



LEICESTER DIOCESAN REGISTRY

Boundary House, 91 Charterhouse Street, London EC1M 6HR

020 7796 1007 registry@stoneking.co.uk

Guidance note on exhumation

Christian burial assumes that the interment of the dead is permanent. The remains of the dead buried in consecrated ground are under the protection of the Chancellor of the Diocese.

Requests for exhumation of a body or cremated remains are not that common. It might be that, regrettably, someone has made an error about the place of burial but there may be other reasons for making such a request. Under normal circumstances, exhumation can only be authorised by the Chancellor, by the grant of a faculty for that purpose. A faculty is not granted automatically and only after the consideration of the reasons in each case.

Anyone considering applying for a faculty for exhumation will need to think carefully about the seriousness of what is being requested. The general legal principle is that buried remains should remain undisturbed, and be protected by the legal effects of consecration, unless there are exceptional reasons for exhumation.

Faculties for exhumation have been granted in the past where substantial reasons were proved e.g. the widening of a roadway into part of a Churchyard. More recently, faculties have been granted in some individual cases for pastoral reasons but these were decided very much on their own particular facts.

The principles that the Chancellor must apply when considering whether to grant or refuse a faculty for exhumation were considered by the Court of Arches (the ecclesiastical Court of Appeal) in the case of *Re Blagdon Cemetery* [2002] and this remains the leading case on the subject:

“... it is for the petitioner to satisfy the Chancellor that there are special circumstances in their case that justifies the making of an exception from the norm that Christian burial, that is burial of a body or cremated remains in a consecrated churchyard or consecrated part of a local authority cemetery, is final. It will be then for the Chancellor to decide whether the petitioner has so satisfied him/her.”

The case made it clear that exhumation “*for sentiment, convenience, or to ‘hang on’ to the remains of life*”, would be contrary to the Christian intention of the finality of burial.

In the next pages of this note, we shall set out the process for applying for a faculty for exhumation.

As an Officer of the Court, the Registrar cannot advise on the merits of your application or what to say in it. As a result, you may wish to obtain independent legal advice from a solicitor experienced in ecclesiastical law and the Registry can assist with recommending solicitors who have such experience - please contact registry@stoneking.co.uk

The process

If you decide to go ahead with your application, we hope the following will give you an idea of what is involved.

1. You will need to request an application form from registry@stoneking.co.uk.

To complete the form, you will need:

- details of the burial and how the remains are contained e.g. coffin, casket;
- a plan showing the location of burial plot;
- reasons for the exhumation, in particular whether any errors occurred in the placement of the body/cremated remains;
- details of the proposed re-burial, in particular:
 - the proposed location, preferably with a plan; and
 - whether the area is consecrated;
- written consent from the minster and parochial church council/burial authority both of where the remains are buried and where it is proposed to re-inter them;
- a family tree;
- written consent of the family members of the deceased to the exhumation;
- if it involves a coffin burial – written confirmation:
 - from the local authority that there is no public health concern; and
 - from the undertakers that the exhumation and re-burial will be carried out with due care and decency and with such sanitary precautions as are prescribed by the Government Medical Health Officer

2. You must sign and date the completed application form petition and send it with all the relevant supporting documentation to us at the Registry. It can be sent by post to:

Leicester Diocesan Registry, c/o Stone King, Boundary House, 91 Charterhouse Street, London EC1M 6HR

or by email to:

registry@stoneking.co.uk

3. A fee, currently £342.60, is payable on submission of the form to the Registry. Cheques should be made payable to “Stone King LLP”. The payment can be made electronically if you wish – email registry@stoneking.co.uk for more details.

Please note that this fee is not “payment” for the faculty. It is the statutory legal fee for the services of the Chancellor and the Registry, whether or not the faculty is granted.

4. Once the Petition and payment of the statutory fee has been received at the Registry, we will send it and the supporting documents to the judge of the Consistory Court, the Chancellor, who will review the papers and then set out a way forward. This could be via a request for further information (known as ‘directions’) or simply through a determination of the application.
5. When the Chancellor considers the petition, she may direct that before she determines it a public notice is issued, to be exhibited (in the case of a churchyard) on notice boards outside and inside the church. In this event:
 - a. if you are not a close relative or personal representative of the deceased, you must supply the name and address of at least one member of the family of the deceased to whom notice will be sent;
 - b. there is a standard form notice to be displayed for 28 days (not including the day it is put up and taken down);

- c. a certificate of publication (usually on the reverse of the notice) then needs to be completed after the end of the 28-day period and sent to us at the Registry with a copy of the notice.

The purpose of the notice period is to allow any interested parties an opportunity to object to the petition, so that the Chancellor has a wide idea of the general feeling towards the exhumation. If any objections are received, there is a statutory process which we can advise you of. There may be extra costs involved.

6. The Chancellor will consider your petition in the light of the supporting documents that you have provided and any objections received during the notice period. She will let the Registry know of her decision.
7. Once we have the Chancellor's decision, we shall communicate it to you and the church.
8. If the faculty has been granted, we shall send you a sealed copy in the post, receipt of which we shall ask you to acknowledge. A copy will be sent to the church/burial authority for its records.
9. The faculty may be granted subject to conditions, which must be adhered to. Usually these would be in relation to the remains being reinterred reverently by a suitably qualified undertaker and in the presence of a clerk in Holy Orders.
10. Alternatively, the Chancellor may issue a judgment. Her judgment will set out the reasons for her decision, which may be to refuse the petition or to set out conditions upon which the faculty may be granted.
11. Following grant of the faculty, you will need to liaise with the churches/burial authorities and the undertakers with regard to the exhumation.
12. Please give a copy of the faculty to the undertakers and the church/burial authority where the remains will be re-buried, so that they know what has been permitted and the relevant conditions.

If you have any queries, please do not hesitate to contact us:

registry@stoneking.co.uk

Lee Coley Diocesan Registrar

Frances Reynolds Registry Assistant

Davinia Davey Apprentice Solicitor

Leicester Diocesan Registry

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