

DIOCESE OF BRISTOL

CHANCELLOR'S GUIDANCE TO ALL PCCs IN THE DIOCESE PURSUANT TO SECTION 6 (3) OF THE CARE OF CHURCHES AND ECCLESIASTICAL JURISDICTION MEASURE 1991

TREES IN CHURCHYARDS

1 GENERAL

- 1.1 Every PCC has the responsibility for properly looking after the trees within its churchyard. The responsibility covers planting of trees as well as every aspect of maintenance (including lopping, topping and felling).
- 1.2 The PCC's responsibility for trees applies when a churchyard is open. Where a churchyard has been closed by Order in Council and responsibility for its maintenance has been passed over to a local authority a PCC does not retain any statutory powers or responsibilities in respect of any trees in the churchyard. However the incumbent retains ownership of the timber. The proceeds of sale of the timber can only be used for maintenance of the church or churchyard. In practice most of the proceeds are absorbed by the cost of felling. (See the Opinions of the Legal Advisory Commission of General Synod paragraph 12 on page 236).
- 1.3 Trees are a traditional feature of churchyards and are to be valued for their aesthetic and environmental advantages. Some (such as ancient yews) are of historic interest, and others of considerable rarity. However, trees are also living organisms which grow, flourish, decay and die.
- 1.4 Some modern uses of churchyards can inadvertently cause damage to established trees: for example, a parking area close to trees can damage roots near the surface, as can spillage from a fuel heating tank. Conversely, ill-advised tree planting can give rise to damage from roots spreading under the wall of the church, a churchyard path, or tombstones, or through drains or through a nearby highway.
- 1.5 This Guidance has been prepared after consultation with the Diocesan Advisory Committee and all PCCs should follow it in carrying out their responsibilities in relation to trees.

2 EXPERT ADVICE

- 2.1 Every PCC should seek and follow expert advice as to the planting, felling, lopping and topping of trees in churchyards. The PCC may also be well advised to appoint one of its members as a trees officer.
- 2.2 Many local authorities employ an Arboricultural Officer, who should be able to give advice as to the safety of a tree in a churchyard and to the type of maintenance work required.
- 2.3 Alternatively, advice can be obtained from an experienced Arboricultural Consultant with special experience in the management and assessment of trees, and able to give advice on what work should be undertaken.
- 2.4 A report from an Arboricultural Consultant would be evidence that a PCC has acted in a prudent manner, as is expected generally by the law and by insurance companies.
- 2.5 An Arboricultural Contractor is more often known as a tree surgeon. He will undertake work to a specification prepared by a Consultant or on the basis of his own recommendations.
- 2.6 An Arboricultural Contractor may have the experience to give adequate recommendations about tree safety, but if major work is needed an Arboricultural Consultant should be engaged. Work should never be entrusted to volunteers.
- 2.7 A directory of Consultants and Contractors is maintained by the Arboricultural Association (at Ampfield House, Ampfield, Romsey SO51 9PA (tel: 01794 368717). Listing within the directory is an assurance that the consultant or contractor has been examined and found to have satisfied a number of standards such as technical knowledge and provision of insurance cover.
- 2.8 In any case of difficulty guidance should always be sought from the Diocesan Advisory Committee.

3 INSPECTION

- 3.1 The need for a full and regular inspection of trees increases with their age. It is recommended that every churchyard (open or closed) with any trees more than 10 years old should be inspected within 12 months from the issue of this Guidance, if this has not been done within the last 5 years. The inspection should be carried out by one of the experts mentioned above. The inspecting person should be asked to categorise any work recommended in order of priority, so that it can be undertaken as funds permit.

