

Ecclesiastical Judges' Association

**Appendices B-F to the
Report of the Working Party into**

CHURCHYARD MEMORIAL REGULATIONS

October 2024

Appendix B

Historical Background to Regulations

- B1. The origin of the chancellor's jurisdiction in relation to churchyard memorials is far from clear.
- B2. Halsbury (5th Edition) asserts (at para 1067) that it is the consecration of a piece of land that has the effect of bringing it and everything on it within the jurisdiction of the ordinary, whose permission is thereafter generally necessary before any alteration can be lawfully effected.
- B3. That from an early stage the bishop asserted authority over memorials inside churches is certain. But it is equally certain that the incumbent also had a significant degree of authority in relation to giving permission. It is also apparent that noblemen, knights, esquires and others had a right to have a monument erected in their memory and honour in the aisles of churches. Burn (1763) refers to that, noting that Dr Watson "supposeth it to be understood that they were placed there with the incumbent's consent".

- B4. Burns also noted that:

"Dr Gibson observing thereupon, saith thus: Monuments, coat armour, and other ensigns of honour, set up in memory of the deceased, may not be removed at the pleasure of the ordinary or incumbent. ... But this, he says (as he conceiveth), is to be understood with one limitation, - if they were first set up with consent of the ordinary; for though (as my Lord Coke says) tombs, sepulchres or monuments may be erected for the deceased in church or chancel in convenient manner, the ordinary must be allowed the proper judge of that conveniency, inasmuch as such erecting (for so he adds) ought not to be to the hindrance of the celebration of divine service; and if they are erected without consent, and upon enquiry and inspection be found to the hindrance of divine service, it will not (he supposeth) be denied that in such case the ordinary have sufficient authority to decree a removal without any danger of an action at law."

- B5. When Phillimore edited the 9th edition of Burn in 1842 he added a section in relation to this which said:

"In *Bardin v Calcott* (1 Barn. & Ad. 508.) ... Lord Stowell said, as to *buildings of height* the authority is reserved to the ordinary, and permission ought not to be granted without his authority in some manner interposed. The proper mode, strictly speaking, is to apply to the ordinary for a faculty, who calls on all persons having a right to show cause why it should not be done, and hears and determines on the force of any objections that be made against it. The third institute leaves the matter at large; but all commentators say that the ordinary is to judge of the convenience of allowing *tombs or monuments* to be erected, and that if done without his consent, he has sufficient authority to decree their removal. There is a difference (he says) between a *flat stone* and that of a building of greater height. In *Maidman v Malpas*, also, it is laid down by the same learned judge, that the permission of the ordinary is requisite before a monument can properly be erected. *It is to his care that the fabric of the church is committed, that it shall not be injured or*

deformed by the caprice of individuals. The consent of the incumbents is usually taken on such occasions, and especially of the rector for monuments in the chancel. A faculty likewise is required, though it is frequently omitted, under the confidence reposed in the minister, and the Ecclesiastical Court is not eager to interpose; but when cases are brought before it, it is necessary to enquire whether the thing is proper to be done, and whether the consent of the incumbent has been obtained. ... In *Seager v Bowle*, Dr Addam's note says, the court may be taken to have expressed its final judgement, that no practice can absolutely legalise the erection of a monument without a faculty."

B6. It is unclear precisely what is meant by "buildings of height". It seems logical that it is anything more than a "flat stone".

B7. In Cripps (1st edition, 1845) we find at p.423:

"... and it was said by Lord Stowell (*1 Hagg. Cons, 207*) "There can be no question as to this, that no monument can be erected without the leave of the ordinary. It is to his care that the fabric of the church has been committed; and it is not to be defaced at the caprice of individuals.". It is also stated in the books that the consent of the parson is necessary to the erection of monuments in the church. This however must be considered as very doubtful; nor is it to be collected from any decision that if the ordinary were to grant permission to erect a monument in the church, the dissent of the incumbent would be material. In a case in the Court of King's Bench in 1803 (*Bulwer v Huse, 3 East, 217.*), the rector of a parish applied to that court for a prohibition to restrain the ordinary from granting a faculty to a party for erecting a monument in the church: the case was not decided on its merits, the application being held to be premature; but it was there said by Lord Ellenborough that the faculty sought to be obtained was no more than a licence from the ordinary himself to do the act proposed, would not bind the rector against his consent, if by law his consent were material; and *non constat*, that after his consent were obtained, the defendant would make use of it, without obtaining the consent of the rector also.

