including lack of professional supervision for the exhumation and the absence of suitable provision for the memorial stone, which would risk confusion about the deceased's final resting place. Both petitions were dismissed.

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Re Lambeth Cemetery

Southwark Consistory Court: Petchey Ch, 20 May 2025
[2025] ECC Swk 2
Exhumation – scattering of ashes – Canon 38

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The petitioner sought a faculty to exhume the remains of her eight-year-old brother, who had been brutally murdered more than 50 years previously, and the cremated remains of her grandfather from the same plot in the consecrated area of Lambeth Cemetery. The family wished to exhume both sets of remains so the brother's remains could be cremated and all ashes kept together at home. The plan was that after the deaths of various family members, all cremated remains would eventually be scattered together.

There were two aspects to the application:

(i) whether in principle a faculty should be granted for the exhumation; and
(ii) whether the proposed arrangements for the remains thereafter were satisfactory.

It was axiomatic that if the second aspect was answered in the negative, the court would not grant a faculty.

Applying the principles from *Re Blagdon Cemetery*, the court noted that the norm of Christian burial is permanence and permission for exhumation is only granted exceptionally. However, the court recognised that problems could arise when non-Christians are buried in consecrated ground without understanding its legal status or consequences. The court found it unlikely that anyone had explained to the child's parents that the land was consecrated and, even if they had, the traumatic circumstances meant they would not have been able to process such information or make informed judgments. The court also considered Article 8 of the European Convention on Human Rights regarding respect for family life, noting that refusing exhumation in this case could interfere with the family's

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life, although such interference might be justified in particular circumstances. In principle, therefore, the exhumation of the child's remains was permissible. The court found it inappropriate to insist that the grandfather's ashes remain when the brother's remains were being exhumed, particularly as they would not have been interred there but for the brother's burial.

The court then addressed the proposed scattering of the ashes. The court had some sympathy with the view that if exhumation was appropriate on the grounds that the family was not aware of the consequences of consecration, it was for the family and not the court to consider what was or was not appropriate for the disposition of the exhumed remains. It also considered Canon 38 and resolutions of the Convocations of Canterbury and York on cremation. While the Legal Advisory Commission advised that scattering ashes was unlawful 'as to do so is irreverent', the court disagreed, finding that scattering was not intrinsically irreverent; it was confident that the family would reverently scatter the ashes in due course. The court interpreted Canon 38(4)(b) as addressing what a minister needed to do upon first disposal of ashes committed to his care, rather than forbidding disposal in unconsecrated ground after exhumation had been found permissible on the basis that those connected with the deceased did not want them in consecrated ground. A faculty would issue as sought.

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Re St Michael the Archangel, Warfield

Oxford Consistory Court: Hodge Ch, 29 June 2025
[2025] ECC Oxf 6

Exhumation – temporary exhumation – immediate reinterment in same grave

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The petitioner sought a faculty for the temporary exhumation of cremated remains to facilitate a second full body burial in an existing family grave. The deceased's first wife had been buried in April 1998, with her mother's cremated remains subsequently interred in the same grave in 2005. The deceased's surviving widow wished to inter his body in the grave of his first wife, requiring temporary exhumation of the mother-in-law's cremated remains to enable the husband's burial to proceed.

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