Ecclesiastical Judges' Association

Report of Working Party into

CHURCHYARD MEMORIAL REGULATIONS

October 2024

Contents:

		Pages
1.	**Background and Introduction**	3 - 4
2.	**An account of work undertaken**	4 - 6
3.	**Historical Background to regulations**	6
4.	**The current position**	7 – 14
5.	**The role of the incumbent**	14 – 16
6.	**Recent changes in law and practice**	16 – 19
7.	***Re Exhall, St Giles* and the Mark Bratton review**	19—21
8.	**The way forward**	21 – 37

Appendices

A. **A comparative table of current sets of regulations**
B. **Historical background to the regulations (a fuller account of the earlier history)**
C. **Non standard cases since 2012**
D. **The Bratton Review – comments on each of his recommendations**
E. **Imperial / Metric table of comparisons**
F. **"Flow Chart"**

Templates:

An Additional Matters Order (AMO)
Schedule 1 to the AMO
Application Form
Handbook for the Bereaved

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Churchyard Memorial Regulations Working Party

Final Report

1. Background and introduction

1.1 The current sets of diocesan churchyard memorial regulations have been in existence for over 50 years. They came into being because it has always been the case that each bishop has the ultimate responsible for the churches and churchyards in their diocese. That responsibility is to see that what is and is done there is consistent with the faith the church proclaims. How that responsibility is exercised developed over the centuries with much of the practicality being delegated to diocesan chancellors who through the faculty jurisdiction of their consistory courts gave permission for any changes to the church or churchyard. Following on a report commissioned by the Church Assembly in 1953 chancellors with guidance from the Central Council for the Care of Churches began to develop sets of regulations that permitted incumbents to admit into their churchyards without faculty memorials that complied with the local diocesan rules or regulations.

1.2 Over a number of years, diocesan chancellors have been saying amongst themselves that there was a need to update these Churchyard Memorial Regulations. There were a number of reasons for this. There had been changes in the availability of some types of stone with some issues about whether importation of stone was appropriate even though imported stone was considerably cheaper. There is now a British Standard in relation to the design and construction of memorials in burial grounds. There has been a significant change in cultural expectations about epitaphs.

1.3 But two particular discussions amongst chancellors led to the sense that we needed positively to progress ideas about revision and to do so together. The first was a discussion about memorials for children. They have often been the cases that have led to requests to allow memorials that were very different in size, shape and inscriptions thereon from what was permitted by the regulations. So the question arose as to whether special provision could or should be made for memorials for children and young people. The second was the case of the Irish inscription in *re Exhall, St Giles* [2021] EACC 1. Although from time to time what is not allowed to be said on a memorial has attracted newspaper headlines, this was the first time in recent years that the Appellate Court has had to consider questions about a headstone. The case was before the Court of Arches in February 2021 and as part of its judgment the Court said (para 11.12): "We suggest that chancellors review their Churchyard Regulations with these principles in mind."

1.4 Since that judgment was given the Bishop of Coventry appointed the Rev Canon Mark Bratton to conduct a review of the case and the circumstances around it which is now publicly available. It contains a number of recommendations in relation to both the substance and procedures of the faculty jurisdiction in relation to churchyard memorials which obviously calls for a considered response.

1.5 As a result of the matters in paras 1.2 and 1.3 above, the Standing Committee of the Ecclesiastical Judges Association (EJA) set up a working party to consider what changes were needed in relation to the regulations. The intention was not to produce a uniform set of regulations, it being recognised that there are often good reasons for different regulations in different parts of the country, such as the type and colour of local native stone. However there was also an awareness that significant differences between adjacent dioceses could be confusing for those involved in the industry working across diocesan boundaries, and even more confusing for families of the deceased who will have little idea that there are such things as regulations at all, let alone why they differ from place to place.

2. What we have done

2.1 The working party met on Zoom thirteen times and each of us has done various pieces of work between meetings.

2.2 We began by examining all the current sets of regulations and set them out in a comparative table. That table is attached as Appendix A The first thing we noted was the difference in scope between what were described as "regulations". Two dioceses simply contained the regulations in relation to memorials setting out what is and what is not allowed in relation to memorials (type of stone, permitted shapes and sizes, and rules about inscriptions). However, the majority of dioceses set those regulations in the context of wide-ranging guidance and advice about the management and care of churchyards and memorials which were sometimes themselves framed as regulations. Others included sections about the law including the law about reservation of grave spaces and about exhumation.

2.3 We have had consultations with NAMM (the National Association of Memorial Masons) and BRAMM (the British Register of Accredited Memorial Masons) through Peter Hayman (NEO and Technical Advisor to NAMM) and BRAMM representatives Brent Stevenson (the current Chairman) and Philip Potts (Development Officer). They have explained to us some of the problems that memorial masons face when dealing with our regulations, some of the changes that have taken place in their industry since most of the sets of regulations were drawn up, and they have made suggestions as to how things might be changed.

2.4 We have consulted with representatives of the Lettering Arts Trust, also sometimes referred to as Memorials by Artists, who represent a number of skilled craftspersons who specialise in creating bespoke memorials noted for their lettering. The role of such artists in working with the bereaved on a memorial which is truly personal can be highly significant in helping deal with grief.

2.5 We have had communication with the Commonwealth War Graves Commission who are responsible for many memorials commemorating members of the Commonwealth who gave their lives in the first and second world wars, a number of which are in churchyards.

2.6 We have had some consultation with David Knight of the Church Buildings Council and Peter Collier made a presentation to the Annual DAC Conference in September 2022. Peter Collier also made a presentation to the Annual Meeting of the Ecclesiastical Law Association (ELA), the diocesan registrars' association, in October 2022.

2.7 We have consulted the membership of the EJA in writing with an outline of the work we have done and suggestions about the way forward, and we followed that up with a discussion amongst those attending a Training Day on 29 May 2023.

2.8 And finally as we have been developing our ideas and proposed recommendations and consulted with our own membership of diocesan chancellors, they have been discussing these matters with their Diocesan Advisory Committees, Archdeacons and others who deal with these issues at the local level, and as a consequence we have received further helpful comments and suggestions.

2.9 Early in our discussion it became apparent that there was a real issue as to whether we any longer had any authority in law to permit memorials to be introduced into churchyards without a faculty. That was as a result of the enactment of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (EJCCM) which enabled the Rule Committee to make rules about what could be done in a church or churchyard without a faculty. It excluded churchyard memorials from that possibility. The wording of s.78 similarly restricted chancellors in their making of Additional Matters Orders.

2.10 We therefore made some representations as to what might be done to restore the ability of Chancellors to give authority to incumbents to admit into their churchyards memorials that complied with a set of criteria without the need to obtain a faculty. This resulted in the addition of clauses 13 (5) and (6) to what became the Church of England Miscellaneous Provisions Measure 2024 which was approved by General Synod in July 2023. There was also a need for the Faculty Jurisdiction Rules 2015 (FJR) to be amended and that was done by clause 4 the Faculty Jurisdiction (Amendment) Rules 2023. A commencement order was made bringing all these provisions into force on 17 May 2024. Consequently it is now lawful for chancellors to make Additional Matters Orders permitting memorials to

be introduced into a churchyard without a faculty and setting out any conditions for such.

2.11 There will be a need for a further amendment to the FJR, as appears in paragraph 8.15 below

3 Historical Background to Regulations

3.1 The origin of the chancellor's jurisdiction in relation to churchyard memorials, referred to at 1.1. above, is far from clear.

3.2 We have set out in Appendix B our understanding of how the jurisdiction developed over the centuries, culminating in the mid twentieth century with an element of right, an element of incumbent control and an element of control by the ordinary. They somehow worked together, but on the whole left matters to be sorted out by the incumbent with no great desire to require faculties in every case.

3.3 From the historical material in that Appendix, we particularly draw attention to the more recent history, which led to the formulation of our current sets of regulations.

3.4 In short, the recent history began in 1953 when the Church Assembly set up a Churchyard Commission to consider and report on the existing law about churchyards including memorials. The recommendations of the report were twofold – first that chancellors should direct that all proposed monuments in any way out of the ordinary in size, design, or material should be referred to them; and second that incumbents with their PCCs should draw up regulations specifying what types of monuments they would allow without a faculty in their churchyards. The Central Council for the Care of Churches had a model set of such regulations in their Handbook.

3.5 What happened was that chancellors asserted that only the court could give permission to erect a tombstone in the churchyard but that they were happy to delegate that authority to an incumbent to allow tombstones which complied with regulations issued by the chancellor.

3.6 In 1993 in *Faculty Jurisdiction of the Church of England*, Newsom provided a sample set of "Churchyard Rules" which became the basis upon which many chancellors promulgated their own rules or "Regulations". As we shall see in the following chapter, there has been in some cases significant divergence from what Newsom proposed, with differences between dioceses, which no doubt had some historical rationale, the logic of which is now lost in time.

4 The current position

4.1 Since 1993, apart from the dioceses of Europe and London, all the other 40 dioceses have produced sets of Regulations. Most are called "Regulations", although there are some "Rules", and Worcester has "Guidelines". London claims to have no open churchyards.

4.2 We have produced a set of tables (attached as Appendix A to this Report) showing how far each diocese conforms to the Newsom Schedule and how far it departs from it.

4.3 Table A1 deals with what each diocese calls its document, when it was issued and whether it expressly refers to "delegation" of the chancellor's discretion to the incumbent. Table A2 deals with size of headstones, provisions about the base and fixing, also about vases incorporated in the base. Table A3 deals with horizontal ledgers and cremated remains memorials. Table A4 deals with permitted shapes and materials, and table A5 with prohibited shapes and materials. Table A6 deals with inscriptions; Table A7 with other prohibited items; and Table A8 with temporary markers and with the time from interment to erection.

4.4 At the head of each table is the Newsom recommendation and then alphabetically diocese by diocese what is provided for in relation to the column heading. We would apologise to any chancellor who feels that their Regulations have been misunderstood or misrepresented in the Table. We record in the following paragraphs some of the things we noted in doing this work.

4.5 **Table A1** – this collates very basic information: the date of the Regulations, what they are called and whether there is an explicit reference in them to the mechanism of delegated authority to the incumbent. It was noteworthy that at the ELA AGM only two registrars were aware of the location of any actual instrument of delegation for their dioceses.

