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## Applications for Faculties

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### INTRODUCTION

1. This leaflet sets out the procedure for obtaining *faculty* (a permission) from the Consistory Court (that is the Church Court of the Diocese). The legal requirements are laid down in the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and the Faculty Jurisdiction Rules 2000, (published by Church House Publishing, and obtainable from Church House Bookshop, Great Smith Street, London, SW1P EBN)
2. **Faculties** are granted either by the *Chancellor* (the judge sitting in the consistory court) or by the *Archdeacon*. A faculty is normally needed *for repairs, alterations or additions* (including disposals and other transactions) to Church of England churches, their contents and the churchyard and land belonging to them. “Church” includes all parish churches and many other churches and places of worship as well as some other Church property such as consecrated burial grounds. If there is any doubt as to whether a faculty is needed, you should consult the Diocesan Registrar before starting the work.
3. There are some cases where a faculty is not required, in particular: -
  - i) *some very minor matters* – sometimes called “de minimis” matters – which the Chancellor has directed do not need formal authorisation. These are listed as **Schedule A** in an accompanying leaflet. If there is any doubt as to whether a particular matter is covered by this schedule you should again consult the Registrar before starting the work;
  - ii) *other minor matters* which may not need formal authorisation by faculty but which will, where appropriate, be authorised by the Archdeacon after consultation with the DAC. The procedure to be followed and the list of matters covered are given as **Schedule B** in an accompanying leaflet.
  - iii) *temporary re-ordering*: If certain detailed conditions are satisfied, the Archdeacon can authorise temporary re-ordering of a church for up to 12 months, to allow time to see whether the arrangements work satisfactorily and are generally acceptable before applying for a faculty; and
  - iv) *churchyard monuments*: The Chancellor has delegated powers to incumbents to permit the erection of certain monuments and inscriptions. Particulars are given in the Guide to the Churchyard Regulations and details can also be obtained from the DAC Secretary and the Registrar. If a particular proposal falls outside the delegated authority it will be necessary to apply for faculty.
4. In the case of disinterment or reinterment and reservation of grave spaces, special rules apply. Applications should be made in the first place to the Registrar who will give instructions as to the procedure to be followed.

### STAGE 1 – EXTERNAL CONSULTATIONS AND CONSENTS

5. The first step should be *informal consultation* about the proposals. As well as the *minister* (the rector or vicar, or in some cases a team vicar or priest in charge), the churchwardens and parochial Church Council and the congregation and parish as a whole, people and bodies to be consulted include the parish’s architect or surveyor

and other professional advisers, the Archdeacon, the DAC Secretary and also the local planning authority. National Amenity Societies and English Heritage may also have an interest, particularly if they are to be involved formally at a later stage (see paragraphs 6 and 24 below) The same may also apply to the Church Buildings Council (see paragraph 25 below). It may also be necessary to find out from the local planning authority whether the church or churchyard is in a conservation area, and whether the proposals affect a listed building or structure (e.g. a churchyard monument) other than the church itself. Detailed advice about when these bodies will need to be consulted is available separately from the DAC. It is important that these contacts are initiated at an early stage, when the proposals are still capable of significant alterations.

6. Arising from the informal consultations, it will become clear if there is a need to consult *any of those bodies* formally or obtain their consent. This should be done next. For example:-
  - i) *The local planning authority* may need to grant planning permission or some other permission or consent. This applies in particular to new buildings or additions, work affecting the exterior of churches or churchyards, or work affecting trees, which are subject to tree preservation orders or, in conservation areas. You should always consult the appropriate professional adviser and, if necessary, the Registrar and the local planning authority itself as to whether any consent etc. of this kind is needed.
  - ii) *English Heritage* will need to give its support to the proposals if it is being asked to grant aid them. If the church is listed as Grade I or II\*, it may well be that the Chancellor, in considering the faculty petition will, in any case, require the opinion of English Heritage whether or not it is grant-aided;
  - iii) *Natural England* needs to be consulted if the church has bats or a history of roosting bats and if the proposals (e.g. structural repairs or timber treatment) could affect those bats or their roosts;
  - iv) *Commonwealth War Graves Commission* should be consulted if it is suspected that the proposals could affect a war grave burial, monument or memorial (because some of the graves and monuments for which the Commission is responsible are not readily identifiable – except through its records – as war graves).

## **STAGE 2 – OBTAINING ADVICE FROM THE DAC**

7. The *Diocesan Advisory Committee* (DAC) is the advisory body on matters affecting places of worship in the Diocese. One of its main functions is to give advice to the Chancellor, the Archdeacons and intending applicants for faculties on such matters as:-
  - i) the grant of faculties
  - ii) the architecture, archaeology, art and history of places of worship;
  - iii) the use, care, planning, design and redundancy of places of worship;
  - iv) the use and care of the contents of such places; and
  - v) the use and care of churchyards and burial grounds.
8. Once the steps in paragraphs 5 and 6 above have been completed, the intending *petitioners* (that is, the people who will be applying for the faculty) should *apply to the DAC for its formal advice*.

