot guarantee the safety of all memorials but a regular and fully documented safety inspection programme will go a long way to fulfilling the PCC's legal obligations. What amounts to "a regular safety inspection programme" is difficult to determine but Ecclesiastical Insurance ("EIG") recommend a twice-yearly inspection in the first year and thereafter annually as being "good practice".
- 1.3 Provided that a regular inspection programme had been adopted and carried out the PCC's insurers are likely to accept liability under the PCC's insurance policy for any accident. The PCC should check that its insurance cover includes liability for the churchyard and dangerous memorials – and if the PCC insures with a company other than EIG, the PCC should clarify with the insurance company its requirements regarding safety checks.

- 1.4 A PCC's insurance cover does not remove this legal responsibility nor transfer it to its insurance company. If a PCC ignores this obligation – by not carrying out inspections or carrying out the inspections too infrequently – its insurance company might disclaim liability under the insurance policy. As occupiers of the Churchyard the PCC members have a corporate responsibility to keep the area safe.
- 1.5 A PCC is also bound by general Health & Safety Law and Local Authority Health & Safety Officers may carry out inspections of churchyards. If PCC's have failed to adopt a satisfactory programme for the inspection of memorials, the Local Authority may issue an Order requiring all memorials in a Churchyard to be checked within a specified period and for remedial action to be taken. In all likelihood the inspection will be required to be completed within a short period.
- 1.6 If a person were to be injured as a result of an accident in a Churchyard and a proper inspection programme had not been adopted, the Health and Safety Executive (HSE) may well take action. Following a recent accident in a cemetery, the senior officers of a local authority in that Diocese were under direct threat of prosecution and were cautioned by the police.
- 1.7 This Guide concentrates mainly on the subject of unsafe memorials but the matter of safety in the Churchyard, the Church, Church Hall, and other buildings, premises and land must not be ignored. It is important that PCCs adopt a regular programme of inspection to identify, and then remedy hazards wherever they may be. In all cases full records of the inspection and remedial work must be maintained and kept.

PCCs are referred to the series of "Guidance Notes for Churches" published by Ecclesiastical Insurance and in particular Section 3 "Health & Safety". PCCs are strongly advised to obtain these Guidance Notes and to follow the advice given.

## **2. Churchyards**

- 2.1 Safety in Churchyards involves not only the safety of memorials but also of paths and grassed and other areas within a churchyard. Grass needs to be cut regularly, undergrowth needs to be cut away and brambles and the like removed. Paths need to be maintained in a safe condition. Paths need to be cleared of leaves on a regular basis during the autumn months.
- 2.2 The layout of burial areas needs to take account of the need for safety. If grave plots are too close, and pathways too narrow, there is a risk of persons being tripped. Remember that many of the persons who visit graves are elderly and infirm – they may well be using walking sticks or frames. The layout of new sections of burial grounds must take account of the need for disabled access. We must not deny the right of the disabled and the elderly to visit family graves.

## **3. Churchyard Regulations**

- 3.1 Many of the provisions contained in the Diocesan Churchyard Regulations reflect the need to maintain safety in Churchyards. For example kerbstones, pebbles, stones, edging, railings and the like may create a hazard. Many churchyards have mowing problems and these hazards are to be discouraged.

- 3.2 Make sure that when funerals are arranged, the immediate family members are made aware of the contents of the Churchyard Regulations. Please see the separate Guidance regarding the Churchyard Regulations and the form of the Application for Permission to introduce a memorial.

#### **4. Memorial Safety**

- 4.1 PCCs must adopt a regular programme of inspecting churchyards and burial grounds generally and in particular the condition of memorials.

If a PCC has not already adopted a memorial inspection programme, the PCC should start by inspecting each memorial to identify any that are in an obviously dangerous condition. That inspection should be carried out as a matter of urgency. Any memorials that are identified as being dangerous need to be marked so that follow up action can be promptly taken to make the memorial safe even if this involves immediately laying down the memorial.

- 4.2 Apart from this initial memorial inspection, PCCs must adopt a fully documented inspection programme.
- 4.3 It must be remembered that the memorial itself is owned by the family of the deceased, and they must be given a reasonable opportunity to make their memorial safe and this means that a reasonable attempt must be made to trace them.
- 4.4 However safety is a matter of priority and in the case of memorials that are an immediate hazard, action need not be delayed. At an early stage of planning memorial inspections, PCCs should display on Churchyard notice boards a notice that a memorial safety check is to be carried out and asking the family of the deceased to contact a named person if they have any concerns.
- 4.5 The family of the deceased should be asked to provide the name and address of a contact person for the parish records so that if a memorial is found to be unsafe that person can be contacted.
- 4.6 If reasonable attempts by the Parish to trace them are unsuccessful, the family cannot properly complain that they were not contacted.
- 4.7 Try to put yourself in the position of a person visiting a churchyard and finding their family memorial has been laid flat. The Archdeacons and the Registrar receive many telephone reports of "vandalism" in Churchyards, so do everything possible to trace the family if urgent action is needed.
- 4.8 In the case of a churchyard that has been closed by an Order in Council and the appropriate notice transferring the PCC's obligations to the Local Authority has been given, the Local Authority takes over maintenance of the churchyard. Nevertheless the PCC have a shared responsibility and still have a duty of care to the visitors as they are the occupiers of the Churchyard. Any difficulties should be reported to the Local Authority as well as to the PCC's Insurers.

