

Closed Churchyards Protocol

Background

Section 215 of the Local Government Act 1972, a Parochial Church Council (PCC) can require the local authority, upon three months notice, to assume responsibility for the maintenance of a closed churchyard, or specific parts of a churchyard which are deemed to be closed. A churchyard is closed if one of the following conditions is met:

- The churchyard is full
- The continuing use of the churchyard for burials may constitute either a risk to public health or be contrary to decency
- The discontinuance of burials may prevent or mitigate nuisance

If an incumbent and Parochial Church Council (PCC) wish a churchyard to be closed, an Order in Council under the Burial Act 1853 (Section 1) has to be sought from the Home Office.

Initially the obligation for a closed churchyard would then be passed to the Parish or Town Council, who may decide to accept the obligation or decline. In the instance of a parish or Town council declining to maintain the churchyard, the obligation is then passed to Telford & Wrekin Council. (Whilst the legal requirement is a three month notice period it is customary to give informal notice 12 months prior to the application for an order being made to enable local authorities to make adequate budgetary provision.)

Section 215 of the Local Government Act 1972 also requires that where 'a churchyard has been closed by an Order in Council the parochial church council shall maintain it by keeping it in decent order and its wall and fences in good repair.' This obligation is also placed on to parish or district councils.

Purpose

This document clarifies the approach that Lilleshall Parish Council will take to the maintenance of St Michaels and All Angles churchyards in Lilleshall, Shropshire. Any churchyards where the maintenance responsibility is transferred to Lilleshall Parish Council will be maintained at this minimum standard unless additional funding to cover any enhancements to this level of service is provided by the PCC or other body to cover the additional costs incurred.

Churchyards which are to be transferred to the Parish Council must be in good order & repair and have been maintained to the satisfaction of the Parish Council at the point of transfer.

Any unforeseen emergency maintenance or repairs such as those caused by acts of god or vandalism will be addressed by the Parish Council as additional works.

Any management plan will be designed to meet the council's commitment to biodiversity. The biodiversity of a closed churchyard will actively be encouraged by utilising the knowledge and expertise of the Trees and Woodlands and Environmental Locality Teams at Telford & Wrekin Council to ensure that where practicable, adopted churchyards are managed in a successful environment that both continues to serve a sensitive vision to churchyard visitors and helps tackle the immediate impacts on the climate and nature recovery programs in place.

Any deviation from the maintenance schedule below will be at the discretion of the Parish Council.

Area of maintenance		Standard
1	Grass cutting	Grass cutting will be carried out on the basis of 16 cuts per annum. Where there is a specific reason to reduce the number of cuts per year such as where areas set aside for the growth of wildflowers to encourage biodiversity, this will be incorporated into the maintenance schedule.
2	Hedgerows	Hedgerows will be clipped annually unless there is a legitimate need to undertake further maintenance such as the intrusion of the hedgerow onto a footpath or highway which introduces an unacceptable risk on public safety.
3	Trees	Only emergency tree work to take place during the nesting season. Trees will be maintained to a minimum standard to prevent further decay through disease and/or personal injury to the general public.
4	Boundary maintenance	Boundary walls and fences will only undergo repair and maintenance where it is perceived by an appointed officer of the parish council that failing to do so may cause a significant risk to public safety or failing to do so will result in a disproportionately higher cost being incurred at a later stage.
5	Headstones and monuments	Memorial Safety tests will be carried out as part of a five year rolling programme of memorial testing. Any found to be dangerous will be cordoned off, secured or laid down depending on the severity and nature of the damage. All memorial testing will be carried out by competent persons in accordance with recognised national guidance from the Ministry of Justice.
6	Pathways, roads and hardstanding's	Pathways and other hard standings will be maintained and repaired only where there is determined by the Parish Council to be a risk to personal safety. Paths and walkways will undergo 2 glyphosate sprays per annum.
7	Buildings and other structures	Buildings and other structures will not typically be transferred as part of the closure of a churchyard. The responsibility of maintaining church buildings and structures shall remain the responsibility of the PPC or Diocese.

Review and management of protocols

The ongoing management of this protocol and maintenance schedule shall be the responsibility of the Clerk of the parish council. Any requirements for works outside of the general scheme of works shall be secured and instructed by the Clerk, following consultation with the full council.

The review of this protocol shall take place no more than every five years and the review of any contracts in place to meet the requirements of the maintenance schedule shall be set by the conditions as set out in the appropriate contracts in place.

This protocol was adopted by Lilleshall Parish Council at its meeting held on 1st February 2022.