

**IN THE CONSISTORY COURT OF**

**THE DIOCESE OF GUILDFORD**

**HHJ Sarah Whitehouse KC, Deputy Chancellor**

**Date: 23<sup>rd</sup> July 2025**

**IN THE PARISH OF St Peter and St Paul, Ewhurst**

**Ewhurst Cemetery**

**In the matter of a petition for a faculty for the exhumation of the human remains of  
Raymond Terence Everett**

**JUDGMENT**

**The Petition**

1. The Petitioner, Timothy Patrick Everett, has applied for a faculty to exhume the human remains of his father, Raymond Terence Everett. Raymond Everett's remains have been interred in the consecrated ground of Ewhurst Cemetery, Surrey, in grave 36 since 12.8.1994. The proposed place of re-interment is plot 312 in the same cemetery.
2. The cemetery is owned by Ewhurst Parish Council and the Council has given consent for the exhumation and re-interment. Consent has also been given by Raymond Everett's other children, Matthew Everett, Tim Everett, Danielle Westgate (nee Everett).

## **Background**

3. Raymond Everett died at the age of 60 and was buried on 12.8.94. His wife, Eileen, died in November 2024 and was to have been buried in the same plot as her late husband on 26.11.24. On the day of the burial, Eileen Everett's family were informed that she could not be buried alongside her husband as both had wished, because the plot was waterlogged and there was a significant possibility that the walls of the grave would collapse during the burial service.
4. After receiving this information at this very late stage, the family had no choice but to return Eileen Everett to the funeral directors in North London after the ceremony, pending a decision as to how to move forward. Eileen Everett's burial then had to be postponed until a drier plot could be identified. She was eventually buried in plot 312.

## **Reason for the Petition**

5. It was always the intention that Raymond and Eileen Everett would be buried in the same plot. His death at an early age was a great blow to Mrs Everett and throughout her widowed years she took comfort in the knowledge that they would one day be reunited. I am told that in her final lucid days she said she was looking forward to being at peace with Ray by her side.
6. The four children of Mr and Mrs Everett feel strongly that they should honour that wish and they can only do so by seeking the exhumation and re-interment of Raymond Everett in plot 312.

## **The law**

7. In *re Blagdon Cemetery* [2002] 4 All ER 482 the Court of Arches considered the principles governing exhumation petitions. The essential principles are these:
  - (i) Burial in a particular space set permanently set aside for God is intended to be permanent and the peaceful rest of the departed is of paramount importance.
  - (ii) A faculty court will only grant a faculty for an exhumation in exceptional circumstances. Whether the facts in a particular case warrant a finding that the case is to be treated as an exception is for the Chancellor/Deputy Chancellor to determine on the balance of probabilities.
  - (iii) It is for the petitioner to satisfy the court that there are special circumstances in her or his case which justify 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.

8. The Court in *Blagdon* also considered, among other factors, the desirability of interment in family graves and observed that “double or treble depth graves continue to take place at the present time. They are to be encouraged. They express family unity and they are environmentally friendly in demonstrating an economical use of land for burials.”
9. The court went on to observe that normally interments in family graves take place very soon after the death. The consistory courts recognise, though, that that is not always the case. In *Re Astwood Cemetery*, [2014] Worcester Const. Ct, Mynors Ch. identified three situations in which burial or reinterment in a family grave might be sought: (i) the transfer of the body to an existing family grave or group of adjacent graves containing the bodies of more than one family member; (ii) transfer to the existing grave of a single family member; and (iii) transfer to a newly created family grave.
10. Furthermore, Mynors Ch. noted that a review of several judgements relating to family graves “indicates that there are some general principles applicable in many if not all cases. But it also clearly demonstrates that no set of guidelines, however complete, will cover all situations; and petitions for exhumation, more than many others, will still require the exercise of discretion by the chancellor on a case-by-case basis, albeit against the background of the clear presumption in favour of the permanence of burial”.
11. The consistory courts have recognised that reasons in support of the desirability of ‘family graves’ as set out in *Re Blagdon Cemetery* can apply where two family members are united in a grave in the same way, albeit less forcefully, as where three or more family members are united. (See *Re St. George Kidderminster* [2022] ECC Wor 10.)

### **Discussion**

12. The facts giving rise to this Petition are unusual, even if they are not unique. There is no exhaustive list of factors governing the granting of petitions for exhumation and chancellors must apply the general principles to particular facts in deciding whether there are exceptional circumstances which justify the making of an exception from the norm that Christian burial is final.

13. In this case, it cannot have been known at the time of the burial of Raymond Everett that flooding would prevent Eileen Everett from being buried with him in due course. This was the expectation for two decades. As I understand it, in fact, had Eileen Everett died at a different time of the year, when conditions were drier, her burial with him would have been possible. However, that is not what happened.
14. It is clear that the flooding and the consequences thereafter have caused significant distress to the family and such anguish, is an important factor on deciding whether this Petition should be granted. It is especially striking that it was only on the day of the funeral that the family discovered that Eileen Everett could not be buried in the same grave as her husband. The uncertainty following the funeral can only have added to the grief of this family and doubtless continues to do so. The family have also incurred unexpected additional costs, although that is perhaps a secondary factor.
15. I was initially concerned that the issue that has arisen here might become very common, and that the granting of this Petition may lead to a great many further applications. Enquiries have been made of the Clerk to the Parish Council and she has confirmed that there are two other graves in this area that are potentially affected by flooding: in one case it is an old grave with no agreement to inter any other family members in the grave, and in the second case it is already occupied by a man and wife. No further applications are expected.

### **Conclusion**

16. In these unusual circumstances, I have concluded that there are special circumstances in this case which justify the making of an exception from the norm that Christian burial is final.
17. This Petition is granted.

HHJ Sarah Whitehouse KC

23<sup>rd</sup> July 2025

Deputy Chancellor