

The Faculty Process

This leaflet gives a brief outline of the procedure that applies for obtaining a **faculty** (that is, a permission) from the Chancellor of the Diocese. The statutory requirements as from 1 January 2001 are laid down in the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and the Faculty Jurisdiction Rules 2000.

Faculties are granted by the Chancellor, who is, the judge of the Consistory Court. The granting of faculties in more straightforward cases is delegated by the Chancellor to an Archdeacon.

A faculty is normally needed for all repairs, alterations or additions (including disposals and other transactions) to Church of England churches, their contents and the churchyards and land belonging to them. There are a few exceptional circumstances where a faculty is not required for certain minor works see page 7. If there is any doubt as to whether a faculty is needed, you should consult the DAC Secretary **before** starting the work.

Faculty permission provides the PCC not only with authority to undertake work but also with protection in the event of any subsequent objections to work that has been done.

Work undertaken without a faculty leaves the PCC exposed to the possibility of not only subsequent objections to the Chancellor but also to an order from the Chancellor to re-instate what has been changed at the PCC's expense.

Informal consultation

A. Seeking early DAC advice

The first step is for the PCC to consider what needs to be done, the options available and then to develop proposals.

The PCC's architect or surveyor should be consulted on all proposals that affect the church and the Archdeacon should be briefed and kept up-to-date as appropriate.

Advisory Notes on a range of issues are available and may be accessed on the diocesan website.

The DAC Secretary should be consulted at an early stage especially on: -

- Technical issues such as heating, lighting, bells, organs and stained glass so that specialist DAC members may be made available to give informal, free advice on site
- Re-ordering or extensions so that the DAC Secretary and/or members can offer initial informal advice on proposals, on the process involved, preparation of Statements of Significance and Needs, and on statutory consultation with other bodies such as English Heritage, Amenity Societies and the Local planning Authority

PCCs are encouraged to seek informal advice from the DAC on all proposals as a matter of course. The value of such discussions when the PCC's ideas are still at a formative stage before specific proposals are produced and significant architect's fees incurred cannot be over emphasised. This assists the PCC in considering

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possibilities/options, ascertaining if the Statements below are required, and in preparing them.

B. Statements of Significance and Need

The Faculty Jurisdiction Rules 2000 require PCCs submitting a faculty application for significant changes to a listed church to accompany the application with a Statement of Significance and a Statement of Need.

What is a 'significant change' will depend very much on the facts: structural changes, the removal of furniture (for example, pews or the organ), and the removal or insertion of a stained glass window will always be significant. In a Grade I listed church, the introduction of some new feature, even if quite small in itself, may affect the character of the building and should be treated for this purpose as significant.

These Statements are not required to accompany faculty applications for churches which are unlisted (a very small minority), and for works on a listed building which are not significant for the fabric, and where the need is readily apparent e.g. up-grading light fittings, installing sound and/or loop systems, replacing a failing heating boiler, roof repairs involving no change in materials, etc.

However, the DAC Secretary should be consulted for clarification before assuming Statements are not required.

The Statements should be 2 separate documents to enable those charged with considering the application (the DAC, Chancellor and, where appropriate, the secular authorities) to compare the significance of the church with the perceived needs which are to be fulfilled through the proposal, equipped with the basic facts secure in the knowledge that the PCC has a clear idea of its chosen direction and the likely implications for the building.

A **Statement of Significance** is a document which summarises the historical development of the church and identifies the important features that make a major contribution to the character of the church.

The Statement should be in 2 parts: -

Part 1 should seek to provide a holistic overview of the significance of the church (including architectural features, archaeological remains, fine furnishings etc.), which could be re-used to support subsequent faculty applications for significant changes. The PCC is recommended to prepare this independently of any faculty application; include it in the QI Report and regularly review it.

Part 2 is, in effect, an impact assessment which focuses on the particular part(s) of the church or its curtilage, affected by the proposed works. This part should be newly created for each separate proposed change.

