

# PARISH OF SAINT NICHOLAS, HARDENHUISH CHURCHYARD RULES

## Including DIOCESE OF BRISTOL CHURCHYARD REGULATIONS ISSUED BY THE CHANCELLOR OF THE DIOCESE, 2020

There is a lot of duplication between the model Churchyard rules and the Churchyard Regulations so they have been amalgamated into this one document)

### 1 GENERAL

The Parochial Church Council (PCC) is responsible for the care and maintenance of the Churchyard under the Parochial Church Council (Powers) Measure 1956. Works (including the introduction, renewal or alteration of any item) may only be carried out in accordance with these current Regulations and Rules.

- 1 These Rules apply to the churchyard of the parish of St. Nicholas, Hardenhuish. They came into force on 17 July 2018 (rights of burial amended 2021 together with some minor amendments of the Churchyard Regulations 2017 to 2021) and remain effective until revoked.
- 2 These Rules are subject to any Diocesan Faculties, Orders or Regulations (whether particular or general) which may be made or issued from time to time by the Chancellor of the Consistory Court of the Diocese. In particular they are subject to the Chancellor's Churchyard Regulations which apply throughout the Diocese.
- 3 A copy of these Rules, should be permanently displayed in the churchyard.
- 4 Copies of these Rules should be sent to local monumental masons, undertakers and others who may be involved in the supply or ordering of memorials, indicating the need to obtain written consent from the incumbent before any monument is commissioned.

### 2 RIGHTS OF BURIAL

At least one of the following needs to apply for the burial of a body or cremated remains in the Churchyard:-

1. Have a family or pastoral connection to St Nicholas church or the churchyard (i.e. family members already buried in the churchyard or said person having been baptised or married within St Nicholas church regardless of the date of occurrence).
2. Be on the electoral roll or a regular worshipper at St Nicholas Church, Hardenhuish, St Paul's Church or St Peters Church, Langley Burrell.
3. Be resident or die in Chippenham.
4. Having a good pastoral reason i.e. wants or needs Christian burial/service and although not fulfilling the above criteria it cannot be done elsewhere, the incumbent and church wardens to decide if sufficient reasons apply.

The whole churchyard is vested in the Incumbent alone. *No right of ownership* is conferred upon the relatives of the deceased (or upon any other person) by any of the following:-

- the reservation of a grave space (Note that no more reservations will be accepted);
- the exercise of the right of burial; or
- the erection of a memorial.

### 3 PERMISSION FOR MEMORIALS ON GRAVES

The erection of a memorial is a *privilege*, not a *right*. The ultimate authority is that of the Chancellor of the Diocese, exercised in the Consistory Court upon an application for a faculty. He has the power to allow by faculty any kind of gravestone or other memorial in a churchyard. Faculty application forms can be obtained from the Diocesan Registry. Statutory fees are payable.

A limited authority, however, is delegated by the Chancellor to the incumbent to give permission for memorials **provided that** in size, design and material they fall within the category of what is normally recognised as suitable. Permission must be given in writing.

A minimum period of six months should elapse between the death of the person to be commemorated and the approval of the monument by the incumbent.

The requirements are as follows:-

**1 Materials** The memorial must be in one of the following materials:-

- a English limestone or pennant stone; or
- b unpolished grey granite; or
- c Nabresina (Roman stone); or
- d English oak; or
- e English or Welsh slate.
- F British sandstone.

**2 Form** The memorial must consist of:-

- a a headstone not more than 4' (120 cm) high; or
- b a cross not more than 4'6" (135 cm) high; or
- c a horizontal slab sunk so that the surface of the same is sufficiently flush with the surrounding earth to allow a mower to pass over it.

**3 Advertisements or trademarks** No identification of the maker or supplier must appear on the memorial other than the name only of the craftsman or designer in letters not more than half an inch (13 mm) high.

**4 Base** Any base upon which a headstone (or other memorial) is fixed for stability must be sunk low enough into the ground to allow a mower or to pass over it.

**5 Spacing** Headstones must be placed conveniently for the churchyard mower to pass around them.

**6 Additional features** A memorial shall not include any photograph, metal or plastic inserts, railings, chippings, statuary, bird baths or other artefacts or any images or carvings that are not explicitly consonant with orthodox Christian belief. A badge or insignia of the Armed Forces of the Crown is permitted provided that the incumbent has a letter of authority from the branch of the Forces in question.

**7 Lettering** may be coloured. The permitted colours are: Gold, Copper, Silver, Matt White, Matt Black, Matt Grey.

Only memorials which conform to these requirements can be permitted under the powers delegated to the incumbent.

#### **4 EXISTING MEMORIALS**

It is not uncommon for churchyards already to contain memorials introduced in the past (with or without faculty) which do not conform to the criteria set out in section 3 above.

However, such memorials are not to be followed as precedents. If there is any doubt, the advice of the Registrar or the DAC should be sought.