The strongest dictum in favour of the right of the incumbent is that of Lord Stowell in the case already mentioned (*Maidman v Malpas, 1 Hagg Con. 207*). "the court," he says, "would act improperly, if it was to say that parties might erect a monument without leave of the rector." But in this case, it appears from the report, that the monument was intended to be erected in the chancel; and it doesn't appear that the consent of the ordinary have been obtained."

B8. And in relation to monuments in graveyards, Cripps said at p.432:

"That which we before said as to the right of the rector to oppose the erection of monuments in the church, after a faculty obtained from the ordinary, and as to the respective rights of the rector and the ordinary in such cases, would, it is conceived, be equally applicable to the case of monuments or tombstones in the churchyard. Unfortunately, in a recent case in which the question came to be directly decided, whether a party might erect a tombstone without the consent of the incumbent, the point was held to have been not sufficiently put in issue by the terms of the citation; and the court gave no intimation of its opinion.

It rather appears however that, as was said before – in the case of the erection of monuments in the church, the incumbent practically may be considered as representing the ordinary for this purpose, "the ordinary reposing confidence in him to do what is proper;" but that it is in this manner only that the consent of the incumbent can be considered as absolutely necessary; and that in strictness of law, it is the ordinary whose consent is essential, and that he might give or withhold his consent without reference to the consent of the incumbent. Or it may perhaps be said, further, (though practically it would be the same thing), the incumbent has the power of consent or dissent as against everyone except the ordinary, but it must be remembered that the exact point has not been directly decided."

- B9. So there is an element of right, an element of incumbent control and an element of control by the ordinary which somehow worked together and on the whole left matters to be sorted out by the incumbent with no great desire to require faculties in every case.
- B10. No doubt also much of the practical supervision was dealt with during visitations. However in 1993 Newsom (page 7 of *Faculty Jurisdiction of the Church of England*) refers to this lack of systematic enforcement by referring to the Bishop of Salisbury's charge in 1882, noting that since his visitation in 1879 only 18 faculties had been granted whereas 20 churches "and probably others" had been restored or enlarged in those years and only five of which were in parishes named as having had faculties.
- B11. It is also to be noted that in the mid 19th century when local authority cemeteries were being created, the Cemeteries Clauses Act 1847 contained this provision at s.51:
- "The bishop of the diocese in which the cemetery is situated, and all persons acting under his authority, shall have the same right and power to object to the placing, and to and procure the removal of any monumental inscription within the consecrated part of the cemetery as he by law has to object to or procure the removal of any monumental inscription in any church or chapel of the Established Church, or the burial ground belonging to such church or chapel, or any other consecrated ground."
- B12. In 1953 the Church Assembly set up a Churchyards Commission "to consider and report on the existing law relating to the maintenance of churchyards, whether closed or not, including the memorials erected therein". A member of the Commission was Chancellor K J T Elphinstone. The Commission reported in 1954. It said:
- "Parishioners have a right of burial, but there is no right to have a monument erected. Strictly a faculty is required, but it is generally recognised that if the incumbent's permission is obtained that is sufficient. He can refuse permission either generally or in relation to a specific type of monument, but any person who is aggrieved by a refusal can apply for a faculty."
- B13. It had received representations that a faculty should be required for any monument and that DAC advice should be obtained, but considered that any benefits that would be obtained by that were outweighed by the work and time involved.
- B14. It regarded the key person as the incumbent, many of whom were unwilling to refuse designs because of their sympathy with the relatives of the deceased and the desire not to cause them inconvenience or disappointment. It thought the incumbent's hand could be strengthened in two ways – first, chancellors in a number of dioceses had issued directions that all proposals for monuments that were in any way out of the ordinary in size, design or material should be referred to them; second, incumbents should invite their PCCs to join with them in drawing up regulations specifying what types of monument they will sanction without a faculty and laying down other rules safeguarding the appearance of the churchyard (there being model regulations in the Handbook issued by the Central Council for the Care of Churches, which it included at Appendix 1 of the report).
- B15. Its recommendations included in section C:

