

**IN THE CONSISTORY COURT OF THE DIOCESE OF NEWCASTLE**

In the Matter of an Application to exhume and re-inter the remains of the late Muriel Isabel LOUNDS within the Consecrated section of Benton Cemetery and in the Matter of a Petition by Andrea Taylor

**JUDGMENT**

1. This is a petition by Ms Andrea Taylor, the operations manager of North Tyneside Council's Bereavement Services, to exhume and move the interred remains of the late Muriel Isabel Lounds from a plot (CON-H12-55) within the consecrated section of Benton Cemetery and re-inter them nearby in another plot within the consecrated section (CON-H16-26).
2. I have been supplied with the written consent of Mr Laurance Lounds, Mrs Lounds' widower.
3. I have the benefit of a short statement from Ms Taylor explaining the circumstances and reasons for this petition as well as a letter from the undertakers W.S. Taylor & Sons Limited.

The facts

4. Mrs Lounds died on 7 April 2022. It was her wish to be buried in a grave that she herself owned (CON-H16-26) and in which the remains of her former husband, Robert Bews, were interred in August 1973, a wish her widower fully intended to honour.
5. Owing to what is accepted as having been an administrative error on the part of Bereavement Services, erroneously, the remains of Mrs Lounds were interred in CON-H12-55 on 28 April 2022
6. The mistake was rapidly discovered and on 29 April 2022, the petitioner made this application. Within it she notes that the error was due to 'a chain of human errors by the Authority's burial team'. Offering a profuse apology for the distress thereby caused, she seeks to right the wrong by this petition as a matter of some urgency.
7. CON-H12-55 is the grave of John Keir and his wife Mabel Keir who died, respectively, in 1965 and 1975. Having been disturbed once already, it follows that, to correct this unfortunate mistake, the grave of Mr and Mrs Keir will have to be disturbed again. At the time of petitioning, it had not been possible to trace their heirs but, subsequent thereto,

having used Finders International, a tracing agency, Mrs Sylvia Hook, the granddaughter of Mr and Mrs Keir, was found, established as their nearest surviving relative being the niece of the late grave owner (he died in 2001), her own father having died in 2007, and has given her consent in writing to the disinterment of the remains of Mrs Lounds from her grandparents' grave.

### The law

8. The law is well established and definitively set out in the judgment of the Court of Arches *In re Blagdon Cemetery* [2002] Fam 299. The presumption of permanence is explained, arising, as it does, from the Christian theology of burial which emphasises, by reference to the Bishop of Stafford's *Theology of Burial*, that the permanent burial of the physical body is to be seen as a symbol of the entrusting the person to God for resurrection, a concept that does not sit easily with the concept of "portable remains". Hence the reluctance of the Consistory Court to grant faculties for exhumation is well supported by Christian theology.
9. Nevertheless, recognising that it was essentially a matter of discretion, the Court indicated the necessity of the petitioner satisfying the Consistory Court that there are special circumstances justifying the making of an exception from the norm that Christian burial is final. In so stating the Court went on to identify various factors which may indeed support such a petition.
10. In the circumstances of this case it is not necessary to look beyond the Court's ruling that a simple error in administration, such as burial in the wrong grave, the exact circumstances here, can form a ground upon which a faculty for exhumation can be granted. The Court advised that in such circumstances it may be for those responsible for the cemetery to apply for exhumation, as has occurred here. It went to say:

*"Faculties can in these circumstances readily be granted, because they amount to correction of an error in administration rather than being an exception to the presumption of permanence, which is predicated upon disposal of remain in the intended not an unintended plot or grave."*

11. Whilst any lapse of time is always a relevant factor it is not determinative.

### Decision

12. I am wholly satisfied that there was an unfortunate mistake in this case arising from failures of communication within North Tyneside Council's Bereavement Services, a matter of considerable embarrassment to them and for which an appropriate apology has been

offered along with the taking of the proper legal and practical steps to redress the situation.

13. There could scarcely have been less delay in seeking to correct this mistake, the petition being issued on the very next day after the interment.
14. The evidence proves conclusively that Mrs Lounds' remains were interred in the wrong grave by mistake. It is fortunate indeed that the grave owner has been identified rapidly and has, unsurprisingly, readily given her consent and, I trust, been offered a suitable apology. The Court is wholly satisfied that the petitioner be granted the relief sought.
15. Accordingly, the faculty will issue forthwith as sought on the following conditions:
  - (a) the exhumation from CON-H12-55 be carried out with due care and regard for decency, early in the morning with the plot screened from public view;
  - (b) the re-interment in CON-H16-26 be forthwith;
  - (c) any terms imposed by the Environmental Health Department of North Tyneside Council are complied with;
  - (d) the petitioner must pay the Registry and Court costs of and incidental to the petition.

**His Honour Judge Simon Wood**  
**Chancellor**  
**11 May 2022**