4.6 **Table A2** – this deals with the size of permitted headstones that can be introduced without the need for a faculty, giving the maximum and where relevant the minimum sizes for height, width and thickness. It also deals with bases and foundations. Newsom suggested maximum sizes (all in mm) of 1200 x 900 x 150 and minimum sizes of 750 x 500 x 75. We don't know why Newsom increased the maximum from 3 feet as recommended by the Central Council for the Care of Churches in their Appendix 1 to 4 feet. Newsom has 50 as the maximum distance a base should project beyond the headstone (with 100 if the headstone is taller than 900).

4.7 We found ourselves wondering why there are differences in size in some dioceses. It will be very interesting for Chancellors, who we rather suspect are ignorant of the extent to which their diocese departs from the Newsom Schedule, to find out why they (or in most cases their predecessors) opted for what they did. Why did Birmingham choose taller but narrower maximum sizes? Why did Salisbury allow up to 1500mm in height? Why did Chelmsford go for smaller maximum sizes?

4.8 These are not immaterial differences. The dioceses of Birmingham, Coventry and Worcester have points where they meet. They each have different maximum sizes for memorials – Birmingham 1250 x 650 x 110; Coventry 1220 x 915 x 150; and Worcester 1200 x 900 x 150. It must be confusing for memorial masons who perhaps have to serve all three dioceses to know exactly what is permitted without a faculty in which of the parishes they serve.

4.9 We hope that the production of these tables will enable chancellors to consider, in consultation with their DACs whether there is any good reason for not adopting common dimensions in any future sets of Regulations. We shall, later in this report, be recommending maximum and minimum sizes. In some cases there may be reasons for not adopting these recommendations, in which case all well and good and it can thereafter be explained to those who query why that different maximum or minimum size was stipulated. Interestingly, we are advised that 70% of new memorials are 2’ 6” (762mm) or less in height.

4.10 There are also usually prescribed sizes for plinths or bases. These can be quite confusing. The industry standard refers to bases, and so perhaps should we from now onwards. In BS 8415 a plinth is what is between a base and a foundation, which is rare in what is now generally known as a “lawn memorial”. Some dioceses do provide a drawing showing what those dimensions are. We would commend the St Albans example of such as bringing light and clarity into the common confusion (see pp. 8&9 here). Bases and fixing should be dealt with and most dioceses do make some provision.

4.11 There is often a reference to BS 8415 and also to the NAAM Code of Practice. As the NAAM Code is really about how to put BS 8415 into practice, we suggest it would be better to simply refer to BS 8415; or to refer to BS 8415 with a side reference to the guidance in relation to that provided by the two Associations. NAMM has its *Code of Practice* and BRAMM has its *Blue Book*. Most memorial masons will be working in relation to the NAMM Code or the BRAMM Blue Book as the cost of actually purchasing the BS is significant and it is not available online.

4.12 There is quite a difference in approach as to what provision if any is made for flower receptacles in bases. Some allow none, some one, and some two. We understand that there can be issues about integral vases, which can, unless they have drain holes, collect water which can freeze and damage the base.

4.13 **Table A3** – this deals with other types of memorials: horizontal ledgers, vases and cremated remains. It also notes what, if any, minimum distance between a memorial and the wall of the church is provided for.

4.14 Newsom proposed that ledgers should have a maximum size of 2100 x 900 x 225 and a minimum of 1200 x 600. Newsom suggested that vases should have a maximum size of 300 x 200 x 200. The suggested minimum distance from the wall of the church was 1200. Ledger stones are provided for in many dioceses, though not allowed under the delegated authority in York. But there are quite wide variations in size. Again chancellors might want to ask why their diocese moved away from 2100 x 900 x 225.

4.15 As for the minimum distance from the wall of the church, there is no indication as to the reason for this, although a number of possible reasons have been suggested – safety of the wall, drainage, and provision for scaffolding – as possibilities. Newsom suggested 1200 mm. Quite a number of dioceses make no such provision and of those that do some increase the size to 3000, 3500, 4000 and in the case of Chichester 4570 (5 yards!). At an early stage we felt a need to try and ascertain what the real need, if any for this is, and if so what is the most appropriate minimum distance and encourage everyone to insert such a provision in their Regulations. To date we have not established a definitive reason.

4.16 Cremated remains are normally dealt with by specific regulations in relation to an area set aside by faculty for the interment of such remains. Normally the provision in relation to memorials in those areas is for no upright memorials and for plaques flush with the ground of varying sizes – 450 x 400 is common, but some allow larger and some only permit smaller. Some dioceses do allow cremated remains to be buried in the main part of the churchyard in spaces that would not accommodate a full burial.

4.17 **Table A4** – this deals with permitted materials and permitted shapes for memorials (in contrast to Table A5 which is prohibited materials and shapes). Newsom was brief on the point – “simple shape” and “natural wood and natural stone” with a stated preference for local materials (ie what were used in local buildings).

4.18 Newsom did not deal with prohibited shapes. In the current regulations, most dioceses do not permit unusual shapes, such as teddy bears, hearts, and harps, which seem to be the most common unusual shapes people want, presumably having seen them in a mason's catalogue. We also noted that open books are permitted in some dioceses, but forbidden in most. We were unaware of what the real issue was about open books but were helpfully enlightened by Chancellor Briden at our May discussion. Apparently there was a vogue for books sitting up proud on stalks which was regarded as unstable and therefore dangerous. The modern practice is that there are two forms of open book. Open books on stalks are still available, but so also are books which are horizontal and fixed directly onto the base with no such health and safety risk. However the modern form of such books is not always attractive and dioceses which have permitted them will need to give careful consideration as to whether to continue to allow them. Photographs of the two types are shown below.

4.19 There are also issues about types of stone. Newsom kept it simple. The current regulations tend to go into much greater detail as to types of stone – some listing a large number that will be permitted and some preferring to spell out in detail what are not permitted. As for reconstituted or synthetic stone, it was barred by Newsom and by most chancellors. Some (Chester and Liverpool) permit it if it complies with BS 6457 – but see paragraph 6.4 below.

4.20 The colour of stones is quite a minefield; different memorial masons will describe the colour of the same stone differently and many just repeat the colour and name used by their wholesaler.

4.21 **Table A5** – this deals with prohibited materials and shapes – most commonly prohibited materials are white marble and any polished or mirrored finish. Quite a number also ban a variety of other colours of granite, including in some cases black granite.

4.22 **Table A6** – this deals with inscriptions. Again Newsom was silent here, apart from prohibiting pictures, photographs and trademarks or advertisements except for the mason's name being allowed on the side or the reverse in letters with a maximum height of 13mm. Those are commonly replicated in the current regulations and many dioceses have also added a prohibition on QR codes.

4.23 There are quite a variety of ways of spelling out what the content of the epitaph must be and/or what is not allowed to be said. This is probably the area where there is most controversy in that there are many more disputes about what can or cannot be put on the stone compared to the number of arguments, of which of course there are not a few, about the permitted material or shape. What is most commonly said is that inscriptions must be simple, reverent and consistent with Christian belief. Only a few deal with any reference to languages other than English – Coventry, Derby, and Sodor & Man.

4.24 The provision about letter cutting and colours of letters are very diverse. It is very unclear how and why these should be so inconsistent between dioceses.

4.25 **Table A7** – this deals with other prohibited items. There is unlikely to be any controversy about this – raised kerbs, railings, stones, chippings, statues, trees and shrubs were prohibited by Newsom and are prohibited in most dioceses. Looking through the lists it is quite illuminating to see what additional items chancellors have added to Newsom's list; we suspect that they have each added things that they have from time to time been asked about and refused.

4.26 **Table A8** – this deals with temporary markers and with the time that must elapse from the interment before the memorial can be erected. Temporary markers pending the erection of a memorial and time to allow ground to settle before a monument is erected have very positive benefits and we were surprised at how few dioceses make provision for them.

4.27 **Non-standard Cases.** We have also looked at how, over the years, chancellors have dealt with petitions to introduce memorials that do not comply with those standards that they said may be introduced without a faculty. The reported cases cover a variety of issues as there seems to be no end to the ingenuity and variety of what some bereaved families request. The underlying principle is not that if it is not permitted in the regulations you cannot have it, but whether there is a good case made out for permitting what is requested to be introduced into the particular churchyard. The underlying principles often stated are that the grave space does not belong to the family; that what is erected by way of a memorial needs not only to respect and reflect the ambience of the churchyard as it is, but also to be appropriate as a memorial to the deceased which is likely to be in place for many years and will outlive the family members who erected it in memory of their much loved relative.

4.28 However there are a significant number of petitions that have as a common theme the fact that what the family want is not permitted by the regulations without a faculty, but there are already a number of like memorials in the churchyard. The most common such request relates to black polished granite memorials with gilded lettering, which most sets of regulations do not permit except by faculty. And it is often pointed out when such a faculty is sought that there are a number of such monuments already present in the churchyard. The problem is often exacerbated because former incumbents were not very diligent in only allowing without faculty

memorials that complied fully with the regulations. And it then becomes quite difficult when a new incumbent, usually supported by their PCC, wishes to comply with the regulations, not just because that is the right thing to do, but because they consider that what the regulations are trying to achieve in relation to the type of memorials that are in the churchyard is in accordance with how they and their PCC wish the churchyard to look. These cases can become locally high profile and controversial when the bereaved family look to the local media for support, and these cases are always seen as good copy by journalists.

4.29 So it is instructive to see how over time chancellors have dealt with this type of case.

4.30 One of the earliest cases dealing with this issue was in *Re St Giles's Churchyard, Farnborough* (01.03.1983). The petition was for a headstone in blue pearl granite. The Rochester regulations did not allow monuments with "mirror polished" surfaces or those "polished beyond a good smooth surface". The DAC secretary in his report noted from a visit that "there were in this particular area, where the most recent burials had taken place, many made of highly polished black or grey stone, with low relief of what he described as badly drawn flowers and the like and very poor lettering." Goodman Ch, allowing the petition, noted "the incumbent, supported by the PCC, is now complying with the Regulations and has had to disappoint some applicants for headstones which he could not himself permit." However, following his own visit, the chancellor also noted, that given the number and the position of many of these irregular memorials that "starting afresh with a new row is not therefore going to result in the complete elimination of monuments of the kinds under discussion". He allowed the petition, saying that it was not to be regarded as a precedent and was no indication that faculties would be granted for monuments that were clearly inappropriate and undesirable. But he observed that "there are churchyards where it would sometimes be unwise to apply the Churchyard Regulations too rigidly in view of what has gone before." He reminded PCCs of his power to authorise particular incumbents to act on wider guidelines than those contained in the Regulations in relation to a particular area of the churchyard or in relation to particular matters such as the form of monument the incumbent may permit or the materials to be used."

