IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

A PETITION FOR THE SAFETY TESTING OF MEMORIALS

BY A LOCAL AUTHORITY

IN CONSECRATED AREAS OF

CHURCHYARDS, CEMETERIES OR BURIAL GROUNDS (2024)

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|  |  | **To the Consistory Court of the Diocese of Lichfield** | Please write your answers in THIS COLUMN:  Where possible please answer ‘yes’ or ‘no’ by deleting the inapplicable  Where you are asked to supply documents, please confirm in this column what documents have been supplied |
|  |  | Applicant:  (*full title and address of the responsible Local Authority*)  E-mail address:  Telephone Number:  Office held: |  |
|  |  | **We apply to the Court for a Faculty to authorise the following works within the churchyards, cemeteries or burial grounds listed below** |  |
|  |  | *Please list all of the churchyards/ cemeteries/ burial grounds where the works are proposed to take place, and provide the address of each.*  *Please submit a separate schedule of churchyards/cemeteries* *if necessary.*  *Please submit a plan of the area of each place that will be affected (with the area clearly outlined in red). Please note that the Consistory Court has jurisdiction over areas which have been consecrated by a Bishop of the Church of England for use as burial grounds* |  |
| **1** |  | Schedule of works or Proposals |  |
|  | a | *Please fully and accurately state the works or other proposals for which a faculty is sought. You should include any drawings, plans, specifications, method statement or other documents showing the proposals, with this application.*  *The standard wording used by the Court is set out in the adjacent box but may be varied to suit circumstances. If you wish to vary the wording please provide a document setting out why you think that variations should be made*  *The list of conditions is not exhaustive*  *The Court generally applies the Ministry of Justice Guidelines which differ from the Institute of Cemetery and Crematorium Management Guidelines in some respects* | In the churchyards, cemeteries or burial grounds listed above, to carry out safety testing to memorials and if necessary to carry out maintenance works in accordance with the conditions set out below:   1. All works shall be carried out in accordance with the Ministry of Justice and Guidelines save as varied below 2. The testing shall be carried out by a person who is trained and experienced in the testing of memorials 3. Each memorial shall be assessed visually in the first instance and then hand tested 4. No mechanical testing shall be carried out unless the tester is satisfied that it is necessary. Mechanical testing shall only be carried out using a calibrated testing device to a measured force of 25kg 5. No memorial less than 0.5m in height shall be subjected to mechanical testing 6. All testing in respect of a memorial of greater than 2m in height shall be carried out by a chartered structural engineer 7. No memorial which is a Commonwealth War Grave or which is separately listed under the Listed Buildings Act shall be subjected to any hand test or mechanical test without the further Order of the Court for which purpose there shall be liberty to apply 8. If any testing reveals that a memorial is unsafe then the memorial shall be cordoned off but the Petitioner may institute temporary works of support. 9. No memorial shall be laid flat without the further Order of the Court for which purpose there shall be liberty to apply 10. If any testing reveals that a memorial is unsafe then the Petitioner shall identify what works are necessary to render the memorial safe. No works shall be carried out unless the procedures below have been carried out 11. If the identity of the memorial owner is known then the Petitioner shall give written notice to the owner at their last known address and allow a period of 28 days in which to carry out the necessary works by a person who is approved by the Council and who has demonstrated that they hold public liability insurance to the value of £5 million in the event of any injury loss or damage suffered by any person as a result of the condition of the memorial 12. If the identity of the owner is not known or the works are not carried out then the Council shall cause a notice (i) to be published in the [] newspaper identifying the memorial by the names of the parties commemorated (ii) placed on the memorial, in each case giving 28 days’ notice of its intention to carry out the necessary works to make it safe unless the owner seeks to carry out the works themselves in accordance with the above condition 11 or otherwise objects 13. The necessary works for the purpose of the above conditions 10-12 may include work to make the memorial safe in situ and leaving it erect; or work to bury the memorial so that at least the upper two-thirds of it are visible above ground; or to lay flat the memorial on the grave to which it relates (provided that an order of the Court permitting such lying flat has been obtained); or in the case of kerb setts to bury them so that the upper face is flush with the ground 14. If any objection is made then the objection shall be sent to the Registry and no work shall be carried out until the directions of the Court are obtained and in accordance with those directions |
|  | b | *If you require the Faculty to operate for a period in excess of 12 months please indicate here and advise as to why this request is made.* |  |
|  |  |  |  |
| **2** |  | **Public Notice (for memorials)** |  |
|  | a | *Has public consultation already taken place?*  *(If you replied “yes” please submit copies of all consultation that has taken place).*  *The Court values public notice of all works of this kind. There are no formal rules as to what should be done but the object is to ensure that the true owner of any memorial becomes aware of the proposals and has an opportunity to make representations*  *The first stage is to identify the owner. This may be the heir at law of the person commemorated or the person who erected the memorial. In the case of churchyards the minister should be consulted since burial records may assist. The owner is responsible for their memorials and should maintain them. The Court is able to issue a Faculty to overcome any situation where the owner’s identity is unknown or where their consent is not forthcoming*  *If the owner cannot be identified (and this is the case in most situations) then widespread consultation is suggested. This should include advertisement in local newspapers, parish magazines, and parish and council websites. There should also be notices in the place concerned, at each entrance to the place and in the case of ecclesiastical graveyards, at the parish church and any other places of worship in the parish. There is no minimum period: the longer notice that can be provided, the more likely it is that controversy is overcome. But obviously urgent safety considerations may override this in some situations.* | Yes/No |
|  | b | *If you replied “no” please describe how you will attempt to contact the owners of the memorials and at what point.*  *(Copies of notices, letters and any other means of contact/public notice that is proposed, should accompany this petition).* |  |
| **3** |  | **Resolution** |  |
|  |  | *The PCC of any churchyard affected should be consulted and invited to pass a resolution to support the proposal. Please provide the date when the resolution was passed by the Council/PCC.* | Council/PCC resolution  Date:  Agreed: Yes/No |
| **4** |  | **Final Statement** |  |
|  |  | 1. *I confirm that the applicants have read and understood the application form and that all of the information asked for has been provided.* 2. *I have read and understand the guidelines as to Faculty fees and costs in Faculty proceedings* 3. *I confirm that the applicants understand and will abide by the conditions that may be applied to the Faculty.* 4. *I enclose the Registrar’s element of the faculty petition fee (payable to ‘FBC Manby Bowdler LLP’). [See below]* 5. *I enclose the Chancellor’s element of the faculty fee of £55.00 (payable to ‘Lichfield Diocesan Board of Finance).* | |
|  |  | Name: | |
|  |  | Signature\*: | |
|  |  | Date: | |

