
Applications for Faculties

INTRODUCTION

1. This leaflet sets out the procedure for obtaining a *faculty* (a permission) from the Consistory Court (that is the Church Court of the Diocese). The legal requirements are laid down in the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 and the Faculty Jurisdiction (Amendment) Rules 2019.
2. **Faculties** are granted by the *Chancellor* - the judge sitting in the consistory court. 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 or the DAC Secretary before starting the work. A faculty is normally a permission *enabling* the parish to carry out works to care for or develop its church building - and churchyard - to fulfil the role of the church as a local centre of worship and mission.
3. There is helpful guidance on the faculty process on the Church of England website at <https://www.churchofengland.org/more/church-resources/churchcare/church-buildings-council/how-we-manage-our-buildings>.
4. The Measure and the Rules, as well as specific directions by the Diocesan Chancellor, provide for some cases where a faculty is not required, in particular: -
 - i) *some very minor matters*– which do not need written authorisation. These are listed as **Minor Matters List A** in Section 20 of the 2019 Rules and are available on the diocesan website at: <https://www.stalbans.anglican.org/wp-content/uploads/Minor-Matters-Lists-A-and-B-2020.docx.pdf>. If there is any doubt as to whether a particular matter is covered by this List you should consult the DAC Secretary 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 **Minor Matters List B**, available at: <https://www.stalbans.anglican.org/wp-content/uploads/Minor-Matters-Lists-A-and-B-2020.docx.pdf>. The Chancellor has made **Additional Matters Orders** (also available on the DAC Advice Leaflet pages of the diocesan website) covering some other matters which are not included in the national List B but which may also be undertaken following the List B process.
 - iii) *temporary re-ordering*: If certain detailed conditions are satisfied, the Archdeacon can authorise temporary re-ordering of a church for up to 24 months, to allow time to see whether the arrangements work satisfactorily and are generally acceptable before applying for a faculty.
In addition:-
 - iv) *churchyard monuments*: The Chancellor has issued Churchyard Regulations concerning memorials in churchyards. In the majority of cases, the Parish Priest

is able to agree pre-approved memorials, under powers delegated by the Chancellor. Where there is a request for something not permitted by the Regulations then a petition for faculty can nonetheless be brought, given that the Chancellor retains the right to permit any type of tombstone or monument into the churchyard.

5. In the case of *exhumation or reinterment* of buried human remains 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. Information and application forms are available on the Registry page of the diocesan website: (<http://www.stalbans.anglican.org/diocese/diocesan-registry/>).

Statements of Significance and Needs

6. For all proposals involving a change to a listed church it is necessary, and in many other cases it is also helpful, for the parish to draw up written Statements of Significance and Needs. Guidance about how to go about this is available in a separate leaflet. The **Statement of Significance** is a document which, once written, should be updated periodically as a core document for use in future applications. It sets out the development and significance of the church building, its setting and the layout and elements within the church. A **Statement of Needs** is drawn up by the PCC for an individual proposal. It explains what the PCC is aiming to achieve by making a change, why this is important for the life of the church and what options have been considered in developing the current proposal. The Statements of Significance and Needs together enable the Chancellor, the DAC and others with an interest in the faculty process to understand the PCC's proposal, as well as being a tool for the PCC.

Informal Consultations and Consents

7. The next step should be *informal consultation* about the proposals.
Within the parish and local community: It is always important to ensure the *minister* (the rector or vicar, or in some cases a team vicar or priest in charge), the churchwardens and PCC and the congregation are kept informed about proposals and have the opportunity to provide input. This includes any proposals being brought forward by a particular group, e.g. the bellringers or Friends organisation.
More widely, as well as the 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.

In churches with features of architectural and/or historical significance Historic England, local planning authorities and National Amenity Societies may have a statutory interest. Parishes should consult with the DAC at an early stage to establish with whom and in what form any informal consultation should take place.

