

D PROPERTY OWNERSHIP ISSUES 1 Burial Grounds

1 The PLATO entry states, that URC Burial grounds are the responsibility of the local church in the same way as any other land or property owned by them. Several very important factors are identified, namely, burial records, charges, legal access to burial grounds, health and safety, closure, burial grounds which contain war graves, disused burial grounds and the sale of. Further information is available from the Legal & Trust Officer at the Synod office.

Closure of a graveyard (SYN)

2 If there have been no interments in a church burial ground for 10 years and the church is not aware of any persons having any legal rights or understanding which the church would wish to honour for future burials, it is strongly recommended the burial ground should be formally closed. This 'starts the clock running' and it is therefore possible to state with certainty in the future there have been no burials since the date specified for the closure.

3 The elders' meeting constitutes the managing trustees for the church buildings and land and a decision to close the burial ground should be taken by a resolution of the elders' meeting, or (if preferred) by a Resolution of the church meeting on the advice of the elders' meeting. Please contact the Trust Officer for assistance regarding the wording of the necessary resolution.

4 The decision to close the graveyard must be publicised. Certified copies of the Resolutions must be placed on the external notice board and advertised in a local newspaper on at least two occasions in successive weeks.

5 A copy of the Resolution should also be sent to the personal representatives or any known relatives of any deceased persons buried in the burial ground.

6 Once the graveyard has been formally closed no further interments can take place. A church however, must continue to take proper care of the burial ground and of the tombstones, headstones and monuments therein, and allow relatives and friends of the deceased persons to visit the graves.

7 You must however display a Notice at each entrance to a closed burial ground under the control of the church. The purpose of this Notice is to warn visitors to exercise proper care to avoid accidents and injury and to make it clear that those coming onto the burial ground do so at their own risk. The Trust Secretary can assist as regards the wording of the Notice. In the case of a closed burial ground within the curtilage of a listed building, you should also seek the advice of the LBAC Secretary before erecting the notice.

Removal of human remains

8 Occasionally human remains have to be removed from a burial ground, but this is only possible in extreme circumstances. A recent example has been where the foundations of a church required underpinning and to do this, it was necessary to remove remains which, although buried outside the church, had been placed very close to the main wall. Without their removal and re-interment elsewhere in the burial ground the necessary underpinning could not have been carried out.

9 Before removing human remains you must obtain a special licence from the Department of Constitutional Affairs. This also involves giving notice at the church, in the press and also (where known) to personal representatives or

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relatives of the deceased persons whose remains are to be removed. The Department of Constitutional Affairs will set out its precise requirements when the application is made, and must be involved from the very outset. A copy of the Notice needs to be served on the Commonwealth War Graves Commission; the address is given below under (iii).

10 As this procedure is only likely to be invoked rarely, it has not been thought necessary to go in to further detail in these guidance notes. However, if such a situation should arise in your church, please consult the Trust Officer immediately for assistance.

Tombstones, headstones and monuments and rendering of graves inaccessible

11 It is sometimes necessary or desirable (i) to lower or remove headstones or monuments or (ii) to remove tombstones or (iii) to carry out work at the burial ground which would render certain graves inaccessible. If your church wishes to take any of these steps, please consult the Trust Officer beforehand as to the procedure.

12 The elders' meeting or (if preferred) the church meeting on the advice of the elders' meeting must pass a Resolution to which there should be annexed a Notice setting out the precise work which it is intended to carry out. Precedent forms of the Resolution and Notice are available but again it is stressed these are for general guidance only and the Trust Officer should be consulted before they are actually used in any individual case.

13 Once the Resolution has been passed the following steps have to be taken to publicise the proposals:

- I. a certified copy of the Notice needs to be displayed on the outside church notice board;
- II. the Notice needs to be published in a local newspaper on at least two occasions in successive weeks;
- III. a copy of the Notice needs to be served on the Commonwealth War Graves Commission whose address is 2 Marlow Road, Maidenhead, Berks SL6 7DX. Even though the church may not be aware of any war graves, it is advisable to serve the CWGC to enable them to check their records;
- IV. it is recommended that a period of at least three months should elapse between the publicising and the service of the Notice as indicated and the carrying out of the works, unless the situation is one of emergency (eg headstones in a dangerous condition).

14 Any responses which are received as a result of this publicity must be given due weight and it is recommended that, should any such be received, advice be sought from the Trust Officer. In the event that after 3 months no response has been received or all responses have been satisfactorily dealt with, the work may proceed.

15 When any such work is contemplated it is advisable to inform the District Council and seek its guidance. It would not normally be necessary to obtain District Council consent unless work on the building is involved.

Upkeep of plans and records

16 Experience has shown how important it is for the local church to keep accurate up to date plans and records of the position of all graves and

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monuments in its burial ground, and indeed the whole of the church land, since it sometimes happens that burials have taken place very close to and even possibly underneath the church building itself.

17 It is strongly recommended that churches with burial grounds should appoint a burial ground archivist from the congregation to maintain these records. The archivist should supplement the information from the congregation itself by contacting local and county records offices and libraries since vital information in the form of old records and plans etc, is often held there.

18 In future, should any church with a burial ground request the Trust to dispose of any part of its premises or land, the Trust will insist that all information available from these sources has been obtained and passed over to it.

Practical steps to be taken

- appoint a responsible person to oversee the graveyard and to report regularly;
- ensure the graveyard and particularly any paths in it, are kept clear of debris and the surfaces are level and free of obstacles;
- ensure all walls and trees are safe and stable and unlikely to cause accidents;
- exhibit conspicuous notices, warning visitors to take care and that they enter the graveyard at their own risk (although this itself will not automatically absolve the graveyard authority from any and every legal responsibility);
- keep track as far as is possible of the families of those buried in the graveyard, as they will continue to 'own' any gravestones/ headstones/memorials etc on the individual graves and be responsible for them;
- have a system of regular inspections for ensuring that all of these (and particularly headstones) are and remain in a stable condition;
- if any are found to be unstable and/or dangerous, contact the families immediately and as a matter of urgency reach a consensus as to what steps are to be taken;
- if families cannot be traced or, when contacted refuse to co-operate in agreeing the remedial work to be carried out, be prepared to take unilateral action if the risk of danger is sufficiently pressing (if such an impasse is reached, the authority having charge of the graveyard would no doubt wish to take appropriate advice);
- report any notifiable incident under RIDDOR to the Incident Contact Centre;
- contact the Church's insurers to arrange a meeting on the site and act on their advice;
- make it clear to members and families of persons buried in the graveyard that the ownership of tombstones is vested, not in the Trust which has title to the land, but in the person who set it up and his or her descendants. Therefore the families have a clear legal responsibility to ensure the gravestones remain in a safe condition. This may well focus their minds on the need for safety measures to be taken;
- if advice is received that the gravestones represent an immediate danger, it may be necessary to place notices on the site and in the press drawing

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attention to this fact and forbidding access to persons whilst the work is carried out of making the gravestones safe.