#### **5 APPLICATIONS FOR MEMORIALS**

An application to the incumbent must be made by letter or using the form "*Application to introduce a Memorial into a Churchyard*" obtainable from the Benefice Administration Office ([greenways@stpaulsweb.org.uk](mailto:greenways@stpaulsweb.org.uk)) or the Registry ([bristolregistry@stoneking.co.uk](mailto:bristolregistry@stoneking.co.uk)). The design must be submitted for the incumbent's approval before any order is given to a stonemason. Information provided must include: the inscription (properly set out); the style of lettering; full particulars of the materials; the dimensions; and details of the proposed foundation work. No further steps may be taken before approval is received in writing.

The incumbent should consider whether the proposed design and materials harmonise with those of neighbouring graves, and with the materials of the church itself. He or she should also consult the local Churchyard Rules). If the incumbent is in doubt whether a particular design is suitable or within the limits of the allowed discretion, OR if there is a controversy, an application should be made to the Chancellor for a faculty. Where the incumbent decides not to allow the erection of a memorial, the applicant must be advised of the right to make an application to the Chancellor for a faculty.

## **6 CREMATION PLOTS**

The creation of a new area for the burial of cremated remains will require a faculty. The Diocesan Advisory Committee (DAC) should be consulted before any arrangements are made to set aside part of the churchyard as a cremation plot.

Cremated remains should preferably be put into the ground without a box although biodegradable containers are acceptable. They can also be interred in existing family graves.

Memorial plaques over cremated remains shall be just below the level of the turf and measure no more than 450mm (18") by 400mm (16"). They should be sunk low enough to allow a mower to pass over them.

Flowers are permitted in the cremation plots to the north of the church with the same rules as full grave plots.

Existing areas for cremated remains must be maintained according to the procedures (such as for flowers) outlined in these Churchyard Rules.

In the Garden of Remembrance no flowers nor any form of plaque is permissible. This is to allow unrestricted access for mowing the grass and cutting the surrounding box hedge. The person whose cremated remains are buried here will be included in the Burial Book and may also be recorded in the memorial book held in the church.

## **7 FLOWERS AND OTHER ITEMS**

Except where the design of a headstone includes an integral vessel for plants or cut flowers, flowers may only be placed in a removable container, which must be sunk completely into the ground so that it is practically invisible. Wreaths and cut flowers may be placed in such containers or laid on any grave, but must be removed as soon as they appear to be withered or dead. (They can then be removed by persons responsible for the day-to-day maintenance of the churchyard.)

The PCC may in its discretion at any time remove and dispose of any artificial flowers placed in the churchyard.

Bulbs and small annual plants may be planted in the soil of any grave.

Remembrance Day poppies may be displayed on any grave of someone who served in the military.

Cards, ornaments or other mementos should not normally be placed anywhere in the churchyard. An exception for a small card may be allowed to commemorate a special anniversary or Christmas but such cards should be removed after 1 month. Following the burial of a child a small toy or ornament may be left on the burial site but this should be removed after 12 months.

## **8 TREES**

There are no trees subject to Tree Preservation Orders or Conservation Area requirements. See also the Church Building Council's Guidance "Trees in Churchyards".

## **9 CHURCHYARD MAINTENANCE**

The surface of the churchyard should be kept as level as possible, free from mounds or kerbs, so that the grass may be cut. Bulbs may be allowed.

For any works that may have an impact on wildlife or flora or fauna, there should be consultations with the local Wildlife Trust and the local authority conservation officer. The setting aside of a designated wildlife area will require a faculty, and a management plan should be drawn up in association with an ecologist.

It should be noted that there is a badger sett in the woods to the north of the church.

## **10 RIGHTS OF WAY**

Rights of Way or Wayleaves (whether private or public) including telephone or electricity poles or pipelines over or through consecrated ground require a faculty. Without a faculty they are invalid.

Shown on the 1945 map are a path from the centre of the churchyard northern boundary diagonally across to the eastern boundary, plus a path through the woods alongside the northern boundary of the churchyard. It is not known if either is a public right of way. The woods to the north of the church up to the sub-station form part of the land owned by the Diocese with the only permitted development being a memorial hall.

## **11 ANCIENT MONUMENTS**

There are no scheduled Ancient Monuments.

However there is a Grade II\* listed Monument to David Ricardo MP. 1823.

Listing states it is by William Pitts. Limestone ashlar and marble. Greek Revival style. Square plan. To each corner of a stepped panelled plinth are fluted Doric columns supporting a simple moulded cornice, carved floriate cresting, and to the centre is a smaller plinth and shallow urn. Beneath, in the centre, is the upper part and capital of a Corinthian column surrounded by naked hermaphrodite weepers. The monument is surrounded by long/short railings with spherical finials on a chamfered plinth.

## **12 CLEARANCE OR ALTERATIONS TO GRAVESTONES OR MEMORIALS**

No gravestone or memorial may be moved or removed without a faculty. The Diocesan Registrar can provide further advice. In the case of repairs, the DAC will advise whether the works are substantial and requiring a faculty.

## **13 EXHUMATION**

Please see the current Chancellor's Guidelines regarding Exhumation. (A copy is available from the Diocesan Registry.)