Gifts from Benefactors

8. Benefactors wishing to make gifts to parish churches such as stained glass windows, memorial plaques, furniture, furnishings, ornaments, and fittings should appreciate that nothing may be introduced into a church without proper authority, usually a Faculty. Some proposals are suitable but others may be poorly designed and inappropriate. To avoid misunderstandings and disappointment, an intending donor should consult the incumbent and approach the DAC Secretary to find out whether a

proposal is likely to be recommended for approval to the Chancellor. Draft sketches, cartoons or maquettes may be helpful.

Consulting the DAC

9. 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 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.

As the parish develops proposals, particularly for major projects involving re-ordering and adaptation of the church interior, introduction of new facilities or extension, early consultation with the DAC is essential. The DAC can help support the parish and its professional advisers through the process and want to ensure that changes are made appropriately to meet the vision and needs of the parish and the heritage of the church building. Informal consultation with the DAC may involve:

- A site visit or visits, enabling members of the DAC to understand the context and the needs of the parish and to provide practical suggestions and examples of what other parishes have done, based on their collective experience professionally and in dealing with projects across the 400 churches in the diocese
- Informal advice about options and principles following discussion at a full DAC meeting
- Advice from individual DAC members and consultants given on behalf of the full committee through the standing committee process, often on particular aspects of a proposal as it is developed in more detail

10. Arising from the informal consultations, it will become clear if there is a need to consult *any external bodies* formally or obtain their consent. This should be done next. Consultee bodies have 42 days within which to respond or 21 days in respect of subsequent material changes to the proposals. For example:-

- i) *Historic England* is a statutory consultee for all works of alteration or extension affecting the character of grade I and II* listed churches; significant works (chiefly demolition of part of the structure of the interior) of grade II churches; or the archaeological importance of a church or remains within the church or its curtilage;
- ii) *The Local Authority Conservation Officer* is a statutory consultee for all works of demolition, alteration or extension affecting the character of a listed church or for demolition affecting the exterior of an unlisted church in a conservation area.
- iii) The *Church Buildings Council's* advice will be needed for
 - (1) Works involving demolition of a grade I or II* listed building or its alteration or extension to such an extent as would be likely to result in harm [or works to a grade II listed church likely to result in substantial harm] to its character as a building of special architectural or historic interest; or affecting the archaeological importance of a church or remains within the church or its curtilage;

- (2) proposals involving either (a) an article of special historic, architectural, archaeological or artistic interest; or (b) alteration or reordering of a church in a way that would affect the setting of an article of special interest.
- iv) Relevant *National Amenity Societies* will have an interest in proposals involving a change to a building or feature from a particular architectural period e.g. the Georgian Group; the Victorian Society (up to 1914); the Twentieth Century Society;
- v) *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;
- vi) *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).
- vii) *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.

Obtaining Formal Advice from the DAC

11. Once the steps in paragraphs 7-10 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*. Applications should be made via the DAC section of the Diocesan On-Line Portal: <https://portal.stalbans.anglican.org>

The applicant should upload the following items:

Full details of the proposals, including where appropriate:-

- Drawings, plans, designs and specifications
- Other documents (which should be listed)
- The person or firm who will carry out the work (if known)
- Where changes to a listed building are proposed, or for major proposals relating to an unlisted church, a Statement of Significance and a Statement of Needs (See paragraph 5)
- Where external bodies have been consulted or other permissions have been sought, correspondence including the advice or permissions obtained

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.

12. The DAC meets about every two months and applications are dealt with on a rolling basis. Petitioners are encouraged to submit applications as soon as the information is at hand.
13. For many technical matters and uncontroversial matters such as repair

specifications, the DAC uses a Standing Committee procedure.

14. After the DAC has considered the proposals, the DAC Secretary will issue the DAC's Notification of Advice [form 2A] relating to the proposals. This will contain a description of the proposals and indicate whether the DAC has decided to "recommend", "not oppose" or "not recommend" them. In the first two cases its decision may be subject to provisos. If the DAC "does not oppose" the proposals and in the rare cases where it "does not recommend" the proposals, the Notification of Advice will include a report to the applicant and the Chancellor explaining its reasons. The Notification of Advice will also indicate which external bodies have been consulted. If the Notification of Advice recommends works or proposals for approval (or does not object to their approval) in circumstances where a consultee has raised objections (and not withdrawn them), it must include the DAC's principal reasons for doing so despite those objections.
15. 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.