4.31 Another early case which went the other way was in relation to "gilded lettering": in *Re St Chad's, Bishops Tachbrook* (16.11.1991). Gage Ch summarised the arguments: "On the one hand Mr Walker says, with some considerable force, the Regulations have not been adhered to in this Graveyard for some time. There are a number of Monuments with gilded lettering on them. In the particular area where his wife is buried they are, if I may use the expression, thickest on the ground. What difference will one further monument with gilded lettering make upon it. On the other hand Mr Large and the churchwardens say that what has happened was in the past. We are now seeking to obey the regulations. Mr Large in particular has persuaded other people to conform. How is he to face them if he had allowed this particular application and so broken faith with them. That is the dilemma which the Court finds itself in and I have to balance those two arguments and decide what the

right answer is." In the event Gage Ch sided with the incumbent and PCC and refused the petition.

4.32 Facing similar arguments in relation to lettering and finishes, chancellors have come down sometimes on the one side and sometimes on the other.

4.33 A typically succinct decision by Shand Ch in *Re St Helen, Selston* (21.07.1995) was in relation to a petition for a polished heart shaped stone in memory of a 17 year old girl. The judgment reads as follows:

> "The proposal is for a black polished heart shaped stone of a kind which falls foul of the diocesan churchyard regulations in three ways - it is a heart shaped memorial; it is of black granite; and it has a reflective front surface. Not surprisingly the incumbent and the PCC oppose this petition. The stone would be in an area which is currently used for burials and is likely to be for thirty years to come. One can only too well envisage their difficulty in enforcing the regulations with consistency if this stone were allowed.
>
> Mr Bishton underlines this dilemma by saying that a precedent has already been set. He refers to one heart shaped stone (apparently in memory of one Robert Bacon who died in December 1976), and one polished front (introduced wrongly by the Memorial Mason, but not removed for understandable pastoral reasons). If this petition were allowed, the parish would have no hope of legally holding the line in future. Selston churchyard would effectively become uncontrollable … Accordingly the Petition is dismissed."

4.34 In *Re St Mary Kingswinford* [2001] 1 WLR 927 (decided on 21.02.2000) is a case which has often been cited in some more recent cases. It concerned three petitions in relation to two open book memorials – one already in place and one proposed. It appeared that the memorial in place had been installed with a measure of deception as to what was to be erected, such deception being not by the bereaved family but in all likelihood by the memorial mason who had declined to appear at the hearing. Mynors Ch explained carefully and fully the principles behind having "standard memorials" ie those conforming with standards which an incumbent has delegated authority to permit to be erected. He also explained that non-conformity to those standards is not a bar to admission but that each case must be examined on its merits as to whether the non-standard memorial should be allowed. He detailed the four non- standard memorials that will often be allowed: (i) one that is a fine work of art in its own right; (ii) one that although not suitable in some churchyards and so not within the standards is suitable in this churchyard; (iii) one not desirable in itself, but of which there are so many examples already in the churchyard that it would be unconscionable to refuse consent for one more; (iv) a stone that is aesthetically or otherwise unsatisfactory, but where there are compelling personal or other circumstances suggesting that a faculty should nevertheless be granted. In the event the chancellor allowed the memorial in place to stay and permitted the proposed memorial to be erected.

4.35 There are currently on the Ecclesiastical Law Association website compendium of judgments some 24 cases decided since 2012 about polished stones. They have occurred in 13 dioceses. It is perhaps notable that there are 5 in Coventry, 3 in Lichfield, 2 in each of Ely, Lincoln, Sheffield and Rochester, and one each in, Chichester, Durham, Leeds, Leicester, Newcastle, Winchester, and Worcester. At Appendix C is a summary of those cases in chronological order. In 7 of the cases permission was refused for the non-standard memorial, but allowed in the other 17 (including all 8 Coventry and Lichfield cases).

4.36 It is unlikely that anything will change as a result of the coming into being of new sets of standards or regulations. We anticipate that most dioceses will not want to allow as a matter of course polished granite headstones with gilded lettering to be introduced as they are generally regarded as being inappropriate to the setting of most English churchyards. But there will still be those who will want them and will request them, particularly if there are others of a like nature already in place in the churchyard.

4.37 It was suggested to us during the consultations that it might be possible to make a general rule that is part of the current Blackburn regulations which provides at paragraph 3.3.1 in relation to the type of stone finish permitted:

> "Highly polished granite, coloured granite or other marbles are not permitted. The exception to this is for churchyards, where, on the date that these Regulations came into force, at least ten percent of the existing memorials are constituted of a similar material, or where a separate section of a churchyard has been constituted to allow for the erection of such monuments as a result of a change in policy made prior to the coming into force of these Regulations."

4.38 Clearly it is possible that in some churchyards different rules might apply in relation to types and finishes of stone in a particular section, such as an extension to the original churchyard, as Goodman Ch suggested back in 1983 (see paragraph 4.30 above). However although it might seem an attractive way of avoiding controversy, it seems to us that to say that if in any churchyard there is a percentage of irregular stones then other similarly irregular stones may be admitted is fraught with difficulty. There will be problems about agreeing which memorials to include as "irregular". There will then be an argument that it should perhaps apply only to that part of the churchyard in which the deceased is buried. And of course underlying it all is the principle that such stones are generally not appropriate in a churchyard anyway. The fact that some have got in there with or without permission is not a good reason to increase the number of inappropriate stones. And it seems to us that there is a risk that the number of such stones could dramatically increase so that they became the dominant style in at least some parts of churchyards. For these reasons we would not want to suggest that that is a good way to deal with this issue.

5 The role of the incumbent

5.1 One of the matters referred to in the 1954 Report was the key role of incumbents in relation to what happens when someone comes forward with a proposal for a monument. They noted that many “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”.

5.2 They thought then that the incumbent’s hand could be strengthened, firstly if chancellors 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, if incumbents invited 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.

5.3 What happened in practice was that those two proposals became merged, with chancellors drawing up regulations about what can be introduced without a faculty and the incumbent being able to admit without a faculty memorials which comply with those regulations.

5.4 But what has not happened is any lessening of the desire of incumbents not to cause inconvenience or disappointment to relatives by refusing requests. Nor has there been any lessening of the pressure from families on incumbents, particularly now when everyone believes in asserting what they regard as their rights, human or otherwise. Nor has there been any lessening of the pressure from memorial masons as to why a particular proposal really does comply with the regulations, or would certainly be “allowed in the parish down the road”.

5.5 What became crystal clear to us early on in our work was that the incumbent really does have to be in the position where they can say that they have no discretion to vary the regulations. They can either say that the proposal “ticks all the boxes” in the regulations, in which case it can be admitted without a faculty, or that it does not tick all the boxes in which case it must referred to the chancellor. It seemed to us that, although chancellors would then perhaps have different routes as to how they deal with those referrals, it would be likely that cases where the variation from complete compliance was minimal would be allowed without a faculty, and in other cases the chancellor would require that if this proposal was to be pursued it must be by a petition for a faculty. Those different routes may be that some chancellors would want to make all such decisions themselves, which is probably preferable, but others might delegate to the Registrar, the Registry Clerk, or the DAC secretary the authority to approve such applications. An example of such a case would be a memorial that was 450mm wide if the minimum limit in the regulations for not requiring a faculty was 460mm.

5.6 There will still be some areas where what might be regarded as discretion will remain. For example it is likely that in all dioceses there will be a requirement that an inscription shall not be inconsistent with Christian teaching. There will always be close calls where different ministers will take different views about the different ways people refer in epitaphs to the afterlife. However the position will be that, as with cases that do not quite comply in respect of size, the minister will be able to refer the matter to the chancellor without effectively refusing it, so that the decision can be made by the chancellor about whether the matter is such as to require a petition for a faculty if persisted with, or can be allowed in without a faculty.

5.7 Our hope and intention is to remove from incumbents as much pressure as possible, to enable them to be in a better position to fulfil their pastoral responsibilities at a time of grief for the family.

5.8 There are of course times when there is no incumbent available. That will occur in a vacancy, but may also occur as a result of long-term sickness or a sabbatical break. In those circumstances there needs to be clarity about who will exercise the incumbent's role. We were very clear that it should be not the churchwarden but must be someone who owes canonical obedience to the bishop. The obvious solution was the Rural or Area Dean, and we were encouraged to find that in many dioceses that is already the position and so we would commend the Rural or Area Dean as the alternative person. A further fallback might be the Archdeacon.

5.9 However we were told of at least one diocese where there is significant resistance to the Rural or Area Dean taking on that role, as a result of the number of current vacancies and all the other responsibilities that the Rural or Area Dean has taken on. We think that a sensible discussion informed by the actual number of burials in churchyards in the deanery in the course of a year should lessen the anxiety about taking on the role. However if it persists then it would be possible for the chancellor to make provision in their AMO for some other authorised person to deal with the matter. This might be a retired cleric or even a retired archdeacon, but it should be a named person.

6 Recent changes in law and practice

6.1 The next thing we did was to set out to discover what changes there have been in both the law and industrial practices in recent years. We had noted that some sets of regulations appeared to be little changed from when they were first drawn up in the second half of the last century, but others have been adapted, for example to refer to the British Standards that are applicable to monuments in churchyards, but even those had not always kept step with the latest changes in the secular regulatory framework.

6.2 We are very indebted to both NAMM and BRAMM for engaging with us and helping us with this part of our work, particularly about changes that have taken place in relation to the availability of some types of stone, and also about some of the difficulties their members have had in interpreting and applying the various sets of regulations. We hope that the one of the results of this work will be to lessen their issues with us in the future. We set out below some of those changes that have taken place.