“5. Chancellors if they have not already done so, should consider issuing directions that any proposals for monuments that are unusual should be referred to them

6. Incumbents and parochial church councils should consider drawing up regulations specifying what kind of monument can be sanctioned by the incumbent, and safeguarding the appearance of the churchyard in other ways”

B16. Appendix 1 – The relevant parts of the Central Council for the Care of Churches model regulations were as follows:

- “4. The incumbent may sanction the placing of memorial monuments provided that:-
- a. Headstones do not exceed 3 ft 0 in in height
 - b. Stone slabs designed to lie flat over the grave are flush with the grass so that a mower can pass over them
 - c. Small Crosses, do not exceed 4 ft 0 in in height. (But Crosses carved on the faces of headstones are preferable.)
 - d. All memorials shall be of natural stone quarried in Great Britain or of English oak.
 - e. Kerbs or railings enclosing grave spaces will not be permitted save by special permission of the Chancellor.
 - f. All designs, measurements, foundations, and inscriptions on monuments shall be submitted to, and approved by, the Incumbent in writing, **before the order for them is given**. The inscription must be set out to show the style of lettering.
5. A request for any permanent memorial which is not included under Regulation 4, will be referred by the incumbent to the chancellor for his ruling.

These Regulations have been generally approved by the Diocesan Advisory Committee of and the Central Council for the Care of Churches and Churchyards, and they follow the principles embodied in the Council’s Handbook on the Care of Churchyards.”

B17. Shortly after that report was published, *In Re Woldingham Churchyard* [1957] 2 All E.R. 323; [1957] 1 WLR 811 was decided, in which Garth Moore Ch said:

“It must be emphasized that, strictly speaking, only this court can give permission for the erection of a tomb- stone in a churchyard, though in most cases the chancellor is content to delegate to the incumbent his authority to grant permission for the erection of an ordinary tombstone and to dispense with the need for a faculty.”

B18. In the 1993 edition of Newsom (*supra*) picks up on this pattern at p.18:

“However, some assistance can be given by a chancellor to the incumbents in his diocese if he issues an instrument of delegation defining the powers of the incumbents to admit those monuments which conform to the specifications set out in the instrument, and no others.”

B19. The authors then refer to a number of cases in which chancellors had declined to issue faculties for monuments that did not comply with their “regulations”. And at p 160 they said:

“The contents of the “regulations” contained in an Instrument of Delegation are matters to be discussed between the Chancellor and his advisory committee.”

B20. And a footnote refers to a specimen “Instrument of Delegation to Incumbents” at Appendix III. This allowed an incumbent to grant permission for the introduction of a monument “conforming exactly with the conditions set out in Schedule A hereto”. The authors also provided a simple Instrument of Delegation to Archdeacons, allowing them to permit monuments that have the unanimous support of the PCC and have been approved by the DAC.

B21. Schedule A to that then provided sample “Churchyard Rules”, as follows:

“Monuments or tombstones conforming exactly with the following provisions may be introduced into a churchyard with the written permission of the Incumbent (or Curate in Charge, Team Vicar or Rural Dean where the Benefice is vacant), from whom an application form may be obtained.