You should send the following items (*in duplicate*) to the DAC Secretary:

Full details of the proposals, including where appropriate:-

- Drawings, plans, designs and specifications
- Other documents (which should be listed)
- The name of the architect
- The person or firm who will carry out the work (if known)
- Where significant changes to a listed building are proposed, a statement of Significance and a Statement of Needs [the DAC produces separate guidance on these documents]

Please note that a Quinquennial Inspection Report only reports on the condition of the fabric of the church and does not contain information that is suitable to be used as the basis for a faculty petition.

9. Where works to a tree or trees in a churchyard or consecrated burial ground are proposed, a separate form is to be sent to the DAC at the time its advice is sought. Copies of the form are available from the DAC Secretary.
10. The DAC meets about every six weeks and applications are dealt with on a rolling basis. Petitioners are encouraged to submit applications as soon as the information is at hand. The DAC may need to send the Secretary, or one or more members, or both to visit the church. However they cannot take a formal decision on site – this must be taken by the DAC itself following a report of the visit.
11. For many technical matters such as repair specifications, the DAC uses a Standing Committee procedure.
12. After the DAC has considered the proposals, one copy of the plans and other documents will be retained for record purposes. The other copy will be returned to the applicants, duly stamped as part of the enclosures to accompany the faculty petition. The applicants will also receive the DAC's certificate relating to the proposals. This will contain a description of the proposals and indicate whether the DAC has decided to recommend them. (In the first two cases its decision may be subject to provisos). The certificate will also indicate (i) whether or not the DAC considers that the proposals will result in a material alteration to the appearance of the church or affect its setting; and (ii) whether any of the special cases set out in paragraph 23 below applies.
13. If the DAC decides *not to recommend* the proposals, it is still possible to apply to the Consistory Court for the matter to be considered for a faculty, but it will normally be advisable to try to modify the proposals to meet the DAC's concerns and re-submit them to the DAC before proceeding any further.

### **STAGE 3 – THE PETITION AND CITATION**

14. The PCC should be asked to pass a formal resolution supporting (or expressing any other views on) the proposals. The voting figures should be recorded.
15. The petitioners should then lodge the completed petition (that is, the formal application for a faculty) with the Registrar. The petition form is usually sent to the intending petitioners with the DAC certificate. Further copies can be obtained from the DAC secretary. The petitioners are normally the minister and churchwardens – if anyone else is to be a petitioner, the Registrar should be consulted first. It is the petitioners' responsibility to see that it is carefully and correctly completed. In particular, the "Schedule of Works or Purposes" will normally follow the description in the DAC certificate (see paragraph 12 above) and the works or purpose should be

identical to those that the DAC has already considered. If there is any change in them, the petitioners should contact the DAC Secretary straight away.

16. The following documents must be submitted with the petition:-

- a) the DAC certificate;
- b) a copy of the PCC resolution (see paragraph 14 above);
- c) the drawings, designs, plans, specifications, estimates etc. giving full particulars of the proposed works. These should be the same documents as were submitted to the DAC and should bear the DAC's stamp. These documents will normally be retained in the diocesan registry and should be on thin paper to enable them to be easily folded.
- d) all other correspondence etc. referred to in the answers to the questions in the petition (including any letters from the insurers stating that the work has their consent and any correspondence with English Heritage);
- e) one copy of the general citation (see paragraph 19 below)

17. Where significant changes to a church are proposed, a copy of the designs, plans, photographs and other documents submitted with the petition should be displayed in the church to which the proposals relate and should remain on display until the petition for faculty has been determined.

18. In this diocese, individual faculty fees are not collected for parochial faculty applications except where a parish is seeking a confirmatory faculty or where there is an element of privilege in the application (e.g. the reservation of a grave space). If fees are payable, the Registrar will give further advice in the matter.

19. If the petitioners are the minister and/or churchwardens, they must complete and sign the form of *general citation* (that is, notice to the public of the petition for the faculty) which will normally be sent with the DAC certificate, submit one copy to the Registrar with the petition, and display the other copies of the citation as described in paragraph 20. (In cases where the petitioners are not the minister and/or churchwardens, they should ask the Registrar for directions as to the general citation). The Registrar is available to advise petitioners on special cases, as set out in paragraphs 23 and 24. If the citation is not completed satisfactorily the Registrar will need to order a further citation to be published and this will cause delay.

