

## **CHURCHYARDS:**

### **NEW LAND FOR BURIALS AND CLOSURE OF EXISTING BURIAL GROUNDS**

#### **New Land for Burials**

1. Where the existing churchyard is becoming full, it is the responsibility of the local authority to make new provision for burials. However, it may be helpful for the PCC to take an active role and if appropriate to initiate discussion with the local authority, in order to assist the local authority in making new provision for burials within the parish rather than further away. In some cases the PCC may be able to identify land which the local authority might acquire as an addition to the churchyard, or the local authority might itself be aware of such land.
2. New land would need to be checked by a local undertaker to ensure it is suitable for burying in and does not lie below the water table. Once local consultations and check have been completed, a legal process needs to be followed leading to the transfer of the land to Church ownership (churchyard land legally vests in the incumbent for the time being) and to its consecration.
3. If there is a proposal to provide new land for burials as an addition to the churchyard, or as a detached churchyard, please contact the Archdeacon and the Diocesan Registrar for advice about the procedure to be followed.

#### **Closure of an existing churchyard**

1. If a churchyard no longer has space (except in family graves) for further burials, and the parish has notified the local authority of the need to make new provision for burials in the local area, it may be appropriate to make more formal provision for closing the churchyard and for its future maintenance.
2. More detailed guidance is available from the DAC team. Please contact them if you are considering making an application to close the churchyard or if you are considering the options.
3. The Application Form and Guidance Notes are available as a link below. Please note that the functions previously carried out by the Department of the Environment in relation to burial grounds are currently exercised by the Ministry of Justice. The relevant Ministry of Justice team is based at:

Coroners and Burials Division Ministry of Justice

3rd Floor

102 Petty France

London

SW1H 9AJ

020 3334 2813

Email: [coroners@justice.gsi.gov.uk](mailto:coroners@justice.gsi.gov.uk)

#### **Maintenance of Churchyards**

1. The PCC is responsible for the maintenance of a churchyard that is still open or burials. Local authorities have power under the Local Government Act 1972 (section 214 (6)) to contribute towards any expenses incurred by any other person in providing or maintaining a cemetery in which the inhabitants of the authority's area may be buried.
2. The PCC remains responsible for maintenance of a churchyard closed by Order, but may give notice to the local authority of its intention to transfer that responsibility to the local

authority. After due notice the local authority then takes on the PCC's responsibility to maintain the churchyard. See the Legal Opinion Maintenance of Monuments in Closed Churchyards (link below) for further information about the extent of this liability.

## Links

### The Church Buildings Council Advice and Guidance

<https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/churchyard-structures>

<https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/biodiversity>

<https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/new-burials-and-memorials>

<https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/trees>

### Ministry of Justice Closure Application Form and Guidance:

<https://www.gov.uk/government/publications/apply-to-close-a-churchyard>

**Legal Advisory Commission reports** – <https://www.churchofengland.org/about/leadership-and-governance/legal-services/legal-opinions-and-other-guidance>

**Legal Opinions Concerning the Church of England (See Part 8: Churchyards and Burial Grounds):** <https://www.churchofengland.org/about/leadership-and-governance/legal-services/legal-opinions-and-other-guidance/legal-opinions>

Includes guidance on maintenance of monuments in a close churchyard and liability for personal injury accidents

Revised 2021