

DIRECTIONS WITH REGARD TO MEMORIAL SAFETY

These Directions set out a process that must be understood and followed by all Local Authorities and Parochial Church Councils concerned with the safety of memorials in consecrated cemeteries, or the consecrated parts of cemeteries, and in churchyards.

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 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, relatively minor work associated with maintaining the safety of an individual memorial does not require the authority of a Faculty. Minor work in this context could involve, for example, replacing a broken pin or dowel connecting a headstone with its base, or underpinning the end of a headstone with earth, gravel or stones where the ground beneath has subsided.
3. **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, and to take remedial action in respect of those memorials found to be unsafe.**
4. Parochial Church Councils (“PCCs”) and local authorities have become increasingly concerned about the problem presented by unstable memorials, in particular, headstones. If nothing was to be done and a headstone topples over, causing serious injury or worse, a PCC 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, sensible schemes to test the safety of memorials in a churchyard or cemetery are to be supported and encouraged. Further, to simplify the procedure and to cut out unnecessary red tape, a single application is preferred to cover all churchyards and cemeteries specified to be under the responsibility of the relevant PCC or authority.**
5. Difficulties may, however, arise. As a consequence of its carrying out an uncontrolled testing scheme, a PCC or local authority may severely affect the appearance of a churchyard or cemetery. For instance, the laying flat of a large number of a large number of headstones looks extremely unsightly. This may cause 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.
6. **For these reasons, any PCC 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 the testing and (b) undertake widespread publicity in advance of such a scheme.** The kind of publicity that is required would involve: (i) large notices at the entrance to the churchyard or cemetery (or each of them, if more than one is involved), 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 PCC 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.**

7. In the case of an old churchyard or cemetery (or area thereof), dating from before, say, the First World War, any application for safety testing must follow detailed consultation about the memorials involved with local authority conservation officers, and full particulars of the consultation should be given in or with the Faculty petition. Some memorials in churchyards or cemeteries are listed under the Planning (Listed Buildings and Conservation Areas) Act 1990, and a few are scheduled monuments under the Ancient Monuments and Areas Act 1979. Any such memorial will (a) necessarily be excluded from a “blanket” Faculty permitting the safety testing of memorials in a churchyard or cemetery and (b) require additional early consultation with (i) local authority conservation officers in the case of listed memorials, or (ii) the Department for Culture, Media and Sport in the case of scheduled monuments. Further, particular attention should be given, both in the publicity and the Faculty petition itself, to any other notable memorial, and, specifically, any with legible inscriptions dating from before 1850. Particular care should be taken with the safety testing of, (and, if necessary, remedial action to), any such notable or historic monument.
8. In some parts of the country a calibrated machine, commonly 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 has, in the past, often been dismantled and simply laid upon the grave. **Use of a topple-tester has its advantages, but experience suggests that the two-man “push/pull” method (carried out by people with appropriate training and/or experience) is preferable.** This is for two reasons: (a) initial use of a topple-tester can actually cause a memorial which is reasonably stable to become unstable, for instance, by fracturing the stone itself, or by breaking the joint holding a headstone in position above a horizontal base; and (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 the headstones of a whole cemetery.
9. **For this reason any PCC or local authority wishing to carry out extensive safety testing involving the use of a 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. **If it is intended to use the machine only in a reserve capacity, i.e. as a means of calculating precisely the degree of instability in a headstone, already demonstrated as unstable by the manual method, then this fact must be clearly stated in the Faculty Petition and, if the Faculty be granted, the use of the machine be strictly limited to this extent.**
10. Use of the “push/pull” method tends to focus attention on individual memorials one at a time. Any memorial that fails the safety test should there and then be made safe. In the context of a headstone, “making safe” means to re-instate it in the way described in Paragraph 11 below. **If, for any reason, this does not seem to be possible or, at least, not possible without incurring heavy and unreasonable expense, it will be necessary for the PCC or 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.**
11. The Chancellor is strongly of the view that **any memorial is capable of being made safe at reasonable cost, either by being re-instated properly into its base or by being positioned into the ground in, or very close to, its original position. All PCCs and local authorities within the Diocese are expected and required to make a serious and genuine effort to comply with this principle.** In some cases where, for example, the headstone pins have broken or are impossible to remove or replace without expensive work in a mason’s workshop, reasonable re-instatement work

may involve positioning the bottom of the headstone into the ground in place of, or immediately behind, the original base. In these circumstances, the headstone can be placed firmly into the ground with the aid, perhaps, of a discreet, turfed-over hardcore surround. **In exceptional cases, and as a last resort, a PCC or local authority may consider laying an unstable headstone permanently into the ground as a flat ledger stone.** If, exceptionally, this course is taken, (a) the twenty eight day period must have passed without contact with the owner, (b) the headstone should be laid flat within the site of the grave, (c) the inscriptions on the headstone should be face up and (d) the surface of the stone should not protrude significantly above the level of the surrounding ground.

12. Where it is possible to obtain re-imburement from the owner of the memorial in respect of the cost of any work undertaken, then this may be done. **If, however, the owner cannot be traced or refuses to bear responsibility, then, as the PCC or local authority is ultimately responsible for the safety of cemetery visitors, it should bear the cost of the necessary re-instatement work.**
13. **Provided they take reasonable steps to institute a programme of gradual inspection, testing and re-instatement of all memorials within their cemeteries or churchyards, PCCs and local authorities should avoid legal liability. Further, provided they follow the above Directions and act with restraint and sensitivity, they should avoid public criticism.** The original Faculty will also permit the PCC or local authority, as the case may be, to undertake further periodic safety testing of, (and, if necessary, remedial action to) all its memorials.
14. Where headstones are laid down in the circumstances set out in Paragraph 11 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, no longer serving a useful purpose, should be removed from the churchyard or cemetery and disposed of in a safe way.
15. If serious damage from vandalism occurs in a churchyard or cemetery, the Archdeacon of the area in question (Liverpool or Warrington) should be informed immediately. He should also be contacted with regard to any genuine attempt to tidy up broken stones in a churchyard or cemetery. His advice should prove invaluable when dealing with cracked or broken crosses or surrounds, which in some instances may disfigure an otherwise attractive setting.

July 2007

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