6.3 **British Standards.** BS 8415 is the most relevant BS in relation to memorials in churchyards. It was first issued in 2005. It has been updated on several occasions and the latest version is that of 2018 – BS 8415:2018 *Memorials within burial grounds and memorial sites – Specification*. It relates to the "design and construction of memorials in burial grounds". It has much detail about how memorials should be designed and constructed and clearly has great bearing on our own regulations. Many of our sets of regulations do refer to it. Sometimes they also refer to the NAMM Code of Practice instead or as well. Both NAMM and BRAMM have issued guidance for their members about the design, construction and installation of monuments so that they comply with BS 8415. For NAMM it is their "*Code of Working Practice*", and for BRAMM it is "*The Blue Book*". Clearly in the future all sets of regulations should refer to monuments being designed and constructed in accordance with BS 8415. It is probably not necessary in these circumstances to refer to either or both of the professional handbooks.

6.4 On the other hand, sometimes a BS is not just updated, and a new year reference added to the original number, but it is withdrawn and replaced by one with a different number altogether. BS 6457 (Specification for reconstructed stone masonry units 1984) is an example of that. Some dioceses (Chester and Liverpool) permit the use of reconstituted or synthetic stone if it complies with BS 6457. It should however be noted that when that standard was withdrawn as long ago as 2011 it was replaced by *BS EN 771-5:2011 Specification for masonry units. Manufactured stone masonry units (+A1:2015*).

6.5 A much more significant change has been a **change in the ecclesiastical law** to which we have already referred. The introduction of Lists A and B as a means of increasing the number of matters that could be carried out in a church or churchyard without a faculty was introduced into the Faculty Jurisdiction Rules 2015 by the EJCCM. Those changes brought to an end the old diocesan lists of matters that could be done without a faculty (originally referred to as *de minimis* lists). It set out what could now be done without a faculty. It provided two routes for how some specified matters could be dealt with without a faculty (Lists A and B).

6.6 But by s.77(7)(k) it provided that "the introduction of a monument, or the carrying out of work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground" may not be carried out without a faculty. The power of chancellors by making Additional Matters Orders (AMOs) to direct what matters could be undertaken in their diocese without a faculty is provided for under s.78 but only if they could be made the subject of an order under s.77, by which as we have seen churchyard memorials are expressly excluded.

6.7 We were concerned about this in relation to any revision of diocesan regulations. Following discussions with the Church House Legal Office, a clause was inserted into the Church of England Miscellaneous Provisions Measure then going through its synodical process to correct that obvious oversight when the 2018 Measure was passed. A similar amendment has also been made to FJR Rule 3.5. As set out above (para 2.10) those amendments have now come into force.

6.8 **Stone availability.** In addition to these matters, we have been enquiring as to what changes have occurred in the quarrying and processing of stone before it reaches the memorial masons. There has since 1954 and even since 1993 been a significant decline in the number of local quarries that produce memorial quality stone. Much stone is now imported. The diocese of Carlisle, being aware of that, requires an assurance that imported stone has not been produced through the use of child labour. Chelmsford has also engaged with its local masons in relation to that matter. A number of people have also expressed concern about the carbon footprint created by the international transport of stone. We have been told that even quarries that still produce stone in this country in many instances do not produce stone of memorial quality, concentrating more on crushed stone for road working and the like. So there is a live issue about the use of significantly cheaper and more readily available imported stone as against locally or nationally quarried stone that some of our regulations require.

6.9 The Associations assure us that there has been significant work done so that wholesalers are able to assure their retail client memorial masons that the stone they import has not been produced by child labour (and indeed common sense would suggest that the heavy nature of the work in production and processing would make that very unlikely) nor by slave labour. Many of them say that they have visited their mines and factories abroad to satisfy themselves about that.

6.10 We have also been told that many of the descriptions of types of stone that are allowed or are not allowed in a diocese are not particularly accurate or helpful for those who work in the trade. We have again been helped in this regard by NAMM and BRAMM.

6.11 Another area of change has been in terms of the **prevailing culture and expectations**. The case of *Re Exhall, St Giles* and the fallout from that case have brought sharply into the light the need for a much greater cultural sensitivity in the drawing up of our regulations and in the way they are implemented. We will address some of the suggestions that have arisen following on from that case in the next section of this report.

6.12 But at a basic level although the underlying principle that memorial inscriptions must be factually accurate, not offensive and not inconsistent with Christian doctrine, very often our regulations have required a level of formality that is inconsistent with current cultural conventions. Many chancellors have in individual cases allowed more informal forms of address – eg grandpa, nan, "Bob" (rather than "Robert"), and even nicknames on occasions – whilst the regulations have continued to require a level of formality that incumbents have no ability to relax. We think that generally there needs to be a significant adaptation to today's cultural expectations, and for that to be expressed in any revised regulations.

7 *Re Exhall, St Giles* and the Mark Bratton review

7.1 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 the equipping of its officers and clergy to assist those applying for faculties, and providing information on its website about the processes involved. The ones we felt that we needed to address were recommendations 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16 and 20. We have set out those particular recommendations in full in Appendix D, along with our responses.

7.2 However, the first thing we noted about the review is that it focuses on faculty applications whereas of course the vast majority of churchyard memorials are introduced into churchyards without the need to apply for a faculty. We anticipate that when the reviews and revisions of regulations have been made there will be even fewer applications for faculties than now.

7.3 We also want to draw attention to the role of the memorial mason who is often the person in closest contact with members of the bereaved family as they seek permission for a memorial in a churchyard. The mason will be responsible for completing and submitting the application form, which will also require some sections to be completed and signed by a representative of the family. We hope that the masons will continue to guide the family through the initial stages as to what will be acceptable and can be approved by the incumbent without the need to apply for a faculty. Of course if the family are wanting to have a memorial that is outside the regulations, the mason will be able to explain to them what are the elements of what they want that may be controversial, and help them set out in the application form the reasons why what they want is important to them.

7.4 We note the frequent repetition of the word “clear” in the recommendations. A number of the recommendations focus on the need to make the processes in relation to the regulations and the process of obtaining permission for a memorial 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 legal processes or of the culture and practices of the Church of England. We take that point fully on board. One of the tasks that we have set ourselves is to produce a draft pamphlet or booklet that will be a template on which dioceses should model their own bespoke pamphlets to be given to all bereaved persons contemplating burial of the deceased in a churchyard. We know that many dioceses do already have such material, but we consider that they should go further than they often do, and deal with the details of what the process will be if you do need in due course to apply for a faculty.

7.5 There is also a proposal that there should be online material, both locally and nationally. Many dioceses already have pages on their websites that either explain the legalities, or provide a link to their Diocesan Registry website if that is where these matters are set out. There is also work in progress to establish a page on the Church of England national website explaining the work of the consistory court and the role of the Chancellor. That website is now available to view here.

7.6 It is certainly our intention that, following the reviews and revisions, whilst there will for good reasons be some minor differences between what is allowed in one diocese but not in another (eg different types and colour of stone reflecting the region – such as types of sandstone in the south west and the north east), there should be much greater commonality thereafter.

7.7 We are suggesting that each diocese should carry out a local consultation process in the review of their regulations and that there should be a recognition in that review of the potential for the need to address diversity issues. Certainly all reviews will have *in Re Exhall, St Giles* very clearly at the front of their minds.

7.8 There is of course a difference between the approval by an incumbent of a memorial that complies with diocesan regulations, without the need for any formal legal process, and what happens if what is requested is outside the limits of what can be so approved. If the incumbent cannot approve it, then a faculty will be required. The process by which a faculty is obtained is set down in the law, just as it is for obtaining planning permission from a local authority. As it is a legal process it is a national one and it is the same process in every diocese. However it is a straightforward process and we would anticipate that that process can and should be explained in ordinary language in the leaflet that each diocese will provide to bereaved families considering a churchyard burial. In the vast majority of cases they will not need to go on to read that section, but in the unlikely event that they do need to apply for a faculty, it should all be explained in that document that was provided to them at the outset.

7.9 Another recommendation is in relation to keeping people informed about the process. We are surprised that this has been a problem because in our experience, apart from the role of the memorial mason, it is the Registry Clerk who is the point of contact with the bereaved family and these clerks are very good at keeping the lines of communication open and the family informed.

7.10 Appeals from the refusal of a faculty are very rare. We are aware of the concern about costs, but there is a problem about this, because if there were no rules about costs then 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. We do consider that the circumstances of the *Exhall* case were highly unusual and we note that provision of financial assistance was made.

8 The way forward

8.1 **Begin the review.** In the light of all the foregoing we are proposing that each chancellor should commence a review of their own diocesan regulations immediately. They should not only engage with their DAC and Archdeacons but also with representative local funeral directors and memorial masons. They should also discuss with those who know the diocese well (perhaps one or more of the Registrar, Archdeacons and DAC Secretary) the extent to which they need to consult more widely in the local community so as to be aware of relevant diversity issues (see paragraph 7.7 above). Although there are significant differences between the regulations in different dioceses, they all embody an underlying approach to what is considered generally appropriate in a churchyard. This may be seen articulated in e.g. the *Churchyards Handbook* (2012). This approach commands wide support in the community. The Working Group does however recognise that it does not command universal support and, in particular, that potentially it can conflict with the different expectations embodied in the culture of particular communities. Historically Travelling Communities have been one such group in some dioceses, although sometimes isolated to just one or two particular parishes. The purpose of the consultation will be to enable the diocese and all communities to work together to find an appropriate way forward in relation to memorialisation within the diocesan regulations, which in any event will be kept under review as times and communities change. The outcome of the overall review will be a revision of the diocesan churchyard regulations and procedures and the production of an Additional Matters Order (AMO) saying what memorials may be allowed to be installed without the need for a faculty in that diocese.

8.2 "**Instrument of Delegation".** It follows from what we have said about changes in the law (see 6.5-7 above) that in the future the legal process by which an incumbent will be able to admit compliant memorials without the need for a faculty will not be through an instrument of delegation, but as a result of an AMO made under s.78 of the EJCCM. We have provided a template for such an Order. The template allows for a number of options where different dioceses may take different routes. As an example, some dioceses do not allow the interment of cremated remains other

than in an area set aside for cremated remains by faculty, whereas other dioceses allow cremated remains to be interred in odd corners and spaces in the general churchyard. We provide for both options, and dioceses will choose the one that fits their practice. Similarly, we understand that some dioceses allow open book memorials, although there are none listed in Table A4 in Appendix A, and many specifically do not (see Table A5), and AMOs will need to reflect that difference. Those optional choices are set within square brackets, and a chancellor will need to ensure that the relevant options are deleted from their AMO if they are not to be allowed in their diocese. Apart from such options that are provided for, we would go further than suggest it be used as a template, we would suggest that the basic template should only be varied for some compelling reason.