- (i) A headstone shall be no more than 1200mm high, 900mm wide and 150mm thick, and no less than 750mm high, 500mm wide and 75mm thick, and shall not be erected within 1200mm of the outer wall of the church.
- (ii) A base forming integral part of the design of a headstone may be permitted provided it does not project more than 50mm beyond the headstone in any direction provided
 - (a) that where more than 900mm high the projection may be increased to 100mm
 - (b) that the headstone shall in all cases be fixed on a foundation slab (not necessarily of quarried stone) which is itself fixed flush with the turf and extends to between 75mm and 125mm all round, so that a mower may pass freely over it.
- (iii) Horizontal ledgers shall either be flush with the turf or raised not more than 225mm above a base, which shall be flush with the turf and shall extend not less than 75mm all round the ledger. The inclusive measurements of a ledger shall be not more than 2100mm by 900mm, nor no less than 1200mm by 600mm, provided however that stones of smaller dimensions may be introduced pursuant to a Scheme made for a particular churchyard by the Archdeacon in whose Archdeaconry the churchyard lies.
- (iv) Vases shall be not more than 300mm by 200mm by 200mm.
- (v) Where a part of the churchyard has been set aside for the burial of cremated remains, no monument or vase shall be introduced into that area except in accordance with the terms of the faculty setting the area apart. Where there is no such faculty, no monument shall be placed over cremated remains other than a natural stone (except as mentioned in (vii) below) not more than 300mm by 200mm, flush with turf and having an entirely flat surface without any hole or other depression therein except an appropriate inscription.
- (vi) Except as stated in (vii) below, monuments may be of natural wood or natural stone. Stones traditionally used in local buildings or closely similar to them in colour and texture are to be preferred. The stone shall not be mirror polished in any way so as to reflect.
- (vii) A monument shall not be of black granite, not of pearl granite, nor of all polished granite of whatever colour, nor of white marble, synthetic stone or plastic,
- (viii) A monument shall not include any raised kerb, railings, stone or other chippings, picture or photograph, built-in vase container, statuary or bird bath. Every monument shall be simple in shape.
- (ix) No advertisement or trademark shall be inscribed in any monument, but the name of the mason may be incised at the side or on the reverse in unpainted and unleaded letters no more than 13mm in height.”

B22. Most recently, the Court of Arches considered the question of churchyard memorials in *Re Exhall, St Giles* [2021] EACC 1. At paragraph 1.5 of the decision, the Dean said:

“In principle, the introduction of any item into a consecrated Church of England churchyard requires a faculty but it is conventional for Chancellors to make schemes of delegation, usually by means of what are termed “Churchyard Regulations”, although they have no legislative status.”

Appendix C

“Non-standard” cases – chronological list

[Re Kilnhurst St. Thomas \[2012\] David McClean Ch. \(Sheffield\)](#)

Replacement memorial (1946/2002) in polished black granite (with kerbs and green chippings). Petition was to remove it and replace with replica of original and was granted. Turns on family dispute rather than type of stone.

Includes a very useful summary of the law about a vicar’s “ownership” of the churchyard; who owns the monument (including the place of the heir at law) and generally who needs and can give permission for what.

[Re St. James Newchapel \[2012\] Stephe Eyre Ch. \(Lichfield\)](#)

Cremated remains had been placed into a family grave at which there was already an upright polished black granite memorial with gold lettering at its head. There were said to be other black granite memorials with gold lettering in the churchyard. The chancellor refused to allow a wedge shaped stone, but said that in the circumstances he would permit "a 12 inch cube in polished black granite and bearing the proposed words in gold lettering".

[Re St. Andrew Witchford \[2016\] ECC Ely 2](#)

Petition for polished blue granite memorial 48” high on a base 60” wide, on top of a 14” plinth, refused notwithstanding that there were other memorials in the churchyard outside the regulations installed without faculty.

[Re St. Paul Rusthall \[2016\] ECC Roc 2](#)

Petition for polished black granite headstone with gold lettering refused. There was another similar headstone on the deceased’s parents’ grave in the same churchyard, but the PCC were now attempting to establish conformity to the Regs.

[Re St. Mary Magdalene Lyminster \[2017\] ECC Chi 1](#)

Petition for black polished granite memorial with matching kerbs and chippings refused, considered inappropriate for the particular churchyard, chancellor holding that the unlawful introduction of unsuitable memorials of a similar type in the past did not justify this proposal.

[Re St. Leonard Ryton on Dunsmore \[2017\] ECC Cov 2](#)

Petition for polished dark grey granite memorial in shape of traditional gypsy caravan. Deputy chancellor approves the memorial (apart from proposed additional inscriptions on the rear side).