20. The completed citation must be *displayed*: -

- i) inside the parish church, on a notice board or in some other prominent position; and
- ii) outside the parish church on a notice board (if there is one) or on or near the principal door or in some other prominent position; and
- iii) if the application relates to another church or place of worship in the parish, inside and outside that church or place of worship also.

With certain exceptions (see paragraphs 23 and 24), the citation must be displayed for a continuous period of not less than 28 days. After this has been done the citation should be sent to the Registrar with the "certificate of execution" on the reverse of the form duly completed.

21. Anyone who wishes to object to the proposals has 28 days from the date when the citation was first put up to lodge an objection with the Registrar.

#### **STAGE 4 – CONSIDERATION OF PETITION AND GRANT OF FACULTY**

22. If the Court is satisfied that a faculty should be granted and makes order to that effect, and provided that no objections are received and no special procedures apply (see below), *the faculty will be issued* after the certificate of execution of the Citation (see paragraph 20 above) is received by the Registrar. The faculty will set out the timetable by which the works should be completed and require the petitioners to send in a certificate of completion to the Registrar within that period.
23. *Special requirements* apply if the works for which a faculty is sought:-
- i) involve alterations to or extension of, a church which is a listed building, to such an extent as is likely to affect its character as a building of special architectural or historic interest; or
  - ii) affect the archaeological importance of the church or archaeological remains existing with the church or its curtilage; or
  - iii) involve demolition affecting the exterior of an unlisted church in a conservation area (see also paragraph 25 below).
24. In these cases special rules apply as regards the general citation (see paragraph 1 above). In addition, the Chancellor is obliged to ensure that each of a number of bodies listed in the legislation is made aware of the works unless it has already been notified. The bodies are *English Heritage, the local planning authority*, and also any relevant *National Amenity Society*, which the Chancellor considers to have an interest. (The National Amenity Societies are the Ancient Monuments Society, the Council for British Archaeology, and the Society for the Protection of Ancient Buildings, the Georgian Group, the Victorian Society and the 20<sup>th</sup> Century Society). The Chancellor will therefore order the Registrar to serve a special citation (that is, notice on an individual basis) on each of the relevant bodies unless there is correspondence clearly showing that it is fully aware of the proposed works and has no objection to them. Consequently, it is likely to save time if they are approached at an early stage. The Registrar is always ready to advise petitioners when this special provision is likely to apply.
25. In particular cases regarding *demolition* or relating to an article of matter of *historic or artistic interest*, or where he considers its advice would be useful to him, the Chancellor will also direct the Registrar to serve full details on the *Church Buildings Council*. In these cases, together with cases of *church extensions* and *sale of church goods*, additional procedures are likely to be required, e.g. newspaper advertisement, and enquiries should be made of the Registrar.

## **USEFUL ADDRESSES**

### **The DAC team:**

Jim May, Pastoral and Advisory Secretary, jmay@stalbans.anglican.org  
Judith Calvert, Assistant Secretary, jcalvert@stalbans.anglican.org  
Debbie Cochrane, Group Secretary, dcochrane@stalbans.anglican.org  
Emma Critchley, DAC Assistant, ecritchley@stalbans.anglican.org

Diocesan Office, Holywell Lodge, 41 Holywell Hill, St Albans, Herts, AL1 1HE  
Tel: 01727 818138 Fax 01727 844469

### **Diocesan Registrar**

Mr Lee Coley, Lee Bolton Monier-Williams, 1 The Sanctuary, Westminster, London SW1P 3JT  
Tel: 020 7222 5381; Fax: 020 7222 7502

### **English Heritage**

East of England Regional Office, 24 Brooklands Avenue, Cambs CB2 2BU  
Tel: 01223 582700

### **Church Buildings Council**

Church House, Great Smith Street, London SW1P 4NZ  
Tel: 020 7898 1881

### **National Amenity Societies**

#### **The Victorian Society,**

1 Priory Gardens, London W4 1TT

#### **The Georgian Group,**

6 Fitzroy Square, London W1P 6DX

#### **Ancient Monuments Society,**

St Ann's Vestry Hall, 2 Church Entry, London EC4V 5HB

#### **Council for British Archaeology,**

Bowes Morrell House, 111 Walmgate, York YO1 2UA

#### **S.P.A.B. (Society for the Protection of Ancient Buildings),**

37 Spital Square, London E1 6DY

#### **The Twentieth Century Society,**

70 Cowcross Street, London EC1M 6BP

### **Some sources of grant aid**

#### **The National Churches Trust**

31 Newbury Street, London EC1A 7HU

#### **Bedfordshire & Hertfordshire Historic Churches Trust**

Archie Russell, Grants Secretary  
Wychbrook, 31 Ivel Gardens, Biggleswade, Beds. SG18 0AN