\*Signatures can be typed.

**NOTE AS TO FEES**

The Registrar’s fee for a petition covering a single graveyard will be £227.00 (excluding VAT) assuming that there is no objection and no requirement for disposal by written representations. Normally, a separate petition would be required for each graveyard, however the Registry is prepared to receive a single petition on the basis that an additional reduced fee of £90.00 (excluding VAT) is paid for each additional graveyard included. If there are between six and twenty graveyards affected, the fee for the number of additional graveyards included will be capped at five. Thus, the fee for a local authority to carry out memorial testing in six, seven, eight, nine etc. (up to and including twenty), graveyards would be £227.00 (excluding VAT) + £90.00 x 5 (excluding VAT) = £677.00 (excluding VAT). If there will be more than twenty graveyards affected, please contact the Registry to enquire about fees.

If applications are made under the liberty to apply provisions in any conditions or if directions have to be given as a result of objections made by grave owners to specific proposals, the Chancellor will determine the amount of the fee payable under the Regulations.

The Chancellor’s element of the faculty fee will be £55.00 whether or not more than one graveyard is affected by the petition.

**When you have completed this form,** you should send it to the Registrar at the address below together with the fees. The Registrar will forward the form to the Chancellor who will make a decision as to whether or not to grant the Faculty. It is not possible to provide a time estimate in relation to the procedure.

The Registry Assistant, Lichfield Diocesan Registry

FBC Manby Bowdler LLP

6-10 George Street

Snow Hill

Wolverhampton

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