## **14 THE ROLE OF THE INCUMBENT AND OF THE ARCHDEACON**

In these Rules the "incumbent" of a parish includes the priest-in-charge and, in the event of a vacancy, the Archdeacon (subject in this case to any direction by the Bishop).

**There is a two page appendix explaining the Regulations for applying for a faculty for a memorial which falls outside the normal churchyard regulations. (please ask for a copy if you wish to apply for a faculty)**

## Appendix with the Diocese of Bristol Churchyard Regulations for APPLICATIONS FOR FACULTIES

The Chancellor has issued the following general guidance as to how he would be assisted in dealing with applications for faculties for the installation of memorials in churchyards which fall outside the normal churchyard regulations. Before the Chancellor will consider any application to install a memorial outside the Churchyard Regulations he must be provided with:

- i) written confirmation from the applicant that they have read the Churchyard Regulations or any local Churchyard Rules
- ii) a short explanation as to why they seek to install a memorial which falls outside the Regulations. This need not be anything other than a short letter or statement setting out why a variation in material or shape or wording is required. The Chancellor does not require a document that is drafted by solicitors. The statement should explain the pastoral or other reason why the applicant wishes to depart from the Regulations.
- iii) The Chancellor will need to see that the applicant has raised the matter with the PCC of the churchyard and need to see a copy of the PCC's opinion. It should be emphasised that the PCC's opinion is not determinative one way or the other, but it will assist the Chancellor in judging what local opinion is on the application.
- iv) In relation to wording that is controversial the Chancellor will need an explanation as to why the words have been chosen. In particular he would need confirmation that the petitioners have taken note of the following extract from the Judgment delivered by the Chancellor of Lichfield, Eyre Ch., in the case of *All Saints, Standon* (unreported);

*"The question I have to address is whether the proposed wording is such as can be permitted in the particular circumstances of this case.*

*10) My consideration of that question must be undertaken in the context of the nature and purpose of a churchyard. Churchyards are consecrated to God, Father, Son, and Holy Spirit and what is set out on memorials therein must be consistent with that consecrated status. It follows that inscriptions must be consonant with orthodox Christian belief. Not only is this because of the purpose of the churchyard but also because inscriptions convey a message to those who visit churchyards. It is important that the message that such visitors receive is one which proclaims (or at the very least is not inconsistent with) the message of hope and faith being given to them by Christ's Church.*

*In addition it is to be remembered that the memorial will be read not just by those who knew the deceased in question but by those who did not. Indeed, the message conveyed to those who did not know the deceased is in many ways more important than the message being given to those who did know him or her. Moreover, the memorials placed in churchyards must be fitting and appropriate not just for today but also for the future.*

*11) That does not mean that there has to be a characterless uniformity in the inscriptions in a churchyard. Human individuality and diversity – indeed human eccentricity and non-conformity – are gifts from God and are to be celebrated as such. Accordingly, individuality and diversity in churchyard inscriptions reflecting the diversity and different characters of those commemorated are to be encouraged. Very many churchyards are enhanced and their purpose reaffirmed by inscriptions which are varied (and often quirky or eccentric) and which convey something of the character or life of the departed person. The message that we are individuals and are loved by God as individuals with our God-given differences and eccentricities is an important part of the Christian message proclaimed in our church buildings and to which our churchyards should bear witness.*

*12) In short individuality, even quirkiness, is to be encouraged in the inscriptions on memorials but what cannot be permitted is anything which can be seen as inconsistent with the Church's message. In addition there is a difference between quirkiness and humour which are to be welcomed on memorials and flippancy and irreverence which would be impermissible".*

The Chancellor has directed that the following should be noted:

The Churchyard Regulations are not capricious or arbitrary. They have been drafted with care and are designed to acknowledge, with humility and with due pastoral sensitivity, that churchyards are not just an important part of our heritage but are a setting for an appropriately Christian reflection on death and a reverent memorial to the dead. Gravestones should not be a demonstration of the worldly or material wealth of the deceased, nor should they reflect the vagaries of fashion. The Churchyard Regulations also make it very clear that the fact that one gravestone has been erected is not to be taken as a precedent that another similar gravestone will be 'nodded through', or indeed an indication that no faculty would be required.

- (2). The Chancellor is concerned that some stonemasons appear to be unaware of the Churchyard Regulations. It may be that there will be strong pastoral reasons for allowing a particular engraving on a gravestone and that a faculty can be applied for setting out those reasons. It is then a matter for the Chancellor to decide having received the advice of the DAC, the incumbent and the PCC. It is not a matter for an incumbent to decide without reference to the Chancellor. In particular it has never been a matter for a stonemason to decide without reference to the incumbent and the Chancellor.
- (3). If a gravestone is erected that does not comply with the Churchyard Regulations and has not been granted a faculty the Chancellor will encourage the Archdeacon to initiate proceedings in the Consistory Court and will add parties to the proceedings with the consequent costs to be borne by those parties as appropriate. It is within the Chancellor's powers to ban certain stonemasons from being allowed to erect gravestones in churchyards, and the Chancellor will have no hesitation in exercising those powers if he is satisfied that there has been a deliberate decision to erect a gravestone without applying for a faculty.