8.3 **Memorial regulations to stand alone.** As a result of the need to make an AMO, the "regulations" (ie the conditions upon which a compliant memorial will be able to admitted by the incumbent) will be Schedule 1 to the AMO and so will need to be separated out from all other regulations and/or guidance that many dioceses currently bundle together with their regulations about memorials. This may be an appropriate time also to review the wider material about churchyards and matters related to them that each diocese currently makes available and to decide in what way that material will be presented. It is important that that should be done simultaneously, because such matters as what objects can be left on a grave and for how long, and how items left in breach of those rules will be treated, are clearly important related matters and the rules about those (perhaps to be called "Churchyard Regulations") will also need to be made clear when these new "Churchyard Memorial Regulations" are published as the AMO and put into effect. The Recommended Template AMO and the Template Application Form assume that will be done, and require applicants to read these Churchyard Regulations.

8.4 It will of course be a matter for individual chancellors to decide what they wish to do about providing guidance about other matters of law such as exhumations and gravespace reservations in their particular diocese. But this would be a good opportunity to also address such matters.

8.5 **Application Form**. Chancellors will also need to produce an application form to be completed in all cases where it is sought to introduce a memorial into a churchyard, or to replace, or add to, or amend an inscription on an existing Churchyard memorial. The intention is that the detailed answers will provide all the information necessary for an incumbent to decide whether it "ticks all the boxes" and in cases where it does not, for the chancellor or their delegate to decide whether it is a near enough miss to be allowed in without the need of a petition for a faculty. Furthermore the intention is, that if any application is declined and thereafter a petition for a faculty is pursued, it is that application which will be treated as the petition under FJR Rule 20.6(2)(a)(iii). Again we have provided a template for such an application form and would commend it for widespread use. And again we can see no good reason to depart from this template. There will be a great advantage if there is a common form (or common in almost all its particulars) for national use as

it will ensure consistency of approach across dioceses, even though there may be minor variations in what the actual "regulations" are in the schedule to the AMO.

8.6 The form will also be used for applications in relation to the adding of additional inscriptions to an existing memorial. Also it will be used for applications to replace, repair, or alter a memorial. The repair will often also include the removal and subsequent re-erection of the memorial.

8.7 We hope that it will be possible for this to be an electronic form so that it can be completed online. Each person (applicant; mason; incumbent) will be able to pass it on to the next in the chain. Where appropriate it will be referred to the chancellor through the registry. We anticipate that in most cases the mason will assist the applicant to complete the applicant's section. We have been provided with a demonstration version of how this might work electronically. This will be circulated to chancellors. It may be that individual diocesan IT departments/experts will amend that as appropriate e.g. to add the diocesan logo or to make specific local variations. Further, the chair of the working group has particulars of a contractor who would be willing to undertake such work for a modest fee. Contact details can be made available on request. It would then be possible to make the application form available through the diocesan or registry website.

8.8 We sought the advice of NAMM and BRAMM, whose members' involvement in completing the form will clearly be critical, about this form as it was being drafted and they are broadly supportive of the final result.

8.9 We also understand the current Online Faculty System (OFS) is in the process of being revised and will encompass much more than it does currently. It is likely to include details of the work being done to digitise churchyard records. Those who are developing these additional matters are keen that in due course the new OFS will be used for churchyard memorial applications. We can see some positive advantages if that comes to pass; but, as will be appreciated, the timescale of any such development work is dependent on funding and the availability of that remains uncertain at this point in time.

8.10 **The process of application**. The procedure will be as described in Schedule 2 of the template AMO. The intention is that once the form has been completed (whether online or in hard copy) it will be delivered to the incumbent. If there is no incumbent (as set out at 5.8-9 above and see also 8.20-21 below) the AMO will spell out to whom it should then be referred. The incumbent then considers the application and if it complies with all the criteria in what will be Schedule 1 of the AMO (ie "ticks all the boxes") the incumbent may but does not have to give permission for the memorial to be admitted to the churchyard.

8.11 **Incumbent's discretion**. There will be cases where it does meet the diocesan requirements eg the AMO allows slate memorials, but there are no other slate memorials in the particular churchyard and so the incumbent is uncomfortable about allowing in one that does not "fit". Or it may be that the maximum size

headstone allowed is 1220 x 915 and there is an application for such a sized memorial, but all the existing memorials in that area of the churchyard are significantly smaller and the incumbent feels it would look out of place. There may be other reasons that the incumbent is uncomfortable about in relation to the particular application; they may know that for family reasons this memorial, or the proposed epitaph, would cause controversy or upset in the community. In these cases the incumbent would decline to authorise the proposal and the applicant would, if wanting to pursue the matter, say they wanted it to be referred to the chancellor as a petition for a faculty, and on payment of the statutory fee the matter would proceed in that way. However, the initial approach would be to the DAC Secretary in order to consult with the DAC "before starting proceedings" in accordance with FJR rule 4.1.(1) – and see paragraph 8.15 below.

8.12 "**Not quite compliant"**. There will also be cases where the proposal is a almost compliant but in or more respects is a departure from the requirements of Schedule 1 and so is not capable of being approved by the incumbent. An example would be that the thickness of the base was a couple of inches greater than the maximum permitted by the regulations. There would also be cases where the incumbent was unsure about whether an inscription was "not inconsistent with Christian doctrine", perhaps because of how it spoke of the afterlife. These cases could and normally would be referred to the chancellor by the incumbent (paragraph 5 of the draft AMO). The chancellor would be able to say that it could be permitted although the final decision, subject to there being a petition for a faculty, would still be the incumbent's. However we are firmly of the view that an incumbent should only refer these cases to the chancellor if they are memorials that they would be willing to admit if the chancellor said they were acceptable notwithstanding the limited degree of non-compliance

8.13 Finally the AMO will also enable the minister to seek the chancellor's interpretation about the matters in Schedule 1 where they have any doubts as to whether something proposed is what is described in Schedule 1 (paragraph 4 of the draft AMO).

8.14 In our view there should be no reason ever for a chancellor making such a ruling to publish it. Each case will be fact specific. There will be no interpretation or development of any underlying law or principle. It is the pure exercise of discretion in that case. There is no judgment and no possibility of appeal.

8.15 **DAC Consultation and Public Notice**. The template AMO (Schedule 2 paragraph (d)) makes provision that under FJR rule 20.6 the application form will stand as the petition when an application is made for a faculty. This is in square brackets in the draft AMO as it will be a matter for each chancellor to decide whether they want to provide for this in the AMO for all such cases, or to make such orders on a case by case basis. However it will be necessary for the petitioner to say that they do wish to apply for a faculty and to pay the necessary filing fee, in order to commence that process. We consider that it would be appropriate when an application has been refused and the applicant wants to pursue the matter by petitioning for a faculty

that they should be required to consult with the DAC before actually filing the petition and incurring the consequent costs, currently in excess of £500. This will enable discussions to take place and advice to be given which may cause an applicant to reflect on the significant cost and uncertain outcome of pursuing the matter by filing a petition. In relation to public notice we intend to seek an amendment to rule 6 to bring memorials into the rule 6.6 procedure that applies for exhumations and grave reservations, where the public notice is drafted by the registrar and sent to the incumbent for display and return. Until that has happened the petitioner will be responsible for following the more general public notice procedure.

8.16 **Timing of application.** We did consider whether it would be appropriate to say that no application should be made until 6 months after the date of the interment. In many cases the regulations currently say that no erection of a memorial can take place until 6 months after the interment. This is clearly sound practice to allow ground settlement. However we thought that a significant period is also helpful to enable an emotional settlement to take place. Families will then have passed through the immediate trauma of the death and burial and will have had chance to reflect on how they want to memorialise the deceased before coming forward with a proposal. However we have been persuaded that it is not appropriate to make that a part of the regulations, as a) the time could in fact be significantly greater as no mason will order materials or start work until they know that the proposed memorial has been approved, and that could add several more months until the time when the memorial will be in place, and b) there are many for whom closure of the initial stages of bereavement is greatly assisted by making arrangements for the memorialising of the deceased. Some dioceses, York being one, do currently have such a provision not allowing the approval of an application (other than the addition of a further inscription) until 6 months after the date of death. We see no reason why such a rule should not continue in those dioceses or others who may wish so to provide, if following consultation it seems appropriate to do so.

8.17 **Provision for temporary markers.** A number, but by no means most dioceses, do make some provision for marking a grave with a small wooden cross pending the installation of a permanent memorial. As this is a marker and not a memorial in the true sense it seems to us that it falls outside the provisions of sections 77 and 78 in any event and can be dealt with by giving directions about it in the other general rules and guidance about churchyard management and maintenance. It therefore does not form any part of the AMO, the Schedule, or the Application Form.

8.18 **Detailed regulations.** We turn now to the actual details of the regulations. Again we have provided a template for what such a set might look like: they form Schedule 1 to the AMO. We acknowledge that in the details of the regulations there is likely to be variation between dioceses, but again we would commend as much concurrence as possible across dioceses. That way there will be less misunderstanding and confusion on the part of bereaved families who may see something in one diocese and want it replicated in their own.

8.19 **Glossary.** We suggest that there should be a common use of terms – such as foundation, base, inscription plate, lawn memorial, monolith memorial and other items which we have included in Schedule 1, and that the same phrases are used to describe memorials and their constituent parts in all dioceses. Again, we commend the template we have provided in this regard.

8.20 We also define who is meant by **"the incumbent"** in the body of the AMO**.** Consistency here is vital. We take as our starting point s.88(7) of the EJCCM as to who the "minister" is when it comes to giving consent for someone who has no right of burial to be buried in a churchyard or parish burial ground:

> "In this section, "minister", in relation to a parish, means—
>
> (a) the incumbent of a benefice to which the parish belongs,
> (b) if the benefice is vacant, the minister acting as priest in charge of the parish or the curate licensed to the charge of the parish, or
> (c) if there is no minister or curate of that description, the rural dean of the deanery in which the parish is situated."

We continue to use the word "minister' in the AMO, and in paragraph 10 define the minister (as in s.88(7)) as the incumbent, and provide that in a vacancy the priest in charge or the curate licensed to the parish shall be treated as the minister and in the absence of any of them, the rural or area dean. In the case of any doubt, the matter will be able to be referred to the chancellor who will direct who shall be treated as the minister. We do, however, emphasise that the signature of the person giving consent must be that of the relevant member of the clergy, not a PCC secretary or a churchwarden.

