

EXHUMATION

All human remains interred in consecrated ground are regarded as being under the particular care of the Consistory Court of the Diocese and that any disturbance of such remains is regarded as a most serious matter. The Consistory Court will, therefore, need to be convinced that there are substantial and overriding grounds for permitting any exhumation.

You may find it helpful to be aware of the principles which the Chancellor of the Diocese (the Judge of the Consistory Court) will apply when considering a Petition of this nature. Those principles are now set out in Judgment delivered in the Arches Court of Canterbury and these are set out below:

1. Once a body or ashes have been interred in consecrated ground, whether in a Churchyard or in a consecrated section of a municipal cemetery, there is a presumption that there should be no disturbance of the remains, save in exceptional circumstances.

2. Where a mistake has been made in effecting the burial, for example a burial in the wrong grave, the Court is likely to find that a good reason exists, especially when the Petition is presented promptly after the discovery of the facts.

3. In other cases it will not normally be sufficient to show a change of mind on the part of the relatives of the deceased, or that the spouse or another close relative of the deceased has subsequently been buried elsewhere. Remains are not to be regarded as portable and some other circumstance must usually be shown.

4. Any personal medical reasons relied on by the applicant would have to be very powerful indeed to justify an exception being made to the norm of permanence. For example, serious psychiatric or psychological problems were medical evidence demonstrates a link between that medical condition and the question of location of the grave of a person to whom the applicant had a special attachment.

5. The passage of time, especially when this runs into a number of years, may make it less likely that a Faculty will be granted.

6. No distinction is to be drawn between a body and cremated remains, except insofar as the processes of decay may affect a coffin more than a casket containing ashes and may also affect the sensibilities of a congregation or neighbours.

7. It is immaterial whether or not a Home Office Licence has already been obtained.

8. The burden of proof in a petition for exhumation is on the applicant and there must be clear and convincing evidence to justify an exception from the norm.

Please contact the Diocesan Registrar to discuss your request and obtain the relevant documents telephone 020 75930353 or email Chelmsfordregistry@wslaw.co.uk