The Petition (Form 3A) and Public Notice (Form 4A)

16. 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.
17. The petitioners should then complete and submit the petition (that is, the formal application for a faculty) to the Registrar. The petition form [form 3A] is available to complete via the on-line portal via a series of questions. The petitioners are normally the minister and churchwardens – if anyone else is to be a petitioner, the reason for this should be included. It is the petitioners' responsibility to see that the petition form is carefully and correctly completed. In particular, the "Schedule of Works or Purposes" will normally replicate the description in the Notification of Advice 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.
18. The following documents must be submitted with the petition:-
 - a) the Standard Information Form for the church building [Form 1A]
 - b) the DAC Notification of Advice [Form 2A]
 - c) a copy of the PCC resolution;
 - d) the Schedule of Documents previously submitted and viewed by the DAC, including the drawings, designs, plans, specifications, estimates etc. giving full particulars of the proposed works.
 - e) 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 Historic England);
 - f) one copy of the Public Notice with the Certificate completed on the second page
19. Where 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.

20. In this diocese, individual faculty fees are not collected for faculty applications made on behalf of a PCC except where a parish is seeking a confirmatory faculty. Faculty fees are payable by the applicant, where the application is made by an individual or 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.

21. If the petitioners are the minister and/or churchwardens, they must complete and sign the public notice (that is, notice to the public of the petition for the faculty) [form 4A] which will normally be made available via the on-line portal with the petition form, and must display printed copies of the public notice as described in paragraph 22. [In cases where the petitioners are not the minister and/or churchwardens, they should ask the Registrar for directions as to the public notice.] The Registrar is available to advise petitioners on special cases. If the public notice is not completed satisfactorily the Registrar will need to order a further notice to be published and this will cause delay.

22. The completed public notice 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 the public notice must be displayed for a continuous period of not less than 28 days plus the day it is put up and the day it is taken down. After this has been done the public notice should be sent to the Registrar with the “certificate of publication” on the second page of the form duly completed.

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

Consideration of Petition and Grant of Faculty

24. If the Court is satisfied that a faculty should be granted and makes order to that effect, and provided that no objections are received, *the faculty will be issued* after the certificate of execution of the public notice (see paragraph 22 above) is received by the Registrar. The faculty will set out the timetable by which the works should be completed – based on the information the parish has provided in form 3A about the expected start date and duration of the works - and require the petitioners to send in a certificate of completion to the Registrar within that period.

USEFUL ADDRESSES

The DAC team:

Emma Critchley, Pastoral and Advisory Secretary ecritchley@stalbans.anglican.org

Ann Jansz, Pastoral and Advisory Officer (P/T) ajansz@stalbans.anglican.org

David Bevan, Historic Church Buildings Support Officer

HCBSupport@stalbans.anglican.org

Joanna Chandler, Group Secretary jchandler@stalbans.anglican.org

Diocesan Office, Holywell Lodge, 41 Holywell Hill, St Albans, Herts, AL1 1HE

Tel: 01727 818138 Fax 01727 844469

Diocesan Registry

Winckworth Sherwood LLP, Minerva House, 5 Montague close, London SE1 9BB

Tel: 0207 593 5015 stalbansregistry@wslaw.co.uk

Historic England

East of England Regional Office, 24 Brooklands Avenue, Cambridge CB2 2BU

Tel: 01223 582700 eastofengland@historicengland.org.uk

Church Buildings Council

Church House, Great Smith Street, London SW1P 4NZ

Tel: 0207 898 1881 consultchurchbuildingscouncil@churchofengland.org

Natural England (enquiries@naturalengland.org.uk)

The DAC's Archaeological Adviser (dbb.suttons@gmail.com)

National Amenity Societies

All the following may be consulted via the following e-mail address:

casework@jcnas.org.uk

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

<https://www.stalbans.anglican.org/dac/repairs-maintenance-grants/>