8.21 We are aware that many problems in relation to memorials have arisen in vacancies, without there being anyone falling into one of those infilling categories, and therefore as set out above and also referred to in paras 5.8-9 above, we propose that in a vacancy this matter should go immediately to the rural/area dean. We have been told that in some dioceses there are currently so many vacancies that rural deans have said that they could not cope with this additional burden. We would hope that when the small number of cases which may come their way are pointed out to them that they may agree to accept the responsibility. However, if not, it would be possible for the chancellor to identify some other specific and identified "authorised person" to deal with these matters when required. So, each diocese will need to agree its own route for approval in the absence of an incumbent (whether it is to the rural/area dean or to an "authorised person"), and whether to have a further backstop in the archdeacon. That will all need to be spelled out in the diocesan AMO.

8.22 **Going metric.** As to measurements we suggest that these should all be metric. The principal reason for that is that BS 8415 uses metric measurements and that some of its different requirements (eg about dowelling) are dependent on those metric sizes. We understand that the industry on the whole currently uses imperial

measurements, but we believe that if from now on we work in metric sizes it will encourage everyone to adopt that basis. Currently some dioceses provide both metric and imperial measurements for maximum and minimum sizes, although not all who do so have ensured consistency. So to say the maximum height can be 1200mm / 4 ft is to say the least confusing. We were told that the trade basically works on the basis that 1 inch is equivalent to 25mm. In reality of course it is 25.4mm. So 1200mm, which is a differentiation point in BS8415, will in fact be exceeded by a 4’ memorial (=1219mm). It is perhaps worth noting as set out at 4.9 above we have been told that 70% of new memorials are 2’ 6” (762mm) or less in height.

8.23 We gave much thought as to how to deal with this issue. The one thing that was clear to us as lawyers was that we could not fudge the issue and simply say that 1 inch is equal to 25 mm. It seemed to us unrealistic to say that the maximum width of an inscription plate is 100mm if we know that the trade will expect to be able to introduce a plate that is in fact thicker than that, even though only marginally so. There were various options. (1) Should we go for round figure metric numbers which would often be slightly below the imperial equivalent eg 100mm is only 3.94”, but is generally treated as the equivalent of 4”? Or (2) should we go the other way and go for the metric round numbers above the equivalent figure for imperial measurements ie should we say that 4” is 105 mm? Or (3) should we go for the nearest equivalent to the imperial measurements the trade now generally works in ie 4” would be 102mm? Or (4) should we go for round figure metric numbers, generally below the imperial trade equivalent but state that a tolerance of x% will be allowed? In the end we decided to opt for (2) – a metric round number above the commonly used imperial measurement. The options we worked with are set out in Appendix E.

8.24 **Maximum dimensions.** All **heights** of memorials in BS 8415 are measured from the ground and **include the base**. We therefore commend adopting that approach in measuring the maximum height of a memorial that can be admitted without a faculty We understand that the height is traditionally measured from the centre of the back of the memorial (see Sched 1 paragraph 1.14). We propose that 1220mm should be the maximum height permitted without a faculty. As explained above traditionally most dioceses have set 4’ as the maximum height, and/or have used 1200mm in their regulations. We understand that there are very few memorials that approach that height. We are told that in some 95% of local authority cemeteries the maximum permitted height is 3’6”, and that consequently 4’ is not a standard size for memorial masons. However it seemed to us that we should continue to allow memorials to be admitted without a faculty if they are of that height, and that to accommodate the imperial trade tradition honestly, that height should be said to be 1220mm.

8.25 As for the maximum width of an inscription plate we propose that should be 915mm (3’). Newsom had 900mm or 3’ and most dioceses adopted that in their regulations. However to accommodate the true imperial ‘equivalent’ of 3’ we will say 915mm. In relation to the thickness of the inscription plate, we understand that

most are 3 or 4 inches thick. We therefore recommend a maximum thickness of 105mm. If the memorial was approaching maximum height and there was a desire for a slightly thicker stone we are confident that that could be dealt with under the process described at paragraph 8.12 above.

8.26 There is one other thing to note before moving on from this issue. We are aware that above 1200mm there is different provision for dowelling in BS8415. However it seemed to us that that is a matter for the trade and that if they are talking about a 4’ memorial to a client, then it may well be that they will only install one that is 1200mm high in order to accommodate compliance with BS8415. Or if they do install one that is above 1220mm high they will make the necessary adjustment in the dowelling.

8.27 **Minimum Height.** We did consider whether it was necessary to have a minimum height. We were in the end persuaded that the real risk of tripping hazards meant that a minimum height was advisable. Newsom recommended 750mm. We note that currently some dioceses say 750mm, some 600mm, and some 500mm. We also note that as an outlier Canterbury says 900mm. Some make special provision in relation to memorials for children specifying a lower minimum height than they would otherwise allow. Given what we are told about the average height of churchyard memorials (many being below 750mm) we would suggest that the minimum height should be 450mm. That would clearly be for upright memorials. Any diocese considering allowing open books, or other forms of memorial such as wedge or desk memorials will need to make suitable allowance in its regulations for the minimum heights of those. We also think that deals to a large extent with the issue of memorials for children, which was one of the matters leading to our being asked to do this work (see 1.3 above).

8.28 Minimum width and thickness. We recommend that the minimum width of the inscription plate should be 500mm. This follows Newsom and most dioceses’ current regulations. The minimum thickness of the inscription plate is determined by BS8415 and is set so as to accommodate the appropriate dowelling. For hard limestone, marble, slate and granite, if the overall height of the memorial is less than 625mm then a 50mm thick inscription plate would be permitted. Otherwise, and that includes most “limestone and other soft stones” the minimum thickness is 75mm (3”), and for memorials above 900mm it is 100mm. We are advised that the standard width is 3” or 4”, and that the trade are very comfortable with that remaining the case for all stone memorials. Traditionally we have allowed thinner slate memorials but that is no longer possible as BS8415 requires a minimum thickness of 75mm to accommodate the dowelling requirements to fix the plate to the base if the memorial is above 625mm in height. Above 1200mm the thickness for hard stones is 100mm and for soft stones it "requires special consideration”. There is an exception for slate monolith memorials for which no dowelling is required and they can be as thin as 50mm, for which we have made provision.

8.29 **Materials.** We would suggest that there are certain types of memorial that in the past have been capable of being admitted without a faculty – those made from

particular materials and of particular shapes – which should now always be the subject of a petition for faculty. Some materials such as wooden "headstones", and some shapes in stone such as crosses are now quite rare and/or have particular features requiring careful consideration. So we suggest that all proposals for materials other than lawn or monolith memorials in stone and wooden cross shaped memorials should be the subject of faculty petitions. Horizontal ledger stone memorials are now uncommon in most dioceses. Vase shaped memorials should also be excluded. However it will be possible for a diocese that has frequent applications and is experienced in dealing with any of these other types of memorial to decide to continue to provide for them to be admitted without a faculty provided they can identify clear parameters for exactly what sort of memorial of that type will be so admitted. That will need to be spelled out clearly in Schedule 1 Part 2 of their diocesan AMO.

8.30 **Bases and foundations**. The fixing of memorials is basically what *BS 8415:2018 Memorials within burial grounds and memorial sites – Specification* is about. It ought not therefore to be necessary to say anything other than that "Any new memorial is erected so as to comply with the details specified in British Standard BS 8415:2018, or any similar standard that may replace BS 8415:2018, so far as relevant". The words "as relevant" cater amongst other things for the fact that Wooden Cross memorials are not subject to BS8415. We say more about wooden cross memorial at paragraph 8.67-68. The British Standard deals with everything to do with the foundation. There are over two pages of instructions in BS 8415 covering everything from soil types, reinforcement, drainage and how much ground is required for it at the head of the grave. There are also requirements that any memorial over 625mm in height must be able to withstand a horizontal load of 70kg applied at the apex or 1.5m from the ground whichever is the lower and further requirements when ground anchorage is used. Finally detailed provision about dowelling, again depending on the height of the monument as set out above, completes the picture in relation to fixing.

8.31 The minimum size for a f**oundation** in BS 8415 is 900 x 450 x 75. Bigger can obviously be better, but it was suggested to us that there is no need to say anything other than it should conform to BS 8415 which sets the minimum size. As to whether something larger is installed that will depend on what there is space for in that particular location and that can safely be left to the judgement of the erecting mason. We do however consider it wise to insist that the scale drawing on the application form includes the foundation with its dimensions.

8.32 Most foundations are in pre-cast concrete, although poured concrete is also possible, and some would say provides more stability, but both are acceptable. And we would advise against saying anything about that.

8.33 There is an issue about the phrase "flush with the ground", which means the foundation is likely to be exposed at least in part. The alternative is that the foundation is "in the ground" or "below ground level" ie covered by soil and grass. The mason will be able to do whatever is required by the regulations. The issue is

really a tension between how it looks and how it works. The "look" is about having grass up to the edge of the base. The "work" is to do with how level the ground is and the need perhaps therefore for a thicker base which will be partly in the ground.

8.34 In relation to **bases,** the advice we have received is that historically, by following Newsom, we have overcomplicated things by over specifying the detail about bases. In reality base sizes are dictated by the size of the memorial inscription plate. Historically, and following Newsom, our regulations have specified the distance by which a base can project beyond the inscription plate and the foundation beyond the base. However there seems to be neither rhyme nor reason behind the many varied ways different dioceses have used that system to limit base sizes. We are advised that no memorial mason works in that way, although their standard sizes do work with those measurements.

8.35 Obviously, the minimum size of the base is determined by the size of the inscription plate affixed to it. We are advised that the most common heights for memorials (including the base) are 27", 30" and 32" high with respective widths of inscription plates of 21" (for the 27" height) and 24" (for those of 30" and 32" height). The smaller one would be fixed to a base 24" wide and the larger ones to a base 30" wide. The bases are usually 3" or 4" thick, usually but not always mirroring the respective thicknesses of the plate itself. The depth of the bases (ie the distance from front to back) is usually 12".

8.36 We have been encouraged to make generous provision, knowing that cost will often be a key factor in keeping sizes to the minimum that will work, and if the incumbent feels that the particular dimensions in the scale drawing on the application look out of proportion it can always be referred to the chancellor.

