

**IN THE CONSISTORY COURT AT LINCOLN**

In the matter of the Chapel St Leonards Lawned Cemetery (consecrated area)

And a Petition for the for the exhumation of the mortal remains of Mr Martin Cullen

Judgment

1. By a Petition dated 15/11/22 the Parish Council members of Chapel St Leonards seek a Faculty to remedy a most unfortunate and distressing error that has occurred in the administration of the lawned cemetery under their care.
2. On 5/9/21 Mr Robinson died and was buried in plot C16/6. His widow was granted an exclusive right of burial in the adjacent plot C16/7 on 28/9/21. Later Mr Martin Cullen died, and arrangements were made for his burial in the lawned cemetery. Mr Cullen had been allocated plot C16/8 but regrettably a member of staff identified plot C16/7 for his interment which then took place on 14/1/22. Thus, Mr Cullen's mortal remains were interred into the plot that had been reserved by Mrs Robinson for her use so that she could be buried next to her husband when the time came.
3. The issue was identified by Mrs Robinson's family in January 2022 and efforts were then undertaken to resolve this error. Eventually, Mr Cullen's family agreed to the exhumation and reinterment of Mr Cullen's mortal remains into the plot that had been allocated to him, so that Mrs Robinson would have the use of the plot adjacent to her

husband when the time came. This was on the basis that all the costs of the exhumation and reinterment and their other requests would be met by the Petitioners. My understanding is that the Petitioners have reached an agreement with Mr Cullen's family and will pay all the costs flowing from their employee's error and have agreed to their other requests. The terms of that agreement are not a matter for this court. However, it is essential in a case of this kind for the family of the deceased who has been buried in the wrong plot, to agree to the exhumation: such agreement has been reached.

4. An error of this kind is of course highly distressing for all concerned, both the family of the deceased and the family that sees the reserved plot next to Mr Robinson's grave which was to be used by his widow when the time came, being used for someone else without notice to them.
5. The normal rule with burials in consecrated ground in a churchyard or cemetery is that burial is permanent. This is on the theological grounds that burial is about the letting go of the loved one and entrusting the beloved into the care and love of God. Portable human remains are contrary to this profound Christian belief in the 'everlasting arms' of God into whose care the deceased has now been received.
6. However, there have always been exceptions to this general rule particularly when a clear mistake has occurred and there has been a burial in the wrong place. That is what has clearly happened here as all agree.
7. I am satisfied that exhumation is practical and can be accomplished by suitable professionals. I can therefore grant a faculty for the exhumation of the mortal remains of Mr Cullen and for their reburial

forthwith in plot C16/8 (or such other plot as is agreed with his family) on the following conditions:

- (i) The exhumation and reburial is to be carried out discreetly and reverently beyond the sight of any visitors to the cemetery, save any family members who wish to be present.
  - (ii) The remains must be reinterred forthwith into the new grave.
  - (iii) The undertakers carrying out the exhumation and reburial are to carry out these works in accordance with (i) all risk assessments and method statements carried out by the undertakers before the exhumation and reburial takes place and (ii) any requirements of the local Environmental Health Officers who should be notified of the date and time of the exhumation.
  - (iv) In future an up to date plan of all grants of exclusive use/reservations must be maintained with an accessible copy in the office for use by gravediggers, staff members, undertakers and visiting clergy.
8. All costs incurred in this exhumation and reburial are to be paid by the Petitioners.
9. It is essential that the Petitioners ensure that an error of this kind cannot happen again. I welcome the letter dated 21/11/22 from the Deputy Clerk who confirms the following:
- (i) in future 2 members of staff will always identify the grave to be used before it is dug.
  - (ii) the deputy clerk will take responsibility for the Lawned Cemetery and has undertaken ICCM training, as has the Petitioner's Proper Officer.

- (iii) a set of rules for the operation of the cemetery are to be drawn up.
  - (iv) ground markers will be used to identify the plots.
10. As part of these future arrangements, I have made it a condition of this faculty that a cemetery plan must be maintained with up to date grave reservations and grants. An accessible copy must always be available in the office for access by gravediggers, staff members, undertakers and visiting clergy.
11. The costs of this Petition shall be met by the Petitioners.
12. I waive my fee.

The Revd and Worshipful Chancellor HH Judge Mark Bishop  
Chancellor  
8<sup>th</sup> February 2023