

Churchyard Regulations

[Re St. Leonard Thrybergh \[2020\] ECC She 2 at 14](#)

14. The Law and discussion about how it is applied generally

Churchyards are consecrated and fall under the authority of the Bishop. That authority is exercised by the Chancellor of the Diocese. The Chancellor is the ecclesiastical judge of the Diocese and is ultimately responsible for all decisions affecting churchyards. Incumbents (the priests in charge) of each church are the custodians of the church buildings and churchyards. Responsibility for the appearance, care and maintenance of the churchyard lies with the Parochial Church Council. ([the petitioner, a monumental mason] will note that the parochial church council is not the same as a parish council which, where they exist, are an arm of local government)

It is neither practical nor necessary for every decision concerning a churchyard to be made by the Chancellor via a legal or Court process and Chancellors delegate their authority to incumbents. Where a church is without an incumbent the authority to make decisions within the rules rests with the Area Dean for the church.

The Chancellor's Rules set out the limits for incumbents or area deans for the exercise of their delegated authority with respect to memorials. An incumbent or Area Dean **is not permitted** to permit the installation of **any** memorial which is outside the rules.

The purpose of the rules is to ensure that churchyards are places that promote and exude respect for those who have died and comfort to those whose loved ones are buried and commemorated in that place. They should be an oasis for their communities, provide a sense of history and be a proper setting for the church and the memorials. They should be places where people can come to pray, to remember and, wherever possible, to find beauty, quiet and peace.

If the bereaved wish to install a memorial which falls outside the applicable rules they can petition (apply) for a Faculty from the Consistory Court of the Diocese. Sometimes, where an incumbent or the Area Dean is unsure about how to apply the Chancellor's Rules to a particular case, they seek guidance from the Diocesan Registrar who may, in turn, seek guidance on a particular matter from the Chancellor. Problems are often resolved informally by that route. In my experience the Diocesan legal team does not seek to oppress people by regulation but generally tries to enable lawful and correct process and decisions to be made from the outset.

Bereaved people who wish to arrange a burial in a Church of England churchyard should be informed, sensitively and tactfully, that they do not have an unfettered choice to install any memorial they wish into the churchyard. Memorials must be within the Chancellor's Rules or permitted by a decision of the Chancellor. Memorials installed without express permission are unlawful and may be removed by order of the Court.

Monumental masons must be able to explain how the system works to bereaved families who are entitled to a professional service in this regard. Unnecessary distress is caused when there are shortcomings in the standards of professionals dealing with bereaved families.