[Re All Saints Bransgore with Thorney Hill \[2017\] ECC Win 3](#)

Polished black granite with kerbs – refused

[Re St. Bartholomew Areley Kings \[2018\] ECC Wor 1](#)

Stonemason petitioned for faculty for memorial with a polished stone face he had placed in churchyard without any authority. Faculty granted “the lack of uniformity in the immediately surrounding area is that the extent of that non-compliance is not sufficient to justify ordering the removal of the memorial”.

[Re St. James the Less Fradswell \[2018\] ECC Lic 4](#)

The petitioner applied for permission to erect in the churchyard a memorial to her late husband, the memorial to be of polished black granite with gold lettering. ... In the circumstances the chancellor determined that it would be unfair to the petitioner to refuse to grant a faculty. Accordingly, he directed that a faculty be issued.

[Re St. James Bulkington \[2018\] ECC Cov 2](#)

Petition for dark grey granite memorial polished on its face with silver gilded lettering (and open book design, also for kerbs etc). Deputy chancellor determined the memorial would not be out of place in this particular churchyard, bearing in mind other memorials nearby.

[Re St. Vedast Tathwell \[2018\] ECC Lin 4](#)

The executor of the widow wished to carry out her wishes by erecting on her grave a memorial similar to that on the grave of her husband in the adjacent grave, namely memorial in polished dark grey granite with an asymmetrical pointed top, with a carving of a church window on it and with gold lettering. In the special circumstances allowed the matching memorial.

[Re St. James Bulkington \[2019\] ECC Cov 1](#)

Petition for memorial with many features outside the regulations on dark grey honed granite with a polished obverse side and a gold lettering. Bearing in mind the context of the grave which had near it other memorials with polished faces the memorial was allowed, although not some of the other features prayed for.

[Re St. Matthew Worthington \[2019\] ECC Lei 2](#)

Petition refused for memorial outside regulations in a number of respects including polished blue granite.

[Re St. Leonard Thrybergh \[2020\] ECC She 3](#)

Churchwardens petitioned to remove very dark grey polished granite headstone placed on grave along with kerbs and a ledger stone, after permission refused (by Area Dean). The chancellor decided that, if the owner of the memorial had gone about things correctly, she would have authorised the stone. Chancellor dismissed the petition for its removal, but required the owner of the memorial to pay the costs of the proceedings.

[Re All Saints Dilhorne \[2021\] ECC Lic 1](#)

Polished red granite with gold lettering – allowed as many other polished granite (including some in red granite) in churchyard

[Re St. Mary Barnetby le Wold \[2021\] ECC Lin 1](#)

On second death and burial, petition to move black polished granite headstone to place between two graves and to add further inscription in gold lettering. As there were many instances of memorials outside the churchyards regulations in the churchyard, including examples of memorials erected between adjacent graves, and in view of the fact that the churchyard would shortly need to be closed for further burials, the chancellor granted a faculty

[Re St. John the Baptist Berkswell \[2021\] ECC Cov 6](#)

Existing dark grey polished headstone with images thereon. On a further interment and with no room for a further inscription, petition to replace headstone with a new one with polished surface and images. Chancellor granted a faculty.

[Re St. John the Baptist Baginton \[2022\] ECC Cov 2](#)

The petitioners wished to erect a headstone on the grave of their uncle. The proposed memorial was to be dark grey granite, partly polished, with gold lettering (with engraved image of a motor cyclist ...). As there were already several other polished stones in the churchyard, and the image was appropriate to commemorate the life of the deceased, the chancellor granted a faculty.

[Re St. Mary Stamfordham \[2022\] ECC New 3](#)

Petition for light grey polished granite memorial where local regulations required sandstone to blend in with the sandstone of the grade 1 listed church, and in an area where all memorials were in sandstone. Faculty refused.

[Re St. Mary Middleton \[2022\] ECC Lee 3](#)

2 day old baby died in 2014. That polish granite memorial with kerbs installed after petitioner had been told by churchwarden (during interregnum) that there were no restrictions on what she could have. In 2022 petitioner (child's mother) sought a confirmatory faculty. Deputy chancellor was unhappy about many of the features of the memorial which were outside the regulations but in the exceptional circumstances of the family having been badly misled many years previously granted the faculty.

