

**Proceedings of the Thirtieth Anniversary Conference
The Nature and Diversity of Authority in Anglicanism
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RECENT DEVELOPMENTS in Ecclesiastical Law
Ruth Arlow, Chancellor of Salisbury and Norwich

Although intended primarily as an update on recent ecclesiastical cases Ruth Arlow's presentation¹ also highlighted some of the difficulties posed by the diversity of authority in the church. This was particularly obvious in the update on churchyard cases, with which the overview began.

Whilst *Eccleston, St Mary the Virgin* [2017] ECC Bla 4 clarifies the delegated authority of each Diocese's churchyard regulations there is still some uncertainty as to whether Chancellors do or should require exceptional circumstances to authorize memorials falling outside those regulations.² The necessity of the DAC to exercise its authority independently of the PCC's decision was also emphasized in *Eccleston, St Mary the Virgin* [2017] ECC Bla 4.³ The possibility of differential interpretation within the Church of England between its provinces has now also been emphasized by the decision in *Bensham, St Chad* [2016] ECC Dur 2, which followed the *Alsager* case over *Blagdon* on the basis that *Blagdon* is not binding on the northern province. *Edlington Cemetery* [2016] ECC She 3 & 4 also followed *Alsager*, though recognized *Blagdon* as being of assistance. The next step may be a referral to the Ecclesiastical Court of Cases Reserved to review the doctrine of the Church on burial.

The confused authorities on disposal of redundant fonts may have been clarified by *Blackheath Park, St Michael and All Angels* [2016] ECC Swk 13 in which the Chancellor listed in order of priority—various options for disposal. The options considered in order are relocation within the church, relocation to another church or the Diocesan store, relocation to a museum (for exceptional fonts), sale into private hands provided that unseemliness can be avoided or, as a final resort, burial in a churchyard. Disposal in a skip was not thought to be appropriate.

The case of *Scholes St Philip* [2016] ECC Lee 5 also reviews the authorities on burial of fonts. In that case the marble and brick pedestal of the font had been demolished

¹ Ruth Arlow, Chancellor of Norwich and Salisbury – “Recent Developments in Ecclesiastical Law”

² *Adel St John the Baptist* [2016] Lee 8 ruled each Petition is decided on merit, the only limits being the doctrine of the Church of England; *Prestwich St Mary* [2016] ECC Man 1, *Church Lawford, St Peter* [2016] ECC Cov 3, *St Helen Welton with Melton* [2017] Y 2 all require exceptional circumstances. Coventry Diocese's regulations require exceptional circumstances but there is no consistency.

³ *op cit supra*

without a faculty and the stainless steel bowl had been retained and re-used in a new wooden pedestal. Granting a confirmatory faculty the Chancellor authorised the disposal of the demolished pedestal "in a landfill site or similar" and the incorporation of the bowl in the new font.

The case of Flockton St James the Great [2016] ECC Lee 4 sets out factors of relevance in cases of disposal especially where the item in question may not be a church treasure including asking if the item is a church treasure, what is its history and connection with the church, with any surviving family of the donor or those in whose memory the treasure was given and what attempts have been made to find an alternative home. Finally, what is the monetary, aesthetic, artistic or heritage value of the item? The final series of cases reviewed related to chairs in church to replace pews. The issue which often arose was not so much the removal of the pews but rather the appropriateness of the chairs for the context envisaged. What is suitable for a Grade II church with a conference ministry⁴ or as extra stackable chairs for a café⁵ may differ from what is appropriate for permanent use in worship in a Grade 1 listed building.⁶

The need for the church to adapt to cultural diversity in wider society was also evident in two graveyard cases dealing with memorials for those of non-Christian religions. Again the role of context in discerning the appropriate exercise of the Chancellor's authority is marked. In Honington [2016] ECC SEI 3 a star of David was permitted on the war grave of a soldier buried in consecrated ground but who it later transpired was Jewish. By contrast, in *Maughold, St Maughold, Sodor and Man CC* (13.04.16) the erection of a Buddhist stupa, with an purported koan⁷ was rejected. The precise basis of the decision was that the proposed occupant of the grave beneath the memorial was not yet dead but trying to reserve his position and preferred design so that his wife, the churchwarden of the parish, was not put in a difficult position. However, some doubt was cast on the suitability of the stupa in a Christian graveyard and in particular on the koan requested, as open to misinterpretation and mere amusement.⁸

⁴ Hullavington, St Mary Magdalene [2016] ECC Bri 1

⁵ Ashton on Mersey, St Mary Magdalene [2016] ECC Chr 1

⁶ St Margaret of Antioch, Rainham

⁷ Salford Priors, St Matthew [2016] ECC Cov 4; Long Itchington, Holy Trinity [2016] ECC Cov 7

⁸ "He wanted green dandelions'!