The format should be no more than 3 sides of A4 (preferably 1) and include a ground plan with at least 2 photographs.

The **Statement of Need** is a document agreed by the PCC, which sets out: -

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- The needs to be fulfilled by the proposal(s)
- The reasons why the changes are regarded as necessary to assist the church in its worship and mission
- The reasons why the needs cannot be met without making changes to the church building

It is important to demonstrate that the PCC has looked at all possible options for meeting the needs and the impact of each on the building, with robust reasons why the proposed option is being pursued and the other(s) rejected. Such an options analysis is particularly important when the preferred option is an extension as English Heritage, the Amenity Societies and the Local Planning Authority (from whom planning permission will be required) will need to be thoroughly convinced that it is not possible to achieve what is needed by a more effective use of space within the existing church structure.

A long document **is NOT necessary!** The contents will vary with the changes proposed, but here are three examples of what might be appropriate:

Example A: It is proposed to clear the pews and pew platform from part of one aisle, to carpet it, introduce chairs, and so create a space with a number of uses, as a meetings area and for children's activities. Here it would be important not only to explain that plan, but also to say why there were no adequate facilities elsewhere (e.g. there was no parish hall, or it was too far away, or across a dangerous road, for children's use) and why the need was now perceived (e.g. new development which had increased the population of the area, or recent success in attracting young families).

Example B: It is proposed to replace the stained glass in a window at the east end of the south aisle. It would be essential to describe (probably with a photograph) what the existing window looks like (perhaps it is simply a pattern of coloured glass) and how the new window will express some idea or provide a new focus for the attention of worshippers. Perhaps the aisle is used, or will be used, for small mid-week services and the new window will be a welcome feature in that context.

Example C: It is proposed to create a new vestry/office area in the south-west corner of the church. The proposed glazed screen will also provide an inner porch to the south door. In this case, it might be that one of the purposes of the changes was to provide a base in the parish for the incumbent, who now lives in another village some miles away. The elimination of draughts from the south door is another sensible step. And, perhaps, the changes would also enable the old vestry off the chancel to be used for a crèche.

It will be seen from these examples that there is no need for elaborate, formal explanations. The Statement of Need simply sets out the compelling reasons for the proposed changes.

These Statements are a valuable way of enabling the PCC to become focussed on what is really needed and strengthen its "case" in "selling" proposals to the congregation and wider community. It needs to be remembered that the wider community, who may rarely attend worship, can get very excited by what may appear to be significant changes to **their church** and raise objections.

The expertise of the DAC is available to help the PCC in formulating these Statements and copies of Statements by other PCCs can be supplied. The guidance of the Council for the Care of Churches (CCC) may be found on the joint website for both diocese (www.leicester.anglican.org/dac/faculty.htm).

C. Consultation with English Heritage, Amenity Societies, the Local Planning Authority, the Council for the Care of Churches (CCC) and other bodies

Where the proposed works involve alteration 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 are likely to affect the archaeological importance of the church, then the above bodies have to be consulted.

It is desirable for consultation with English Heritage, Amenity Societies and the Local Planning Authority to be undertaken as soon as the Statement of Significance and Need, including the options analysis, have been completed during the preliminary stage of informal consultation.

On significant proposals (usually extensions and/or re-ordering), the DAC Secretary will arrange a single site visit of these bodies and DAC representatives in order to minimise the demands on the time of parish representatives, and to enable all bodies with an interest to hear what each other is saying. In every case, please contact the DAC Secretary **before** contacting these bodies seeking a site visit. **N.B.** This **excludes** any site visits in respect of English Heritage grant applications, which the PCC must arrange.

English Heritage must be consulted in respect of all alterations, however small, to Grade I and II* churches and major internal changes which affect the character of Grade II churches. For the Diocese of Leicester, English Heritage accepts they have been consulted when the DAC has been requested for informal advice and the proposal is on the DAC agenda that English Heritage receives. The PCC, therefore, does not need to consult them directly.