[Re St. Mary Denver \[2023\] ECC Ely 3](#)

Petition for polished green granite memorial refused as no good reason had been advanced for allowing an exception to the regulations.

[Re St. George Fatfield \[2023\] ECC Dur 2](#)

13 year old child killed in RTA. Petition for memorial outside regulations in a number of respects including: polished black granite with gold lettering. Chancellor accepted there were already several memorials of polished black stone with gilded lettering in the churchyard and that a faculty should not be refused for another. Other issues also addressed to reach a compromise on them.

[Re St. James Barkham \[2023\] ECC Oxf 7](#)

Petitioner to authorise the installation of a dark grey, unpolished, upright granite memorial to mark the grave of petitioner's late wife. The proposed memorial fell outside the scope of

the diocesan churchyards regulations. The design incorporated two carved hearts. The petitioner wished to have a design similar to the one for his mother's memorial (for which a faculty had been granted) just a few feet away from the petitioner's wife's grave. The Chancellor granted a faculty. A faculty had already been granted to the family for a similar memorial; there was room in the churchyard for only about 12-15 burials, so the chances of further applications for similar memorials was small; and there were pastoral reasons supporting the grant of a faculty.

[Re Fawkham, St Mary \[2024\] ECC Roc 1](#)

The Petitioner wished to install a memorial in the churchyard in memory of his late wife. The proposed memorial was a headstone and kerbs, the proposed stone being polished paradiso granite, described as “a swirling mixture of pink, grey, red and black colours in a strongly-defined tortoiseshell-type pattern.” The PCC objected to the proposed type of memorial and the DAC did not recommend the grant of a faculty. The concerns were as to the colour, the polished finish and the inclusion of kerbstones. The petitioner produced a “petition” signed by several people purporting to support the application for a faculty. The Chancellor determined that such petition was inadmissible. The Chancellor granted a faculty to allow a headstone of paradiso granite, provided that the stone had a matt finish, but he refused to permit the installation of kerbs.

Appendix D

The Bratton Review

- D1. The review instituted by the Bishop of Coventry made a number of recommendations in relation to the faculty procedures in connexion with churchyard memorials. Dr Bratton made 22 recommendations. A number of them are aimed at the Diocese and its equipping of officers and clergy to assist those applying for faculties, and providing information on its website about the processes involved. The ones we felt we needed to address were 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 and 20.
- D2. However, before looking at those particular recommendations it must be observed that its focus is on cases where a petition for a faculty is necessary, and it says nothing about fact that the vast majority of memorials are approved by incumbents under their delegated authority to admit memorials that comply with the diocesan regulations.
- D3. Quite a lot of the proposals centre on the need to make the processes clear through handbooks and online materials, and to do so in language that will be understood by lay people who have no understanding of either the legal processes or of the culture and practices of the Church of England. Also that there should not be variations between dioceses. Our expectation is that, as a result of our work and the consequent revisions of diocesan regulations that we say should follow, there will be much more nationally congruent sets of regulations with little variation. Such variation as there may be will be explicable and will be explained in written material provided to bereaved families who are contemplating interment in a churchyard.
- D4. **Recommendation 3** is that the Diocese looks into ways of simplifying and streamlining the faculty process, while still balancing pastoral care against legal considerations. The Diocese should consider the needs of those seeking support during difficult times and ensure that pastoral care is a weighty factor in the decision- making process.
- D5. Given that the process is a judicial process there is inevitably a degree of formality about it, and the Faculty Jurisdiction Rules (FJR) are a necessary requirement in a legal process; however, we agree that processes, and the language of the documents that must be completed, should be as simple and straightforward as possible. We believe that the proposed revisions we are suggesting, including a common application form, will result in a much simpler process, and that most cases will not end up with a petition for a faculty. We would suggest that the *Guidance for the Bereaved* booklet that we envisage most dioceses will produce will also include a step-by-step explanation about what the faculty process will involve for those few who do need to go down that route.