- 3.2 Thereafter, good practice requires that regular inspections of all mature trees in the churchyard should take place every five years at the time of the quinquennial inspection under the Inspection of Churches Measure, with a tree report annexed to the quinquennial report. This is, in fact, obligatory in the case of a tree which is subject to a Tree Preservation Order (Care of Churches and Ecclesiastical Jurisdiction Measure 1991, Schedule 3 para 3). Any concern expressed by the inspecting architect or surveyor should be referred to an arboricultural expert (as identified in Section 2 above).
- 3.3 Any specification of work, other than emergency work (which may be authorised by the Archdeacon of the Archdeaconry concerned), is to be sent to the Diocesan Advisory Committee for its advice and comments before work is undertaken. The Archdeacon should notify the DAC of any works authorised by him.

4 PLANTING

- 4.1 Trees in churchyards tend to be mature or over-mature and therefore it may be necessary to plan, in the long term, for their replacement.
- 4.2 Before planting any trees the PCC should consult an expert (as identified in Section 2 above) as to the suitability of any proposed species for the churchyard in question and as to the appropriate location. Allowance can then be made for the effect, above and below ground, of roots, branches and leaves.
- 4.3 The PCC must also obtain the consent of the Archdeacon.
- 4.4 It may also be necessary to consult other statutory bodies (eg. for highways or rivers).
- 4.5 Where a major scheme of planting is proposed, the PCC must follow the faculty procedure and, if appropriate, obtain the consent of the local planning authority (see Section 7).

5 FELLING

- 5.1 Where the PCC is advised by an expert (as identified in Section 2 above) that a tree or trees should be felled because of disease or for safety reasons relating either to buildings or people, a copy of the written report must be supplied to the Archdeacon of the Archdeaconry in question, who may authorise the felling. A photograph of the churchyard with the tree or trees concerned should be taken and retained, together with the expert's advice, with the parish records.

- 5.2 If the PCC wishes to fell a tree which is sound but is occupying space in the churchyard required for some other use, then the PCC must follow the faculty procedure and, if appropriate, obtain the consent of the local planning authority (see Section 7).

6 LOPPING AND TOPPING

- 6.1 All trees are capable of shedding deadwood and can consequently be dangerous to persons using the churchyard. Beech, ash and sycamore are particularly prone to this.
- 6.2 Standard remedial work such as the removal of split and hanging limbs and major deadwood (more than 50 mm in diameter) may be carried out as advised by an Arboricultural Contractor (tree surgeon) and approved by the Diocesan Advisory Committee.
- 6.3 Other works of tree surgery (for example, cable bracing, crown reduction and removal of major limbs) must be recommended in a written report by an expert (as identified in Section 2 above). The report must be submitted to the Diocesan Advisory Committee for advice. If the work proposed is of a major nature, a faculty will be required.

7 IS A FACULTY NECESSARY?

- 7.1 Where a faculty is necessary (see sections 4.5, 5.2 and 6.3 above) the normal faculty procedure must be followed (see the leaflet *Applications for Faculties*) but using the special form for work to trees instead of the standard faculty petition form. The completed form should be forwarded both to the DAC (which will need to advise on the details) and to the Registry. Copies of the form can be obtained from the Registry (the address and 'phone number are at the end of this leaflet).

8 TOWN AND COUNTRY PLANNING ACT 1990

- 8.1 Where any tree is subject to a Tree Preservation Order (Section 198 of the Town and Country Planning Act 1990) or is in a Conservation Area, restrictions are imposed by the Act upon cutting down, topping, lopping, or other work (see Sections 198 and 211).
- 8.2 In such a case the consent of the local planning authority, as well as any other authorisation mentioned above, will have to be obtained before anything is done.

- 8.3 These restrictions do not apply where the tree is dying, dead, or has become a nuisance (see Section 198 [6] [a]). Small trees below a minimum trunk diameter are also exempt.

9 SALE OF TIMBER

- 9.1 Where a tree in a churchyard is felled, topped or lopped, the PCC may sell the timber or dispose of it in some other way. The PCC should apply the proceeds to the maintenance of any church or churchyard which it is liable to maintain (see Section 6 (2) of the 1991 Measure).

10 FURTHER INFORMATION

Please contact:-

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