- 4.9 Remember that churchyards become full when all the grave plots have been opened, even though there may be space for further burials in graves. A Closure Order may make provision for future burials in reserved grave plots and further family burials in “used” graves. Parts of a churchyard that have been set aside by Faculty for the interment of cremated remains may be disregarded and may continue to be so used after formal Closure.
- 4.10 Please remember that not only memorials but also other items in the churchyard may be a hazard. Seats, sundials and such items need to be checked – and in the remainder of this Guidance, references to “memorials” must be taken to include other items of this nature.
- 4.11 Remember that a memorial is not dangerous merely because it is askew.
- 4.12 Memorials should be checked by two persons acting together. Memorials that show signs of deterioration, but are not yet found to be insecure, must be recorded. Attempts should be made to contact the family members of the deceased so that they can commission remedial action. This may involve securely placing a notice (in a plastic cover) on the memorial asking that the family contact a named person. These memorials should be re-inspected quarterly.
- 4.13 Ecclesiastical Insurance for the present prefer that a hand test – “the reasonable shove test” – be used, rather than “topple-testers”.
- 4.14 However training is necessary so that the hand test is properly applied – both to check the safety of the memorial and also to ensure the safety of the tester. Topple-testers are useful to carry out random checks that the hand test is being carried out properly.
- 4.15 The age of a memorial is not relevant in deciding where to start the safety check both very old and very new memorials may be unsafe.

## **5. Steps to be Taken by the PCC**

- 5.1 Appoint a person to be the PCC’s Health and Safety Officer.
- 5.2 Check with your Local Authority Conservation Officer whether any memorials or any other features such as sundials in the Churchyard have been listed as “buildings” of a special architectural or historic interest. If any such memorials are found to be unsafe, you must report this to the Conservation Officer and obtain permission before any further steps are taken.
- 5.3 Check with Commonwealth War Graves Commission whether any memorials relate to war graves. War graves are protected under the Geneva Convention.
- 5.4 Find out which of your local memorial masons are members of the National Association of Memorial Masons.
- 5.5 Appoint a public relations contact person to handle the media.
- 5.6 Identify and appoint a structural engineer to inspect memorials in excess of six feet in height.

- 5.7 Immediately display warning notices that safety checks are to be carried out and when.
- 5.8 Include news items in Parish Magazines and Newsletters and any Church or Parish website.
- 5.9 Notify the Ministers of other denominations whose deceased members may be buried in the churchyard.
- 5.10 Notify Parish Councils and similar community bodies and ask for notices to be displayed on their notice boards and websites.
- 5.11 Contact your local friendly memorial mason who hopefully will volunteer to carry out remedial action at a reduced cost.
- 5.12 On the days when safety checks are being carried out, tell visitors to the churchyard what is happening and why.
- 5.13 Feed a news story to the local newspaper. Ask the Diocesan Communications Officer for advice.
- 5.14 Contact your Local Authority Cemetery Registrar and seek to make arrangements for the use of the LA's gantry and similar equipment to deal with tall and heavy memorials. This will involve use of the equipment by LA staff and there may be a cost involved. But do not risk injury to persons carrying out the safety checks. For memorials whose height exceeds six feet, employ a structural engineer.
- 5.15 The purpose of the safety check is to identify unsafe memorials and not to carry out any remedial action, except in extreme cases.
- 5.16 In most cases injuries are caused by dangerous memorials either by a person using the memorial as a means of steadying themselves as they stand up or by children playing and climbing on memorials or running into and dislodging insecure memorials.
- 5.17 When unsafe memorials are identified, they need to be classified as:
  - Category 1 - immediately dangerous and likely to fall over on contact
  - Category 2 - unsafe but only when pressure or weight is applied
  - Category 3 - needs monitoring
- 5.18 Memorials in Category 1 must be recorded and photographed and may need to be laid down immediately but again the area should be taped or cordoned off or the memorial will be a trip hazard. Warning notices should be displayed. Memorials should be laid down with great care and should only be done as a last resort.
- 5.19 Category 2 memorials must be checked on a weekly basis to ensure that the protection and the warning notices have not been removed.
- 5.20 Memorials in category 3 must be recorded for future inspection quarterly.

- 5.21 Cordoning off is risky in that people visiting graves will find ways of ducking under the barrier tape – and children are likely to ignore the tape. Cordoning off should only be used where large numbers of memorials in the cordoned area have been found to be unsafe and the memorials should also be individually staked. **“KEEP OUT – DANGEROUS MEMORIALS”** Notices must be erected in these areas.
- 5.22 Large memorials are very heavy and professional advice should be obtained at an early stage and possibly in conjunction with your local authority cemetery department. Even memorials that have been laid down must be checked regularly to make sure that they have not been re-erected unofficially. In each case where there is a family contact, that person must be notified and if necessary met on site to explain matters.