- D6. **Recommendation 4** is that the Diocese reviews and simplifies the language and procedures linked to ecclesiastical roles, offices, and titles to make them more accessible and understandable to the general public. This could entail simplifying the language used in official documents and providing clear explanations of the roles and responsibilities of church officials to assist the public in better comprehending their functions.
- D7. We consider that the processes we envisage under the revised regulations can be explained in the documentation, which should make clear who the various people are who will be involved in the process. It should also be borne in mind that it will be very few cases that will involve seeking a faculty.
- D8. **Recommendation 5** is that the Diocese should evaluate how families seeking memorialisations in parish churchyards can be informed and reassured about the legal processes that govern them in a timely and appropriate manner. This could be achieved by providing families with clear and concise guidelines and resources in plain language, such as brochures or online materials, to assist them in understanding the requirements and procedures for obtaining a headstone.
- D9. We envisage that each diocese's documentation will make clear what the process is and what the anticipated timelines will be.
- D10. **Recommendation 6** is that the Diocese should establish regular communication with families who are seeking headstones, by providing timely updates on the status of their petition and explaining any delays or requirements in a clear and supportive manner. Families should be given a clear point of contact who can address their questions and concerns throughout the process.
- D11. The diocesan documentation should of course provide anticipated time frames for decision making and for cases that end up with a petition for a faculty it should be made clear that the Registry is to be the point of contact for all queries. Our expectation is that in most dioceses the Registry Clerk will continue to be that point of contact. In our experience that person is usually very experienced and is accustomed to dealing with the queries of families who do not understand the processes, and who are very anxious about what is happening. We also consider that the process itself should always spell out the time frame for the next stages.
- D12. **Recommendation 7** is that the Diocese should evaluate how the appeals process for families seeking permission to erect headstones can be improved to provide a better experience. This may involve offering additional support to families during the appeals process or exploring alternative dispute resolution mechanisms.
- D13. The matter of how appeals are dealt with falls under the national Rules. This recommendation is perhaps one that the Dean of the Arches will address with new guidance for appeals to her Court, both in hard copy and also online.

- D14. **Recommendation 9** is that the Diocese should collaborate with national church and ecclesiastical law authorities to standardise Churchyard Regulations across Dioceses, promoting consistency in the faculty process. This may involve reviewing current regulations to address any inconsistencies or discriminatory practices and creating guidelines for new regulations.
- D15. This is the process in which we are currently involved. We are not intending that there should be a national set of regulations, but we are hopeful that the outcome of our work and of the consequent diocesan reviews that will take place will be sets of regulations that are very similar, and that only differ in relation to what are genuine local conditions or requirements. Clearly none of the regulations should in any way be discriminatory.
- D16. **Recommendation 10** is that the Diocese should enhance the transparency of its Churchyard Regulations by providing clear and concise explanations for any prohibitions on inscriptions, materials, or designs. This will foster public confidence in the faculty process and ensure that decisions are based on objective criteria.
- D17. We have no issue with this proposal, and we believe that what it seeking should be achieved by the proposed revisions to diocesan regulations.
- D18. **Recommendation 11** is that the Diocese should urge national church and ecclesiastical law authorities to consider standardised support and guidance to dioceses and families regarding Churchyard Regulations and the faculty process. This may involve creating user-friendly resources such as handbooks or online materials.
- D19. Certainly handbooks should explain everything anyone will need to know about how to obtain permission for the erection of a churchyard memorial.
- D20. We are also aware of the work being done to create a section on the Church of England website providing such information. We would suggest that the section should contain a page about churchyard memorials. And each diocese should look at its web pages about faculty matters, and ensure that they are informative and user-friendly, perhaps providing a hyperlink to the relevant page of the national church website.
- D21. We can take the next three (12, 13 and 14) together.
- D22. **Recommendation 12** is that the Diocesan Churchyard Regulations should be reviewed to remove subjective language that could be open to interpretation, such as "quirky" and "eccentric." Instead, the regulations should establish clear, objective criteria for what is and what is not acceptable in headstone inscriptions.
- D23. **Recommendation 13** is that the Churchyard Regulations should be examined to ensure that they are culturally sensitive and do not unintentionally discriminate against any specific group.

