

## **CHIPPING CAMPDEN TOWN COUNCIL**

### **HEALTH AND SAFETY IN CHURCHYARDS AND BURIAL GROUNDS**

This guide is to be read in conjunction with the Ministry of Justice guide “Managing the safety of Burial Ground Memorials Practical advice for dealing with unstable memorials” and the ICCM publication “Management of Memorials”.

#### **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. In the case of a closed churchyard, this legal obligation falls to the Town or Parish Council (TC).
- 1.2 The PCC/TC’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/TC 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/TC’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/TC’s insurers are likely to accept liability under the PCC/TC’s insurance policy for any accident. The PCC should check that its insurance cover includes liability for the churchyard and dangerous memorials.
- 1.4 A PCC/TC’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/TC is also bound by general Health & Safety Law and Local Authority Health & Safety Officers may carry out inspections of churchyards. If PCC/TC’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.

#### **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.

### **3. Memorial Safety**

- 3.1 PCC/TCs must adopt a regular programme of inspecting churchyards and burial grounds generally and in particular the condition of memorials. If a PCC/TC has not already adopted a memorial inspection programme, the PCC/TC 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.
- 3.2 Apart from this initial memorial inspection, PCC/TCs must adopt a fully documented inspection programme.
- 3.3 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.
- 3.4 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, PCC/TCs 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.
- 3.5 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.
- 3.6 If reasonable attempts by the Parish to trace them are unsuccessful, the family cannot properly complain that they were not contacted.
- 3.7 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 (Town Council) 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.
- 3.8 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.
- 3.9 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.
- 3.10 A memorial is not dangerous merely because it is askew.
- 3.11 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.

- 3.12 Memorials should be checked by the hand test – “the reasonable shove test”. Please refer to the Ministry of Justice Guide for detailed instructions.
- 3.13 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.
- 3.14 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.

#### **4. Steps to be Taken by the PCC/TC**

- 4.1 Appoint a person to be the PCC/TC’s Health and Safety Officer.
- 4.2 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.
- 4.3 Check with Commonwealth War Graves Commission whether any memorials relate to war graves. War graves are protected under the Geneva Convention.
- 4.4 Identify and appoint a structural engineer to inspect memorials in excess of six feet in height.
- 4.5 Immediately display warning notices that safety checks are to be carried out and when.
- 4.6 Include news items in Parish Magazines and Newsletters and any Church or Parish website.
- 4.7 Notify the Ministers of other denominations whose deceased members may be buried in the churchyard.
- 4.8 Notify other community bodies and ask for notices to be displayed on their notice boards and websites.
- 4.9 On the days when safety checks are being carried out, tell visitors to the churchyard what is happening and why.
- 4.10 For memorials whose height exceeds six feet, employ a structural engineer.
- 4.11 The purpose of the safety check is to identify unsafe memorials and not to carry out any remedial action, except in extreme cases.
- 4.12 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.
- 4.13 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
- 4.14 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.
- 4.15 Category 2 memorials must be checked on a weekly basis to ensure that the protection and the warning notices have not been removed.
- 4.16 Memorials in category 3 must be recorded for future inspection quarterly.
- 4.17 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.

- 4.18 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.

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

- 5.1 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 dowed. 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.
- 5.2 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.

## **6. Kerbstones**

- 6.1 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.

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