

TO THE CONSISTORY COURT OF THE DIOCESE OF DERBY

PARISH OF: _____

CHURCHYARD/CEMETERY: _____

PETITION FOR FACULTY FOR EXHUMATION
AND REINTERMENT OF BODY OR CREMATED REMAINS

To the Chancellor of the Diocese of Derby.

I/WE (*Petitioner(s) to enter full name(s), address(es) and relationship to deceased*)

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hereby petition for the grant of a Faculty to authorise the exhumation and re-interment of the (cremated) remains of the person(s) named below. (*Delete as appropriate*)
(*Note Petitioners should normally be the deceased's next of kin or personal representative*).

1. Full names of the deceased, age, date of interment and cause of death.

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2. Present place of interment (*Give full details, including section, row, plot no. etc and whether consecrated*).

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3. Proposed place of re-interment (*Give full details, as above and whether consecrated*).

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4. Names of close members of the deceased's family and relationships. Have they given their approval? *(Please attach correspondence).*

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5. Has the Incumbent, or other person in charge of the Churchyard/Cemetery where the deceased is currently interred given his/her consent? *(Please attach written consent).*

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6. Has the Incumbent or other person in charge of the Churchyard/Cemetery where the re-interment will take place, given his/her consent? *(Please attach written correspondence).*

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7. Has a report been obtained from the undertakers that carried out the original interment that removal is possible? *(This should include details as to the type of coffin/casket used, and the likely condition of it now. Please attach correspondence).*

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8. Name and address of the undertakers who will be carrying out the exhumation and re-interment.

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9. Have any other interments taken place in the grave since the burial of the deceased? If so, state whom and whether their next of kin have been approached and their consent obtained.

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10. Has any person an exclusive right of burial in the grave? If so, state the names of such person and whether their consent has been obtained.

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11. Will any existing monument or memorial be affected? If so, how?

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12. What are the reasons for the application? (*Please give as much detail as possible, if necessary continue on a separate sheet*).

The statements in this Petition and the answers to the questions above are true to the knowledge and belief of each one of us.

Signature of Petitioner(s)

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Date

NOTES

1. If a Faculty for exhumation and removal of human remains is to be granted, the Petitioner must satisfy the Consistory Court that there are good and sufficient reasons for interfering with them. They are protected in consecrated ground from disturbance. The burden of proof is upon the Petitioner. If you are in any doubt, you should consult solicitors referring them to: **Re: Christchurch Alsager [1999] Fam.142** and **Re Blagdon Cemetery [2002] Fam 299**. Although any person is at liberty to apply to the Consistory Court, it is unlikely that a Faculty will be granted solely on the grounds that a person has moved, or is to move, away from the area in which the remains of a relative have been interred and that they desire the remains to be transported to a burial site nearer to the new place of residence. For your assistance I attach an extract from the Judgment setting out the principles applied in Consistory Courts.
2. The following documents must be forwarded with this Petition to the Diocesan Registry:
 1. **Certificate of Burial.**
 2. **Consent in writing of _____ Incumbent of Parish.**
 3. **Consent in writing of _____ Cemetery Authority.**
 4. **Consent in writing of the Owners of the land where the remains are to be re-interred.**
 5. **Undertaking by the Undertakers (see below).**
 6. **A Probate of Will or Letters of Administration (if relevant).**
3. Petitioners should obtain and enclose a plan of the Churchyard or Cemetery, showing the church building (if appropriate), any residential dwellings within close proximity, and the situation of the grave or area set aside for cremated remains from which the removal is to take place.
4. The Undertakers must give an undertaking to carry out the exhumation and re-interment in a reverent manner and to comply with any instructions which may be given by the Local Environmental Health Officer.
5. The Faculty, if granted, will be subject to the following conditions:
 1. That the removal be effected with due care and attention to decency, early in the morning and the grave screened from the view of the public.
 2. The area of exhumation be disinfected.
 3. That all human remains and pieces of the original coffin, when removed, be placed in a new coffin or casket.
 4. That the remains are re-interred forthwith in the new grave.
 5. That due notification of the time of the proposed exhumation be given to the Local Environmental Health Officer and any instructions given by them or their representative, either before or at the time of such exhumation, must be carefully carried out in addition to 1, 2, 3, and 4 above.

(Only conditions 1 and 4 will apply in respect of cremated remains).

6. The completed form should be returned to:

The Registrar
The Derby Diocesan Registry
1 The Sanctuary
Westminster
London
SW1P 3JT

Extract from the Judgment setting out the principles applied in Consistory Courts.

All human remains interred in consecrated ground are regarded as being under the particular care of the Consistory Court of the Diocese and 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. I should say that the comments below apply equally whether a body is involved or cremated remains.

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 set out in the Judgment (Christchurch Alsager [1999] Fam.142) delivered in the Chancery Court of York (the Appellate Court for the Northern Province) 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/parish cemetery, there should be no disturbance of the remains save for good and proper reason.
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. Some other circumstance must usually be shown.
4. The passage of time, especially when this runs into a number of years, may make it less likely that a faculty will be granted.
5. 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.