- D24. **Recommendation 14** is that the Churchyard Regulations should be made clear and transparent to families who wish to petition for headstone inscriptions. This will ensure that families understand the criteria for acceptance and the process for obtaining approval.
- D25. We would hope that the regulations about inscriptions will be straightforward. We are suggesting “factually accurate, not offensive and not inconsistent with Christian doctrine”. And the intention is that they should not leave the incumbent with questions of interpretation. Any questionable proposals will be referred to the chancellor, who will be able to say whether the proposed wording is within the regulations or whether it is such that it will require a petition for a faculty. That is a decision which will be made quickly and sensitively.
- D26. **Recommendation 15** is that the Diocese implement a more systematic and inclusive approach to developing Churchyard Regulations that includes input from a wider range of perspectives, including those from diverse cultural and social backgrounds. The Diocese should ensure adequate representation from various groups and stakeholders during these discussions.
- D27. We would anticipate that, as chancellors consult about drawing up new regulations, this will be a factor that they will take into account, taking local advice as to what diversity requires in their diocese. It will clearly vary across the country.
- D28. **Recommendation 16** is that the Diocese, the national church, and the Court of Arches review the principles governing costs in appeals proceedings, particularly where the petitioner has been granted leave to appeal. The current system, in which the petitioner bears the cost burden even if they succeed, should be reconsidered to avoid a sense of unfairness.
- D29. This is another matter for the Dean to consider, and perhaps to discuss with the Rule Committee. However, as we observe in our Report, if there were no rules about costs, many people who have quite hopeless causes would be able to appeal without any risk to themselves, which is not something that any legal system allows or could allow.
- D30. **Recommendation 20** is that the Diocese and national church take steps to clarify and explain the work of the Consistory Court and the specific role of judges in the faculty process. This could include providing clear and accessible information on the church website, developing educational resources for clergy and other stakeholders, and conducting public outreach to promote greater awareness and understanding of the court's function and responsibilities.
- D31. This work is currently under way. We will ensure that those dealing with the design of the website pages are aware of what is suggested here.

- D32. **Recommendation 22** is that the decision-making process be made more impartial. One possible approach could be to seek legal counsel from an independent Chancellor or to seek guidance from the national church. This will help to ensure that the decision is made without any undue influence or conflict of interest.
- D33. The current process is one that ensures independence throughout. The chancellor is an independent, legally qualified judge. Dissatisfaction with a chancellor's decision is by way of an appeal, to the Court of Arches. That Court consists of three independent judges presided over by the Dean of the Arches, who decide cases by a majority decision if they are not unanimous.

Appendix E

| Imperial measurement | True metric equivalent | Nearest sensible metric figure (with its imperial equal) | Possible accommodation |
|-----------------------------|-------------------------------|---|---|
| 2" | 50.8 | 55 (2.165") | 50mm (with 2mm tolerance) |
| 3" | 76.2 | 80 (3.15") | 75mm (with 2mm tolerance) |
| 4" | 101.6 | 105 (4.133") | 100mm (with 2mm tolerance) |
| 6" | 152.4 | 155 (6.1") | |
| 1' (12") | 304.8 | 305 (12.01") or 310 (12.2") | |
| 1'6" (18") | 457.2 | 460 | |
| 1' 9" (21") | 533.4 | 535 (21.06") | |
| 2' (24") | 609.6 | 610 (24.0157") | 600 or 600 (with for all measurements over 12 inches a 2cm tolerance ie <620) |
| 2'3" (27") | 685.8 | 690 (27.16") | |
| 2' 6" (30") | 762 | 765 (30.118") | 750 (<770) |
| 2.8" (32") | 812.8 | 820 (32.28") | |
| 3' (36") | 914.4 | 915 (36.0236") or 920 (36.22") | 900 (<920) |
| 3'4" (40") | 1016 | 1020 (40.157") | 100 (<1020) |
| 3' 6" (42") | 1066.8 | 1070 (42.126") | 1050 (<1070) |
| 4' (48") | 1219.2 | 1200 (47.244") 1220 (48.03") | 1200 (<1220) |

Appendix F

