

In the Consistory Court of the Diocese of Leeds

In the matter of All Saints, Darton

Judgment

1. One of the consequences of choosing an Anglican burial ground for the interment of cremated remains is that there is generally less freedom of choice when it comes to the erection of headstones or memorials, than is afforded in municipal cemeteries.
2. This case concerns a petition brought by Sandra Morgan seeking a faculty for the introduction of a ledger stone or 'cremation plaque' over the place where her husband's cremated remains are interred.
3. Mrs Morgan invites the court to approve the following inscription:

ROB
MORGAN
16.02.1960-07.01.2021
WHAT TO SAY ABOUT
THE MAN,
THE HUSBAND,
THE FATHER,
THE GRANDAD,
THE SON,
THE BROTHER,
THE FRIEND,
TAKEN AWAY SO SUDDENLY,
REMEMBER HIM FONDLY
IN HAPPIER TIMES,
ALWAYS IN OUR HEARTS

4. In addition she seeks the inclusion of two flower holders, in the upper right and left corners of the stone, and an additional hole for a 'solar stick'. It is intended that the memorial be laid flat on the ground. It will measure 18" by 18".
5. The incumbent and parochial church council object to the granting of a faculty. They indicate that the late Mr Morgan's cremated remains are in a section of the churchyard where plaques of this size and material are commonplace. However the custom is to permit one flower holder and not two, and for solar sticks not to be included at all. More particularly, the practice is to limit the amount of text inscribed on the plaque to the names and dates of the deceased, together with a short biblical quote or words of comfort such as 'Together Again' or 'Remembered Forever'. Their observations are accompanied by photographs of such stones on neighbouring plots.
6. Somewhat unusually, the incumbent seems to have been acting as a go-between or conduit passing Mrs Morgan's correspondence to the registry. Ordinarily, I would expect an applicant (or petitioner) to deal directly with the registry. I gave

directions on 14 July 2021, affording Mrs Morgan 28 days to lodge material in support of her case, and giving the incumbent and PCC the opportunity of responding to it.

7. The papers were returned to me on 28 April 2022. It was immediately apparent that my directions had not been complied with. It may be that the parties were in negotiations, and if that is the case, the Court ought not to know what was discussed. I allowed Mrs Morgan further time to make her case, and the incumbent and PCC time to respond.
8. Mrs Morgan's representations are contained in a letter of 12 May 2022. She describes how her late husband, James Robert Morgan, lived and worked all his life in Darton and was always known as Rob. They were married at All Saints, and had three children and two grandchildren who he adored. Following heart surgery he contracted Covid and sadly died in January 2021. The whole family was devastated.
9. Mrs Morgan writes, 'Why should it matter to anyone else whether there are 2 lines of writing or a sonnet on a plaque?' She suggests that the use of 'Rob' might be impermissible and that someone, perhaps the incumbent, had been insisting that James Robert Morgan be used in full. The proposed text differs from that originally sought. Its content is little changed, but the words are put into fewer lines. It now reads:

ROB MORGAN
16.02.1960-07.01.2021
WHAT TO SAY ABOUT THE MAN,
THE HUSBAND, THE FATHER,
THE GRANDAD, THE SON,
THE BROTHER, THE FRIEND,
TAKEN AWAY SO SUDDENLY,
REMEMBER HIM FONDLY
IN HAPPIER TIMES,
ALWAYS IN OUR HEARTS

10. It appears that the revised proposal is for a single, centrally placed, flower holder and it no longer includes provision for a solar stick.
11. In determining this petition, I adopt the 'merits-based' approach commended in the recent determination of the Court of Arches in *Re St Giles, Exhall* [2021] EACC 1, at paragraph 11.8.
12. Mrs Morgan's submissions are moving and compelling. There is no reason why she should be denied a memorial for her husband, nor is there any reason why he should be referred to otherwise than using the name by which he was known all his life, Rob Morgan. Let me immediately give her that reassurance. I can see no reason for refusing a single flower holder, and I recognise the spirit of compromise in which Mrs Morgan now pursues her petition.
13. The point of contention is the length of the proposed inscription, and its somewhat unusual form. It begins as if asking a question ('What to say?'), lists the meaningful

relationships of his life, and then has four lines of commendation. Curiously, the question is not answered and the overall wording has a slightly disjointed feel to it, not reading as a continuous narrative.

14. It must be remembered that churchyards and burial grounds are public spaces, used by, and serving, the community. As I remarked in this Court in *Re St Mary's, Woodkirk* [2020] ECC Lee 3: 'the legal right to be buried in a Church of England churchyard is not restricted to English-speaking Anglicans. On the contrary, every parishioner and every person dying in the parish is entitled by law to be buried in the parish churchyard or burial ground if there is one, regardless of whether they are a member of the Church of England or even Christian'.
15. The public nature of the Church of England as an established church requires it to minister to all parishioners equally and without discrimination. In this instance the parish has developed a policy in respect of tablets to mark the interment of cremated remains that requires a common approach to the size and type of stone, and to the inscription that may appear on it. Justice dictates that like cases be treated alike. Where a policy has been conscientiously applied in the past, it would be unjust for it to be overridden save for good cause or exceptional reason. I can find no good cause or exceptional reason in the case of Mrs Morgan. To the contrary, I consider there is likely to be genuine upset in the parish if a lengthy inscription were permitted in this case when it had been denied to others in the past. A merits-based approach includes the consideration of wider pastoral concerns which might arise from the grant or refusal of a faculty.
16. I consider the practice and policy of this parish to be reasonable and justified. It appears to have been routinely and fairly applied in the past. A parochial policy does not fetter the discretion of the incumbent, still less the Chancellor. Each case must be decided on its own individual facts and where the evidence justifies a departure from that policy, a faculty might issue. But here, notwithstanding my sympathy for Mrs Morgan, the evidence does not support a departure from the parochial policy with the wider pastoral consequences that will result.
17. Therefore the question for this Court is how far can it go to accommodate Mrs Morgan's wishes without putting undue strain on the parish's legitimate policy? In my assessment, the following shortened inscription would be acceptable.

ROB MORGAN
16.02.1960-07.01.2021
BELOVED HUSBAND, FATHER, GRANDAD,
SON, BROTHER, AND FRIEND.
ALWAYS IN OUR HEARTS

18. If Mrs Morgan consents to this revised inscription (together with a single flower holder top centre) then a faculty may issue in those terms. If she does not, then the petition will stand dismissed. I will allow her 28 days to reflect on the matter.
19. I very much regret the delay taken in bringing this matter to a resolution. I had expected it to be determined promptly following my directions of 14 July 2021.

The fact that the dispute has languished at parochial level for many months thereafter has doubtless added to the distress and grief of Mrs Morgan and her wider family. I trust that this decision, whilst it does not go as far as Mrs Morgan would have wished, will now bring closure and allow a tablet to be laid which records the love and respect in which Rob was so clearly held.

20. The costs of and occasioned by this petition are to be borne by the petitioner.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Leeds

1 June 2022