
Applications for Faculties

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 2015.
2. **Faculties** are granted either by the *Chancellor* (the judge sitting in the consistory court) or (in certain circumstances) 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 or the DAC Secretary before starting the work.
3. The 2015 Rules provide for some cases where a faculty is not required, in particular: -
 - i) *some very minor matters* – sometimes called "de minimis" matters – which do not need formal authorisation. These are listed as **Minor Matters List A** in a Schedule to the 2015 Rules and are available on the diocesan website at: (<http://www.stalbans.anglican.org/wp-content/uploads/Minor-Matters-List-A.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: (<http://www.stalbans.anglican.org/wp-content/uploads/Minor-Matters-List-B.pdf>)
 - iii) *temporary re-ordering*: If certain detailed conditions are satisfied, the Archdeacon can authorise temporary re-ordering of a church for up to 15 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 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. Information is available on the Registry page of the diocesan website: (<http://www.stalbans.anglican.org/diocese/diocesan-registry/>).

Statements of Significance and Needs

5. For all proposals involving a change to a listed church it is necessary, and in many other cases it is 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

6. The next 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 PCC 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 and the DAC Secretary. National Amenity Societies and Historic England may also have an interest, particularly if they are to be involved formally at a later stage (see paragraph 7 (iii) below) The same may also apply to the Church Buildings Council (see paragraph 7 (i) below). Sometimes the local planning authority will need to be approached, or it may be necessary to find out from the local planning authority whether the church or churchyard is in a conservation area. 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.
7. 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 *Church Buildings Council's* advice will be needed for proposals involving either (a) an article of special interest; or (b) alteration or reordering of a church in a way that would affect the setting of an article of special interest.
 - ii) *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.
 - iii) *The Local Authority Conservation Officer* is a statutory consultee for all works of alteration or extension affecting the character of a listed church.
 - iv) *Historic England* is a statutory consultee for all works of alteration or extension affecting the character of grade I and II* listed churches and for significant works (chiefly demolition of part of the structure of the interior) of grade II churches;
 - 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).

Obtaining Advice from the DAC

8. 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 and design 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.
9. Once the steps in paragraphs 5 - 7 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 On-Line Portal. You can register at <https://myd.io/stalbans/>

You can 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)

If you are not able to use the Portal, details can be submitted electronically to the DAC Secretary at ecritchley@stalbans.anglican.org

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.

10. 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. 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 and uncontroversial 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 or identified as part of the enclosures to accompany the faculty petition. The applicants will also receive the DAC's Notification of Advice 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). The Notification of Advice 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 24 and 25 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.

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

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 Notification of Advice. 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 Notification of Advice (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 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 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 or identification. These documents will normally be retained in the Diocesan Registry.
- 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 (see paragraph 19 below)

17. 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.

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 public notice (Form 4A) which will normally be sent with the Notification of Advice, submit one copy to the Registrar with the petition, and display the other copies of the public notice 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 public notice). The Registrar is available to advise petitioners on special cases, as set out in paragraphs 18 and 24. 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.

20. 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 (see paragraph 19), the public notice must be displayed for a continuous period of not less than 28 days. After this has been done the public notice should be sent to the Registrar with the “certificate of publication” 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 public notice was first put up to lodge an objection with the Registrar.

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 publication of the public notice (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 listed church, to such an extent as is likely to affect its character as a building of special architectural or historic interest; or
- ii) are likely to 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

24. In these cases special rules apply as regards the public notice (see paragraph 19 above). 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 *Historic England*, *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, the Society for the Protection of Ancient Buildings, the Georgian Group, the Victorian Society and the 20th Century Society). The Chancellor will therefore order the Registrar to serve special notice (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. In addition, the notice will need to be published on the diocesan website. 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 and enquiries should be made of the Registrar.

USEFUL ADDRESSES

The DAC team:

Emma Critchley, Pastoral and Advisory Secretary ecritchley@stalbands.anglican.org
Ann Jansz, Pastoral and Advisory Officer (P/T) ajansz@stalbands.anglican.org
Debbie Cochrane, Group Secretary dcochrane@stalbands.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
E-mail: stalbandsregistry@wslaw.co.uk

Historic England

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 (churches@victoriansociety.org.uk)
1 Priory Gardens, London W4 1TT

The Georgian Group (consult@georgiangroup.org.uk)
6 Fitzroy Square, London W1P 6DX

Ancient Monuments Society (office@ancientmonumentsociety.org.uk)
St Ann's Vestry Hall, 2 Church Entry, London EC4V 5HB

Council for British Archaeology (<http://new.archaeologyuk.org>)
Bowes Morrell House, 111 Walmgate, York YO1 2UA

S.P.A.B. (Society for the Protection of Ancient Buildings) (catherine@spab.org.uk)
37 Spital Square, London E1 6DY

The Twentieth Century Society (caseworker@c20society.org.uk)
70 Cowcross Street, London EC1M 6BP

Some sources of grant aid

<http://www.parishresources.org.uk/wp-content/uploads/Charitable-Grants-for-Churches.pdf>

Bedfordshire & Hertfordshire Historic Churches Trust
www.bedshertshct.org.uk