



Exhumation Policy

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Version 1.2

Details of amendment(s): Two yearly review. Changes shown below:

2aiii. Repatriation 'overseas' to be buried with other family - Changed from 'oversees'.

3h Changed 'this could be different 'to' the grave owner' to 'this could be different 'from' the grave owner'.

4c Wording updated to: In accordance with Ministry of Justice guidance, the removal of fetal remains that did not survive more than 24 weeks' gestation does not normally require a Home Office exhumation licence. However, removal may only proceed with the prior agreement of the burial authority, and additional permissions may still be required depending on the circumstances.

Previous wording 'The removal of a buried foetus under 24 weeks gestation does not require an exhumation licence.'

6c change the word 'immediately' to 'immediate'.

9.0 changed 'bi-annually' to every 'two years'.

EXHUMATION POLICY

1.0 Introduction

- a. The disturbance of human remains is prohibited under Section 25 of The Burial Act 1857¹ unless, following due process, authority is given for an exhumation.
- b. This document outlines Saxilby with Ingleby Parish Council's policy on exhumation.
- c. Exhumation can be very distressing for the family involved and should only be considered as a last resort.
- d. The family may find it useful to engage a funeral director to guide them through the required process, rather than trying to arrange an exhumation on their own.
- e. This policy applies to exhumation of cremated and non-cremated remains.
- f. The parish council is the burial authority responsible for Saxilby cemetery.

2.0 Reasons for exhumation

- a. There are many reasons for exhumation, including:
 - i. Request to move the remains to another grave in the same cemetery.
 - ii. Request to move the remains to another grave in another cemetery.
 - iii. Repatriation overseas to be buried with other family.
 - iv. Transfer from one cemetery scheduled for development to another.
 - v. Court orders requiring further forensic examination.

3.0 Lawful authority to exhume

- a. Saxilby cemetery is consecrated ground and as such, authorisation for exhumation must be obtained from the Lincoln Diocese by Grant of Faculty². (Exhumation from non-consecrated ground requires a Licence from the Ministry of Justice).
- b. The applicant is responsible for filing a petition to the Diocese for exhumation. This is generally done with the support of a funeral director.
- c. Please note that there is no guarantee that permission will be granted.
- d. A representative of the Diocese may ask to check the grave and speak to the burial authority in advance of any permission being granted.
- e. Once appropriate permission has been given, there is usually a time limit for the exhumation to take place.
- f. An original copy of the Faculty must be provided to the burial authority.
- g. Permission of the grave owner must be given. In the event that the grave owner

¹ As amended by section 2 of the Church of England (Miscellaneous Provisions) Measure 2014.

² This falls within the jurisdiction of Consistory Court (ecclesiastical court).

is deceased, and the Exclusive Right of Burial was not transferred at the time, a transfer of the Exclusive Right of Burial must be legally enacted first, to enable the grave owner to give relevant permission.

- h. Permission of the lawful next of kin must be given (note that this could be different from the grave owner).
- i. Permission must be given by the burial authority.
- j. Appropriate checks will be required at the time of exhumation, to ensure that the nameplate on the coffin/casket corresponds with that on the Faculty.

4.0 Exceptions

- a. Exhumation under a Coroner's Warrant³ does not require the lawful authority to exhume, as per section 3.0 of this document.
- b. In these circumstances the Coroner's Officers may carry out the whole exhumation procedure with jurisdiction of the Coroner being absolute.
- c. In accordance with Ministry of Justice guidance, the removal of fetal remains that did not survive more than 24 weeks' gestation does not normally require a Home Office exhumation licence. However, removal may only proceed with the prior agreement of the burial authority, and additional permissions may still be required depending on the circumstances.
- d. In these circumstances arrangements may be agreed with the burial authority and the owner of the Exclusive Right of Burial.
- e. Not currently applicable to Saxilby cemetery (and unlikely to apply in the future): Legislation in the Town and Country Planning Acts permits exhumation without the need for a licence or faculty, for clearance of a redundant cemetery.

5.0 Health and Safety Considerations

- a. The exhumation of the deceased is a high-risk Health & Safety issue with hazards during the excavation work and the potential risk of infectious disease.
- b. Appropriate Risk Assessments will be required.
- c. All exhumations will be carried out in strict accordance with the 'Code of Safe Working Practice for Cemeteries'⁴ and all relevant Health and Safety Executive (HSE) guidance.
- d. West Lindsey District Council Environmental Health Officer must be present at the exhumation to ensure there is no threat to public health.
- e. Protective clothing, including masks and gloves must be worn by all those working in the immediate vicinity of the grave.
- f. The area of exhumation will be properly disinfected, and satisfactory

³ Section 23, Coroner's Act 1988

⁴ Institute of Cemeteries and Crematorium Management (ICCM)

arrangements made for the onward transmission of the remains, as directed by the Environmental Health Officer.

6.0 Respect of the deceased

- a. All exhumations within the cemetery will be undertaken with sensitivity, respect and dignity.
- b. Exhumations will take place as early as possible in the morning to ensure maximum privacy. Where possible the grave will be screened from public sight.
- c. Parishioners living in the immediate vicinity of the cemetery will be written to, informing them of upcoming out-of-hours activity which may potentially disturb them, however no further details will be released.
- d. The local police team will be notified in advance of the exhumation, in case they receive reports of suspicious activity in the cemetery.
- e. A representative of the burial authority must be present during the exhumation to ensure that the correct grave is opened, and where relevant, re-interment takes place in the correct grave.
- f. All persons present must show due respect to the deceased and to graves adjoining the exhumation area.

7.0 Records

- a) Article 11 of The Local Authorities Cemeteries Order (LACO) 1977 requires that a full record of the exhumation is kept, including details of where and when the deceased is re-interred.
- b) Where the Council receives a request to inter remains which have been exhumed from another cemetery, it is good practice to request a copy of the lawful authority to exhume, although there is no legal requirement to provide this.

8.0 Costs

- a. Exhumation can also be very costly and is likely to include:
 - i. Removal of memorial
 - ii. Funeral director charges for exhumation, provision of new casket, lighting, generator, tent, protective clothing/PPE
 - iii. Funeral director charges for re-interment, if applicable
 - iv. Burial authority charges for supervising the exhumation, out of hours payment for staff present, and associated administration costs
 - v. Burial authority charges for new plot and interment, if applicable

9.0 Review

- a. A review of the policy shall be undertaken every two years (or as appropriate) and necessary amendments will be undertaken by the clerk and reported to full council for approval.