8.37 It would therefore seem to us that the simplest way forward is to fix a maximum size for a base, conscious that most bases are bought together with the inscription plate from a catalogue and the base will therefore be of a suitably proportionate size.

8.38 We are proposing that the maximum width for a base is 915mm (3') and the maximum depth (front to back) is 460mm (18") and the maximum thickness is 155mm (6"), In fact most of the bases will be smaller than that – only 310mm (12") deep and 80mm (3") or 105mm (4") thick

8.39 **Flower receptacles**. The 12" depth will allow for an integral vase. We are told that about 95% of memorials in dioceses where they are allowed make such provision. Although we note that quite a number of dioceses currently do not allow such provision. That works well with a 12" deep base, as there is usually 1" behind the plate, a 3" or 4" thick plate and the standard vase size is a 4" hole with a 6" lid. So 7" in front of the plate is quite sufficient room for that. Whether to allow integral vases or free standing vases (some dioceses allow one or two vases standing alongside the inscription plate) will be a matter for each chancellor to decide.

8.40 Finally in relation to bases and the issue of flower receptacles, we noted that the NAMM representative sensed that quite a number of dioceses do not allow integral receptacles for reasons to do with general untidiness and mess as a result of what collects in the hole, and also the moisture and damage to the base from freezing water. Also his own view was that they were out of place in older sections of churchyards. Each diocese will need to come to a decision after consulting extensively as to what to do about integral receptacles. However that decision should not in our view affect the general rule about maximum sizes of bases.

8.41 **Vases memorials**. We understand that the old fashioned sloping vase memorials are no longer in fashion and so we feel it is safe to say that they should not be included in the AMO that provides for what can be admitted without a faculty.

8.42 Types of stone, including colour/shade. Again we emphasise that there is a difference between matters where there is no real room for differences between dioceses and other matters that chancellors should clearly have some discretion over for their own diocese and which will result in differences from other dioceses. So compliance with BS 8415 should be non-negotiable, along with whatever flows from BS 8415 eg in relation to significant heights, whereas what is local such as particular types and colours of stone may vary from place to place. There are for example different colours of local sandstone in the south west and the north east. Each diocese will need to set out, having regard to local custom and also availability, what types of naturally quarried stone should be allowed. Apparently slate is not technically a stone. BS8415 defines “natural stone” as “naturally occurring material consisting the crust of the earth” and separately defines slate as “rock derived from argillaceous sediments or volcanic ash by metamorphism, characterized by cleavage planes independent of original stratification” .

8.43 We would propose positively allowing sandstone, limestone, granite, and slate. We are aware that there is an issue about marble, with white marble traditionally not being allowed and other coloured marble being allowed in some dioceses but not in others. Also some dioceses have different rules allowing some colours of granite and not others. We were interested to note on consulting BRAMM and NAMM about this that they both emphasised the need to preserve the natural ambience of the churchyard, taking the colour of the church and the surrounding memorials as the best guide, and that generally pearl blue granite and red granite are therefore not appropriate. We however appreciate that chancellors will need to be more prescriptive than that. We also sensed no desire on their part for us to allow marble headstones. We would suggest that this should be at the heart of the local consultation in each diocese and that chancellors should ascertain from local masons what are the commonest stones used locally and do their best to meet that local custom and need.

8.44 We would caution against saying much about colour in relation to types of stone. Clearly to speak of black granite or white marble is meaningful. But we are told that quite a number of the shades of colour in current regulations bear little meaning

other than being one particular wholesaler's name for a particular product. We suggest that if you are to condescend into this sort of detail you should seek advice quite widely across the diocese so that everyone will understand clearly what is being meant.

8.45 "Finish" of stone. Almost all dioceses bar polished finishes to the stone face. Many cemeteries contain black polished granite stones. People seeing these are often attracted to them as they stand out, and so quite a number have crept into our churchyards. There have been a number of cases where a new incumbent becoming aware of the diocesan regulations has recognised that a number of recently erected monuments do not comply with the rules and has adopted a policy of conforming to the rules. We have discussed this at some length at 4.27 – 4.38 above. We propose that the AMO Schedule will say that the "in the case of a headstone, the principal surface of the inscription plate is not polished or reflective)"

8.46 **Commonwealth War Graves.** As we mentioned in paragraph 2.5 we have been in communication with the Commonwealth War Graves Commission (CWGC). The CWCG is responsible for many memorials commemorating members of the Commonwealth who gave their lives in the first and second world wars, a number of which are in English churchyards. It should be noted that the dates applied by the CWGC extend beyond the dates when the two wars ceased. They apply these dates: in relation World War I – 4th August 1914 to 31st August 1921; and in relation to World War II – 3rd September 1939 to 31st December 1947. The Commission believe that 44% of Church of England churchyards contain at least one such war grave, and that there is no diocese without them. Most people will be familiar with their traditional memorials which is known as a "Commission Headstone" and is usually made from Nabresina limestone and 30 x 15 x 3 inches in dimension. There is a standard form to the inscriptions on them, so that there will be a record of the branch of service or regiment, number, rank, name and date of death and any decorations of the deceased. The age or date of birth will be recorded if the CWGC had satisfactory proof of the deceased's age. There will also be a personal inscription consisting of a maximum of four lines of text with up to 25 character/spaces per line. The CWGC has guidance about what may and may not be said in that personal inscription, which to date has not caused any issues we are aware of. They have also indicated that they would be very content to include in relation to memorials to be erected in churchyards a requirement that the epitaph would be consistent with Christian belief and that they would not include texts from other religions. A template for such a memorial is below.

Headstone Guidance – V 1.4 January 2019

Commonwealth War Graves Commission

Marker Types

The following pages (pg.2-14) show the details of the types shown on pg.1, along with recumbent and flat markers.

Type 1	Commission headstone

125456 PRIVATE
F ANDREWS. MM.
THE QUEEN'S ROYAL REGIMENT
4TH OCTOBER 1942 AGE 25
SPACE FOR PERSONAL INSCRIPTION

Description

Stone marker

Height above ground

813 mm (see Note)

Width

381 mm (see Note)

Thickness

76 mm (see Note)

Standard inscription

Badge

Religious emblem (where desired)

Service particulars of the casualty in serif text

Personal inscription

Maximum four lines

Maximum of 25 letters and spaces on each line

Note

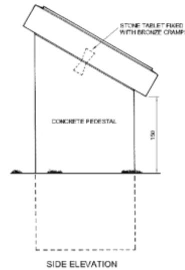
On Page 16 there is a table which shows the different marker shapes

8.47 Of course the vast majority of CWGC memorials are already in place. Although most of the CWGC activity in recent years in our churchyards has been the erection of signs at the churchyard to indicate that there are CWGC memorials therein, occasionally they will be looking to erect a new memorial, where it is identified that there is someone interred there who falls within their parameters and for whom there is no existing memorial, and perhaps more frequently they will want to replace a memorial that is in need of such replacement.

8.48 On those occasions the Commission has encountered problems with the differences between our sets of regulations within which they have to work, and also some of the more common standard requirements. Their standard headstone is 381mm wide (15") which fails to meet most requirements for minimum width and so often requires a faculty application. Making provision for such memorials to be admitted without a faculty would seem to be a proper way forward.

8.49 However there is another feature of their work which does require consideration and comment. In addition to the standard upright memorial, they also have what they describe as a Commission Gallipoli Style Marker. This consists of a stone tablet mounted on a concrete pedestal. Again we have copied below a template for such a memorial.

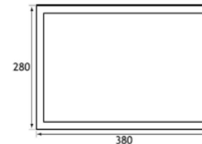
COMMONWEALTH
WAR GRAVES



Standard war pattern Commission Gallipoli Style Marker
The memorial consists of stone tablet mounted on a concrete pedestal.

The personal inscription is chosen by the relatives and must not exceed three lines, with a maximum of 28 letters and spaces in each line.

Tablet height **280 mm**
Tablet width **380 mm**
Tablet thickness **50 mm**



8.50 The Commission have explained to us that they would seek to instal such a Marker where a private family memorial becomes illegible and the war casualty is not sufficiently commemorated by name. In those circumstances they do not remove the private family memorial, (unless directed to by the Church) respecting the family's wishes at the time of death, but install the Marker in addition on the grave.

8.51 Such a tablet will contain an inscription in like manner to the standard headstone, but with only 3 lines of text of 28 character/space length. What is more controversial is the occasions when such Markers are considered for erection. This includes situations where there is already a memorial, but one which may be broken, or considered to be not sufficiently adequate in relation to commemoration. In these circumstances their practice would be to introduce the Marker in addition to the broken monument which would remain in place. This raises a number of issues which it seems to us need to be looked at.

8.52 First the nature of the Marker which is different from all the other headstones. For many people the unusual nature of this Marker will be in contrast to all the other memorials in the churchyard and that as such it would be an unhelpful precedent when we are seeking to conserve the traditional character of the churchyard with consistently styled memorials.

8.53 Second the failure to deal with the broken or inadequate headstone, leaving it in place, offends against the practice of having only one memorial per grave space. It is also unfortunate that the opportunity is not always taken to deal with the broken or damaged headstone in one way or another.

8.54 Bearing all these matters in mind it seems to us that it would be appropriate to provide that a standard CWGC headstone should be able to be introduced under the AMO, notwithstanding that in some particulars it might not tick all the boxes, whether as an original or a replacement memorial. We have provided for that in paragraph 1.4(c) of Schedule 1. A Gallipoli Marker can however be more controversial. But we are anxious not to cause unnecessary expense to a public body. We therefore propose that if they are considering the introduction of a Gallipoli Marker into a churchyard, they should discuss the matter with the family (where possible) and with the minister, identifying what the issues are around the introduction of such a memorial. The minister would then approach the chancellor under paragraph 4 of the AMO as to whether in all the circumstances the Gallipoli Marker can be introduced without a faculty, or whether the various issues around that memorial mean that it should be required to be subject a faculty petition so that all the issues of the appropriateness of its shape and style and what is to be done with the remaining elements of any earlier headstone can be considered and dealt with.