## **6. The Cause of the Problem and Remedial Action**

- 6.1 Modern memorials of the “lawn cemetery” type may be dangerous for a number of reasons and the memorial plate, the plinth and the base may not have been properly dowelled. Cement or similar material used as an adhesive is liable to fail. Alternatively the memorial may not be properly anchored into the ground. A concrete sub-surface base is not adequate on its own.
- 6.2 If the family of the deceased indicate that they will remedy the problem, the remedial work must be done properly and in accordance with the Recommended Code of Working Practice of the National Association of Memorial Masons (“NAMM”). DIY must **NOT** be permitted.

## **7. Kerbstones**

- 7.1 Although kerbstones may be a trip hazard, they should not be altered or removed as part of a safety check. A Faculty is necessary to alter or remove and dispose of kerbs. Normally inscribed kerbs will need to be left in situ but sunk into the ground so that the inscription remains visible. Remember that the kerbs may be integral with and support the headstone. Detaching the kerb from the memorial may render the memorial unsafe.
- 7.2 Before any work to kerbs is carried out seek the advice of the Secretary to the Diocesan Advisory Committee or the Diocesan Registrar.

## **8. Faculties**

- 8.1 A Faculty is necessary to authorise the laying down of any memorial and to carry out remedial work unless carried out by or with the agreement of the family of the deceased. The Diocesan Chancellor has issued a General Faculty permitting the laying down of dangerous memorials so that Parishes do not need a Faculty every time a safety check is carried out or memorials are identified as being unsafe.

**9. School Visits to Churchyards**

- 9.1 One Local Authority has raised with the Registrar an anxiety regarding children making rubbings of inscriptions, designs, motifs or other parts of memorial. Such activities must be closely supervised and children should be allowed to use only those memorials that have been inspected and properly assessed as being safe.

**Thomas A Hoyle  
Diocesan Registry**

**MARCH 2006**





## **Notice for the Newspapers:**

***NAME OF CHURCH***

### **MEMORIAL SAFETY INSPECTION**

For reasons of Health and Safety the Memorial Headstones in \_\_\_\_\_ churchyard, are to be inspected and tested for stability and safety. The full inspection will commence on \_\_\_\_\_.

Memorial Headstones found to be in a very dangerous condition may have to be laid down on the grave, whilst others will have Yellow "Danger" warning tape fixed to the Memorial Headstone and be accompanied by a safety inspection notice. Families of the deceased are responsible for these Memorials and must make arrangements with a Memorial Mason to make them safe.

**We are very sorry for any distress this action may cause to families but safety must be our paramount concern.**

Families who have put pebbles/chippings around their Memorials may be contacted to be asked to remove them as they too cause a safety hazard, and are contrary to the rules and regulations set down by the Chancellor of the Blackburn Diocese who regulates this churchyard.

**NAME OF CHURCH**

Address

Date:

Our Ref:

To

Dear

A Health and Safety Inspection has taken place in the Churchyard and it has revealed that the Memorial Headstone of ..... is **in a dangerous condition\* /very unsafe\*/needs resealing\***.

We must inform you of the state of the Memorial Headstone as you may be liable, as the family of the deceased, should an accident occur involving this Memorial Headstone.

We are sorry if this letter causes you distress but for legal and insurance reasons we must make the situation known to you.

If you want more information to help you rectify the situation you should call the Vicar/Churchwarden - ..... on telephone Number:.....

If you have not contacted us within 28 days from the date of this letter, then the Church Council will have to take action by either putting "Yellow Danger Tape" around the bottom of the Plate of the Memorial, or if it is in a dangerous condition to actually lay the Memorial Headstone down on the ground. We would prefer taking neither of these courses of action but we will have to do so on Health & Safety grounds should you not contact us.

Yours sincerely

**Name & Address of Person Sending Letter  
(On behalf of Name of Church P.C.C.)**

**Address:**

**Date:**

To: (Memorial Masons)

Dear

**RE: Name of Church**

I am taking this opportunity to inform you about a couple of items which may affect you should you be asked to undertake work in Churchyard at .

1. Every **Base** for a Memorial Headstone will require a **Ground Anchor System** fixing. This will apply to both new Memorials and those removed to have additional inscriptions added. This applies from the date of this letter. Also the Memorial Headstone must be **securely fixed** to the Base.
2. A full **safety inspection** of Memorial Headstones in the Churchyard is to take place during 20 . An initial check has revealed that there are a large number of Memorial Headstones which are either unsafe or very dangerous. When the inspection has been carried out families will be informed as it is their responsibility to make them safe. They will hopefully be contacting firms like yourself to remedy the situation.

**Consultation with myself will be necessary before the work goes ahead so that I can keep track of the work that has been completed.** Most of the problems exist because the Memorial Headstone has come loose from the Base. However with a number the situation could be much more serious and therefore may increase the price you charge to make these safe.

If the Memorial Headstone has to be removed from the Graveyard to make it safe then it will be necessary to fix a Ground Anchor System when it is returned.

Yours faithfully

Revd.....(on behalf of Parochial Church Council)