

## D14 FUNERALS, BURIALS AND CREMATION

### Legal Considerations

Every parishioner has the right of burial of their body in the burial place of their own parish; that is the parish where they reside or where their name is on the church electoral roll at the time of their death. (See Canon B38)

Any one whose death takes place within the area of a parish is entitled to be buried in that parish as a parishioner; e.g. the victim of an air crash or motor accident who may have entered the parish only a few minutes before their death occurred. In addition the personal representatives of a person so dying are also entitled to remove the body to the parish of residence and request its burial there.

No one else may be buried in the churchyard except with the consent of the PCC and churchwardens and also of the parish priest, unless a grave space has been reserved by faculty (see below). If the parish priest declines to allow the burial of a person who has no right of burial, the decision cannot be called into question in the Consistory Court.

A person who has a right of burial in a churchyard or other burial ground has a right of burial therein of their cremated remains.

The parish priest must say the burial service in its entirety over every parishioner when requested. A priest is entitled to due notice of the funeral. Parishioners may be buried in the churchyard without any religious service or with such Christian and orderly religious service as the person responsible for the burial may think fit. Where someone has committed suicide then a special service should be used.

The selection of a particular grave is a matter which is within the discretion of the parish priest but the priest cannot give any person exclusive rights in it. This can only be done by faculty. Anyone wishing to reserve a space by faculty should contact the Diocesan Registrar for the appropriate application forms. Parishioners have no right to be buried in any particular spot (unless a space has been reserved by faculty) nor do they have any right of ownership in the grave.

The responsibility for digging a grave is upon the executors or other persons responsible for the funeral arrangements. The parish priest's duty is merely to indicate the place at which the grave is to be dug and its depth.

Canon B38 makes specific provision for burial in unconsecrated ground by requiring that the officiating minister on coming to the grave shall first bless it.

Before an ordinary Church of England burial takes place in a churchyard the parish priest of the parish must be satisfied that a certificate for disposal of the body has been issued by the Registrar of Births and Deaths or a corresponding order made by the coroner.

A parish priest is obliged to take the funeral service of a person who died in a parish within their benefice, or who was resident, or on the Church Electoral Roll there at the time of their death and can be required to conduct the funeral service at a cemetery or crematorium outside their benefice. Deacons, readers, evangelists and other persons admitted under the Canons as lay workers may be authorised by the diocesan bishop to

read the Church of England service and bury the dead. (Canon E4.2A, E7.5c)

A faculty is required for the exhumation of human remains for re-burial. The removal of remains from one consecrated place to another whether or not in the same churchyard or cemetery does not require a licence from the Home Office under section 25 of the Burial Act 1857. Anyone wishing to apply for a faculty should obtain advice from the Diocesan Registrar as to the circumstances in which exhumation is likely to be permitted.

When a churchyard becomes full the Registrar can advise on the procedure for its formal closure and for handing over responsibility for its maintenance to the local authority.

### **Funeral Arrangements**

Within the Church of England parish priests have a legal obligation to take or arrange for the funeral service of their parishioners, i.e. those who lived in their parishes. This is not merely a legal question it is also the practical working out of the pastoral implications of the "Cure of Souls" which the parish priest has. It is customary within this diocese for the parish priest to take responsibility for the disposal of the remains of a parishioner. Nevertheless, for a number of reasons funerals may not always be taken by the relevant parish priest. Officiants are sometimes retired clergy, non-stipendiary clergy and or other parish priests. However, those organising funerals are asked to uphold the continued pastoral ministry to all parishioners with which local clergy are charged.

### **During a vacancy in the parish**

Pastoral care in these circumstances is the responsibility of the sequestrators, normally the churchwardens and the rural dean. They should be consulted about funeral arrangements.

### **When the local parish priest is unobtainable, perhaps on holiday**

When away for a prolonged period, e.g. on holiday, parish priests should inform funeral directors whom they should contact. In exceptional circumstances, if the funeral director has no alternative but to arrange a service at short notice but is unable to contact the parish priest, then the parish priest must be informed at the earliest opportunity in order to enable subsequent pastoral care to be arranged.

### **Occasionally a family may request a specific minister due to family links**

A parish priest should be told of this request and may decide that it is appropriate to agree to the request. Alternatively, it may need to be sensitively explained that circumstances have changed and the particular minister is not available. When the request is for a retired minister to return to their former parish, this should be handled particularly sensitively, and the present parish priest must be fully consulted.