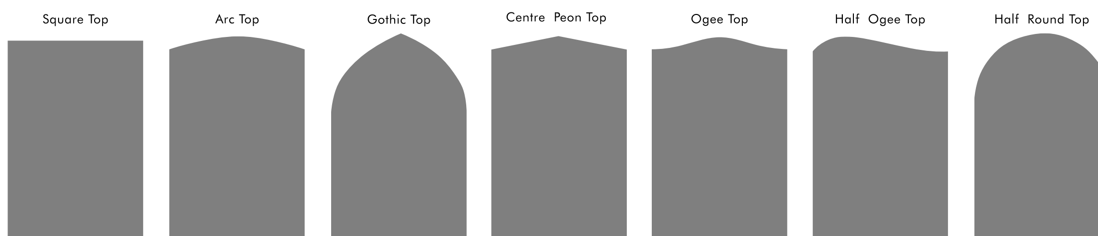
8.55 There is one other issue in relation to CWGC memorials. Sometimes through their research work they become aware of burial locations of those who died in either war of which they were not previously aware. In those cases they will check to see if the casualty is commemorated by a family memorial and if not would seek to instal one of their memorials. Sometimes however not only is there no memorial but it is uncertain where in the graveyard the body is buried. In such cases they would wish to mark the war graves in the closest location to where they believe the war grave to be, which may be in the churchyard but against a wall for example, so that the headstone is not inadvertently placed on another unmarked grave. So that this is all made clear to the public, the headstone would be marked with a superscription along the lines of “buried near this spot” or “buried in this churchyard”. Their experience is of different requirements in different diocese in relation to this type of memorial. In some they are always asked to obtain faculty, but not in others.

8.56 In the case of *in re Bagworth Holy Rood*[2019]ECC Lei 6 Blackett-Ord Ch allowed the introduction of such a memorial with the superscription “buried elsewhere in this Churchyard”. We believe that the CWGC will only seek such a memorial when they are sure that the deceased is buried somewhere in the relevant churchyard and we can see no objection to such a memorial being erected, without the need for a faculty. If there was any issue about where the memorial should be placed, the matter could be referred to the chancellor for directions.

8.57 **Shape of memorial**. Currently there is a clear demarcation between what no one allows (except by faculty) such as kerbs, railings, chippings, free standing containers, statues, bird baths, photographs, and what some dioceses have decided to exclude (apart from by faculty) such as hearts, harps and teddy bears, and in some but not all cases open books. Some would allow hearts or teddy bears in a specific section for children, but this is on a diocese by diocese basis and possibly even only in specific churchyards. Again we would want to allow the continuation of diocesan

variations. However it will be necessary to make clear what is not allowed and also in the accompanying "Handbook for the bereaved" to explain why some shapes are not appropriate in a churchyard.

8.58 Our intention is to provide on the application form some diagrams of commonly used and acceptable shapes. We believe that the description of the commonly allowed shapes are: square top, arc top, gothic top, top, centre peon top, ogee top, half ogee top and half round top. There are of course slight variations to each of these, so that most shapes can also include what are referred to as shoulders or checks. These could be dealt with on the basis described above in paragraph 8.12. A possible set of allowable shapes is shown below.



8.59 **Inscriptions**. Issues about inscriptions are the common experience of most chancellors. The classic description about their purpose is that they "honour the dead, comfort the living and inform posterity". But how formal must they be? Can we accommodate to a less formal culture by relaxing the common prohibition on shortened names? Would Tony Blair have to be referred to as Anthony Blair? Can Gran and Auntie be allowed? Our sense, and we believe it was supported in the chancellors' discussion in May was that there can be a significant relaxation in this area. We think it is now sufficient to say that the inscription should be "factually accurate, not offensive, and not inconsistent with Christian doctrine". We also thought that this is an area where any incumbent who had doubts about the proposed inscription would not admit it themselves but refer it to the chancellor under the process described in paragraph 8.12 above.

8.60 There are other issues about inscriptions. **Images** is one. Images depicting the life and interests of the deceased should be acceptable provided that they did not occupy more than 20% of the surface of the inscription plate and that they were not in colour, although some of us were more relaxed about the issue of colour, particularly if it was one colour only. We are assuming that all dioceses will want to continue the prohibition of QR codes and other similar electronic or digital connections.

8.61 Insignia (regiments and even football clubs) need careful thought as they often require the consent of the body they represent. It seems to us that this is something that is difficult to put into the regulations, but could be dealt with in the "Handbook for the bereaved".

8.62 As to colours of inscribed lettering, practices vary very widely and often current diocesan regulations are in conflict with each other about this. Many of our current

sets of regulations say that any inscription must be incised or in relief. Incision is generally understood as meaning cut by a machine, rather than by hand. Hand cutting (which is less common than it used to be) works well with sandstone, limestone and slate, whereas grit blasting is better for granite. We have used the word “incised” in Schedule 1, and in the glossary have said that that includes cutting by hand or by machine.

8.63 We would expect a continuation of the allowing of a memorial mason’s details to be inscribed on the side or reverse of the memorial, but consider it appropriate to say “in letters no higher that 15mm”, rather than Newsom’s 13mm.

8.64 NAMM and BRAMM encourage a conservative use of colour. They suggest that blue, green, yellow and red are inappropriate in churchyards. It is said that black, white, and grey all work well, but the key is that they should be in harmony with what is in that particular churchyard. Currently gold is not allowed in some dioceses and we are asked why not? We propose saying nothing about specific colours but to say that the colour used must not be discordant (ie stick out like a sore thumb) from the colours of other inscriptions in the churchyard.

8.65 Clearly any additional inscription must match the one that is already there.

8.66 **Generally forbidden items**. We would expect everyone to continue their prohibition of kerbs, railings, chippings, statues, trees, shrubs and the like.

8.67 **Wooden Cross memorials**. We are advised that although it is not current common practice to erect permanent wooden cross memorials, as opposed to temporary grave markers pending the erection of a permanent stone memorial, it does happen in some places. Consequently provision needs to be made. We suggest that the height above ground is set at between 750mm and 1200mm, and the width of the cross arms at between 500mm and 815mm. We are also advised that there is a need to ensure that the wooden memorial is protected against early degradation of its underground section, which should be at least one third of the overall length of the upright.

8.68 There is also an issue about the inscription on such a memorial. We considered that the attaching of a brass plaque with the name and other details of the deceased was problematic as it can easily fall off. We therefore decided that it should be a requirement that any inscription is incised into the wood. We are conscious that that will add to the expense of the memorial but considered it a necessary requirement.

8.69 **Cremated remains generally**. See 4.16 above.

8.70 “**Flow Chart”**. We have produced at Appendix F what we loosely describe as a flow chart which we hope will show clearly how a matter might progress. It has seven “levels” or streams. We begin at level one with the applicant, no doubt much assisted by the memorial mason completing the application form and signing it. We

hope that this will usually be done by accessing a document on a diocesan or registry website and completing it online. Memorial masons will know how to access the relevant form. It is then submitted to the minister.

8.71 That takes us to level two where the minister checks the application to see whether it is compliant with Schedule 1. If it is, and the minister has no issues of concern, then the minister signs the form and returns it to the applicant and mason, who can the proceed to order and in due course introduce the memorial into the churchyard.

8.71 Level three deals with the possibility that although the application is compliant with Schedule 1, the minister is not happy with the proposal. That may be because in their judgement it will look out of place in that particular churchyard, or they are aware of local issues as to why the proposed memorial would be controversial and so again they are unhappy about its introduction. In that case the minister would complete the section on the form saying why they are not willing to authorise the introduction of the memorial and return it, indicating that if the applicant wishes to pursue the proposal they can do so by petitioning for a faculty and noting that how to do so is described in detail in the Handbook for the bereaved, which they should have been supplied with when initially saying they wanted a churchyard burial. At that point the applicant has to decide whether to go down the petition route or whether to rethink and amend their application to one that would be acceptable.

8.72 On considering the application form, the minister may think that it almost but not quite complies with Schedule 1. It might not be compliant because the shape is not exactly as shown among the acceptable shapes but has "shoulders". Or it might be that one of its measurements is just outside the maximum or minimum sizes allowed. In that case we are on level four and the minister would then, provided and only provided that they would be content to have the memorial in the churchyard, submit the application to the registry for onward transmission to the chancellor under paragraph 5 of the AMO, and the chancellor would be able to say that it was near enough and they were content for it to be treated as if it were compliant and the minister can then authorise its introduction. Equally the minister may be anxious as to whether or not the inscription is "not inconsistent with Christian doctrine" and under paragraph 4 of the AMO seek the chancellor's guidance about that.

8.73 The chancellor's consideration of those matters is level five on the chart. If the chancellor is content to authorise it, then they so and return the form to the minister who completes it as at level two. If the chancellor is not content again they say that and the minister informs the applicant, again explaining the option of petitioning for a faculty.

8.73 If on considering the application it is apparent that it does not comply with Schedule 1 and is not one where paragraph 5 of the AMO could be used, and there would be no purpose in seeking the chancellor's views about anything under paragraph 4 of the AMO, the minister must return the form explaining the respects

in which it is not compliant and saying that a petition for a faculty can be submitted if the applicant wishes to pursue that particular proposal. Again they will indicate that details of the faculty process are in the Handbook for the bereaved. That is level six on the flow chart.

8.74 Level seven is a summary of the faculty process. That will involve seeking DAC advice, initially from the DAC Secretary, and if it is to be pursued after those initial conversations, obtaining the pre filing advice of the DAC as per FJR rule 4.1.(1)(a). At the present time public notice will be the petitioner's responsibility, but we would expect that the DAC Secretary and /or the registry would be able to give assistance in relation to that. It is hoped that in due course rule 6 will be amended to enable the registry to deal with public notice in the same way that they do for grave reservations and exhumations, by sending the notice to the incumbent for them to display it and return it at the end of the period of notice. The petitioner would then need to pay the statutory filing fees and the matter would proceed in accordance with the FJR.

8.75 **Timescales**. It had initially been thought that we might be able to set a 28 day period as one within which we would expect that the minister would have provided their response to the applicant. If the 28 days had elapsed with no response we considered whether the AMO might provide some route for bringing the matter to a quick conclusion. However on reflection it seemed to us that there might be many reasons why the matter could not be concluded within 28 days. Also we had some difficulty in identifying what that other route might be. So in the end we make no such provision, but we suggest that the Handbook for the Bereaved could spell out that if after 28 days there has been no response it would not be unreasonable for the applicant to contact the minister and ask when they might expect to have a reply and in the absence of any satisfactory response to suggest that they could always contact the archdeacon or the diocesan registrar who might be able to ascertain what if any was the reason for the delay, and hopefully assist in bringing matters so far as the incumbent is concerned to a conclusion.