

CHANCELLOR'S REGULATIONS

DIRECTIONS AND GUIDANCE WITH REGARD TO MEMORIAL SAFETY

1. The Diocesan Consistory Court has jurisdiction over all churchyards, whether open or closed. It also has jurisdiction over consecrated local authority cemeteries or the consecrated parts of such cemeteries. [For convenience, the word "cemetery" will in this document be used to mean a consecrated cemetery or a consecrated part of a cemetery.]
2. By virtue of this jurisdiction, a Faculty issued by the Consistory Court is required before any significant work may be carried out in a churchyard or cemetery. In the context of the safety of memorials in a churchyard or cemetery, minor works associated with maintaining the safety of an individual memorial do not require authority of a Faculty. What does require the authority of a Faculty, however, is the implementation of a general policy to test the safety of some or all the memorials in a churchyard or cemetery.
3. Parochial Church Councils ("P.C.C.s") and local authorities have become increasingly concerned about the problem presented by unstable memorials, in particular, headstones. If nothing be done and a headstone topples over, causing serious injury or worse, a P.C.C. or an authority might find itself liable to pay substantial compensation. Equally, it might find itself being prosecuted under Sections 2 and 4 of the Health and Safety at Work Act 1974. In the circumstances, I support and encourage sensible schemes to test the safety of memorials in a churchyard or cemetery.
4. Difficulties may, however, arise. As a consequence of its carrying out an uncontrolled testing scheme, a P.C.C. or local authority may severely affect the appearance of a churchyard or cemetery. For instance, the laying flat of a large number of headstones looks extremely ugly. It will also have the effect of causing a good deal of both public and private distress. Relatives of a deceased who discover that a headstone has been laid flat without their knowledge or consent are generally not best pleased. Angry reaction, even public outcry, may be expected.
5. For these reasons, any P.C.C. or local authority, which intends to test the safety of some or all the memorials in a churchyard or cemetery, must (a) apply for a Faculty to permit testing and (b) undertake widespread publicity in advance of a scheme. The kind of publicity that is required would involve: (i) large notices at the entrance to the churchyard or cemetery indicating, at least three months in advance, what is planned; (ii) feature articles and notices explaining the proposed scheme in church or parish magazines, local newspapers and/or local authority newsletters; (iii) notification of local funeral directors and monumental masons; and (iv) notices on P.C.C. or local authority websites. The whole object of the publicity is to ensure that local communities are not taken by surprise when

they discover that extensive safety testing of memorials is going on, or has taken place, in a local churchyard or cemetery.

6. Some memorials in churchyards or cemeteries have become listed monuments. Others have pleasantly weathered with age and are attractive historic monuments in their own right. It follows that any "blanket" Faculty that permits the safety testing of monuments in a churchyard or cemetery will necessarily exclude any listed monument and, unless special reasons can be shown, any memorial with legible writing dating from before 1850. Moreover, in the case of an old churchyard or cemetery (or area thereof), dating from the nineteenth or early twentieth century, any application for safety testing must follow detailed consultation with the local authority conservation officers, and full particulars of the consultation should be given in or with the Faculty petition.
7. In some parts of the country a machine known as a topple-tester has been used to test the safety of memorials. This is a commercially-manufactured device which applies a pre-determined force. The force applied is usually between 35kg and 50kg. An audible signal is given if the memorial withstands the force applied to it. A memorial failing the test tends to be dismantled and simply laid upon the grave. Use of a topple-tester may have its advantages, but experience suggests that the two-man "push/pull" method is preferable. I say this for two reasons:
 - (a) Use of a topple-tester can actually cause a memorial, which is reasonably stable to become unstable, for instance, by breaking the dowels holding a headstone in an upright position above a flat ledger.
 - (b) There are well-known recent instances of operatives with topple-testers seemingly getting carried away with the simplicity of their machine and laying flat many of the headstones in a whole cemetery.
8. For this reason any P.C.C. or local authority wishing to carry out extensive safety testing by means of the topple-tester must stipulate this in the Faculty petition and seek to justify it in the particular circumstances. Mere reliance upon the policy of an insurance company will not amount to sufficient justification for the use of a topple-tester.
9. Use of the "push/pull" method tends to focus attention in individual memorials one at a time. Any memorial that fails the safety test should there and then be made safe by a qualified stonemason. In other words, each memorial should, in turn, be tested and, if necessary, made safe. In the context of a headstone, "making safe" means to re-instate it firmly in the ground in or very close to its original position. If, for any reason, this does not seem possible without incurring unreasonable expense, it will be necessary for the P.C.C. or the local authority to take all reasonable steps within twenty-eight days to contact the owner of the headstone with a view to reaching agreement about what should be done. If contact cannot be made within this period, then the P.C.C. or local authority may resolve the situation by laying the otherwise unstable headstone into the ground as a flat ledger stone, provided the surface of the ledger does not protrude above the level of the ground surface. If contact can be made within the stipulated period, but there is no agreement with regard to what should be done with the unstable headstone, the P.C.C. or local authority and/or the owner may apply to the Consistory Court for directions on the matter.

10. I am pleased to note that the Bereavement Services manager of Southampton City Council accepts that the general approach that I have set out in Paragraphs 4 to 7 above is the most appropriate way of dealing with the problem of memorial safety. With regard to the five large cemeteries under his control, he accepts the need for extensive pre-testing publicity, and prefers the "push/pull" method of testing and dealing with each unstable memorial on a one-by-one basis. I commend this approach to all other local authorities and P.C.C.s within the Diocese. Provided they take reasonable steps to institute a program of gradual inspection and testing of all memorials within their cemeteries or churchyards, they cannot be legally criticized.
11. May I also commend the Southampton approach with regard to the cost of re-instatement. The Bereavement Service Manager takes the view that any memorial is realistically capable of being re-instated firmly in the ground in or very close to its original position at reasonable cost. In those circumstances, where it is possible to obtain re-imbursment from the owner of the memorial, this can be done. If, however, the owner cannot be traced or refuses to bear responsibility, then, as the authority is ultimately responsible for the safety of cemetery visitors, it should bear the cost of the necessary re-instatement work.
12. Where headstones are laid down in the circumstance set out in Paragraph 9 above, it will be a condition of any Faculty that a full written record of the headstone and the relevant details upon it be kept in a safe place. It will also be a condition of any Faculty that any plinth, on longer serving a useful purpose, should be removed from the churchyard or cemetery and disposed of in a safe way.
13. If serious damage from vandalism occurs in a churchyard or cemetery, the Archdeacon of the area in question should be immediately informed.

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Chancellor of the Diocese of Winchester

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