

destroyed. However, leaving the offending paint in place would only stack up problems for the future, at a time when the parish rather than the architect would bear the cost of remedial work.

The court was unable to say whether either option would cause harm to the significance of the church as a building of special architectural or historic interest; any harm was unquantifiable in either case, but was not sufficient for the court to reject it. The court determined that the superficially unattractive second option had a greater public benefit than the first, in that it would allow the building to be fully used much sooner; and this benefit outweighed the harm that would be caused. A faculty would therefore issue for the removal of the paint and plaster, with the walls to be rendered and limewashed thereafter.

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## Re St Peter, Terwick

Chichester Consistory Court: Hill Ch, 22 December 2023

[2023] ECC Chi 3

*Memorials—Churchyard Regulations—legal basis*

David Willink

Barrister, Lamb Chambers, London, UK

During the course of a judgment in which the court granted a faculty for the introduction of a memorial outside the Churchyard Regulations, the court made the following observation concerning the legal basis of such Regulations:

12. It is widely known that a working party of the Ecclesiastical Judges Association under the leadership of the Right Worshipful Peter Collier KC has been seeking ways of fostering a greater level of uniformity amongst diocesan Churchyard Regulations. Whilst it would be improper and unwise to venture into matters which are currently out to consultation, one development can usefully be noted.
13. The device of delegated authority in this context is now generally recognised as a ‘legal fiction’. With that in mind, the working party recommended placing Churchyard Regulations on a clearer and more robust legal footing. A clause was inserted into the Church of England (Miscellaneous Provisions) Measure 2023 which completed its passage through General Synod in July 2023. This will empower Chancellors to make Additional Matters Orders concerning churchyard memorials replicating the current delegated authority procedure. Assuming this

Measure achieves parliamentary approval and Royal Assent, it will pave the way for amendments to be made to the Faculty Jurisdiction Rules 2015, such amendments having already been approved in principle by General Synod. In short, this will regularise current practice by allowing individual Chancellors to make Additional Matters Order[s] permitting the introduction of memorials conforming to certain types and categories (ideally with minimal difference between dioceses) provided they have the approval of parochial clergy under a prescribed process.

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## Re St Nicholas, Leicester

Leicester Consistory Court: Gyane Ch, 7 February 2024  
 [2024] ECC Lei 2  
*Altar frontal—Progress Pride flag—‘sufficient interest’—Canon F2*

David Willink

Barrister, Lamb Chambers, London, UK

The church has a growing reputation as a safe place for LGBTQIA+ people of faith. In September 2022 it received a gift of an altar frontal in the form of the Progress Pride flag, which had been removed following a complaint from outside the diocese; the present petition was for a faculty to authorise its introduction.

Nine objections were received. In interlocutory decisions (reported as [2023] ECC Lei 1, [2023] ECC Lei 2 and [2023] ECC Lei 3), the court had decided that two objectors were ‘interested persons’ within the meaning of rule 10.1 of the Faculty Jurisdiction Rules 2015. The petitioners objected to those two objectors retaining that status. One objection was dismissed. However, the other objector had resigned as a priest in the Church of England; and in the light of his failure to respond to the petitioners’ application to remove him as an objector, he was held to lack any reasonable concern in the matters to which the petition related, and the decision that he was an interested person was set aside.

In the context of the *Duffield* questions, the court agreed that the proposal could not be said to cause harm to the significance of the building. The ordinary presumption of things remaining as they are would therefore apply. The court considered the provisions of Canon F2 para 2:

The table, as becomes the table of the Lord, shall be kept in a sufficient and seemly manner, and from time to time repaired, and shall be covered in the