

Consistory Court of the Diocese of Salisbury

Guidance notes on exhumation

These notes are written as Guidance to those making enquiries about the possibility of exhuming remains from consecrated ground. No distinction is drawn between a body and cremated remains. The jurisdiction of the Consistory Court extends not only to churchyards but also to consecrated ground in local authority cemeteries. The decision to allow an exhumation from consecrated ground falls to the Chancellor of the Diocese.

There is a presumption of permanence of Christian burial. That presumption flows from the theological understanding that burial (or the interment of cremated remains) is to be seen as the act of committing the mortal remains of the departed into the hands of God, as represented by the Church, in the hope of future resurrection.

It is always exceptional for exhumation to be allowed and the Chancellor of the Diocese through the Consistory Court must determine in each case whether there are special circumstances in any particular case justifying the exceptional step of allowing an exhumation. The Chancellor is obliged to take into account the principles laid down in certain previous court cases.

There are a number of matters which have been identified as being capable of helping to show special circumstances. Those include where a mistake at the time of interment was made. The fact that relatives of a deceased person have subsequently changed their mind about the best location for the remains would not be sufficient to establish exceptional circumstances. The advancing years, failing health, or relocation of family members is also not sufficient to justify exhumation. Only very powerful medical reasons such as serious psychiatric problems linked to the location of the grave are likely to be enough to show special reasons. The creation of a family grave can help to show special circumstances, but may not be sufficient by itself, especially if the interment of family members can be achieved at the site of the current interment.

In order to consider a case for exhumation the Chancellor must be sure that all family members are aware of the proposals and ideally are all in agreement. Therefore, the written consent of all close relatives (spouses, partners, parents, siblings, and children) will be expected with each application. The Chancellor will wish to see written consent from the Minister (or other authority) responsible for the burial grounds from which the remains are to be exhumed and into which they are to be reinterred.

The process of decay does affect remains, coffins and caskets interred in the ground and the passage of time, especially when it runs into a number of years, may make the granting of permission less likely.

Other circumstances may be relevant to a particular application but it is for each individual petitioner to satisfy the court in each case that there are special circumstances which justify the making of an exception to the norm that Christian burial is final. It will be for the Chancellor to decide whether the petitioner has satisfied her in each case. There is a non-refundable fee for an application; to be sent to the Diocesan Registry with the petition and supporting papers. (From 1 January 2018 the fee is £293.80 incl VAT, payable to 'Batt Broadbent'.)

Please contact the Diocesan Registry on salisburyregistry@battbroadbent.co.uk or (01722) 432390 should you have any queries regarding the process or should you wish to receive the necessary forms to enable a petition to be submitted to the court.