In respect of proposals involving alterations or an extension likely to affect the special archaeological or historical interest or likely to affect the archaeological significance of the building the appropriate **Amenity Society(ies)** and the Local Planning Authority should be consulted.

The age of the church, the nature and affect of the proposed works determine which one or more of the **National Amenity Societies** should be consulted (details on page 3 of Useful Addresses).

External changes to the church will require **planning permission** in addition to a faculty. The Church Architect or Surveyor should be consulted on the appropriate action required.

In addition, the **Council for the Care of Churches (CCC)**, which is a national church organisation at Church House, Westminster, has to be consulted on issues of historic, archaeological or artistic interest. The CCC has access to nationwide knowledge, expertise and experience, which can be invaluable.

English Nature needs to be consulted, **directly** by the PCC, if the church has bats or a history of roosting bats and the proposals (e.g. structural repairs or timber treatments) may affect the bats or their roosts.

The PCC is required to consult these bodies when their proposals make it appropriate, and comments/advice received must be considered by the PCC in formulating its final proposals for Faculty submission.

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Please remember that if the appropriate consultation has not taken place by the time the faculty petition reaches the DAC for formal advice, the PCC will be asked to undertake it as the Chancellor is required to ensure that such bodies have been consulted, and will consult them directly if necessary. Failure by the PCC to consult at an early stage inevitably introduces avoidable delay into the process later on, and could potentially introduce opposing views to the proposals, which the Chancellor may consider can only be resolved by holding a Consistory Court hearing.

Please consult the DAC Secretary if you are in any doubt on how or when to consult these bodies.

Formal consultation

A. Submitting the Faculty application

Firstly the PCC must pass a resolution supporting the proposals. The minutes should record any other views and the voting figures.

When the PCC is ready to send the formal Faculty Application form (Petition for Faculty) to the DAC for consideration, delay in the process is minimised: -

- If you check the closure date for agenda items for the monthly meeting
- If all the material required is submitted at the outset (2 sets) thereby obviating the need for further correspondence. There is a checklist on page 13 of the Faculty Petition. The principal enclosures are: -
 - Petition for Faculty (Form no. 2)
 - Statement of Significance
 - Statement of Needs
 - Copy of PCC resolution authorising the works and the voting
 - Architect's detailed specification for the work, materials to be used and methodology of working
 - Drawings, plans and other relevant documents including a site and church plan
 - Planning Permission (for external work)
 - Correspondence with English Heritage/Amenity Societies/Local Planning Authority
 - Approval letter from insurers
 - Quotes/estimates from architect/contractors
 - Photographs to identify proposed works

If you need advice as to what to include, please consult the DAC Secretary.

B. How is an application processed by the DAC?

- Usually, the application is referred to appropriate members prior to the meeting to enable them to make informed comments on the detail to the DAC
- It may be necessary, prior to the meeting, for a member to check out or ask for more details with the parish and/or visit for clarification
- Applications are considered at the next monthly DAC meeting
- The DAC may require further information or consider it desirable for a sub-committee to visit if it is unable to reach a conclusion

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- The DAC gives statutory advice, to the Chancellor, on the appropriateness of the works in the light of heritage, aesthetic, practical, and pastoral considerations, to enable him to consider the faculty application
- The DAC, on completing its consideration, is required to complete a Certificate of Advice to the Chancellor (Form No. 1) which: -
 - Recommends the work; or
 - Raises no objection; or
 - Declines to recommend the work
- A Certificate of Recommendation or No Objection may contain conditions e.g. for an Archaeological Watching Brief – if so, inform your architect
- The Certificate will also indicate: -
 - 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
 - Whether any of the Amenity Societies, English Heritage, the Local Planning Authority or CCC should be consulted, if this hasn't already taken place
- If the DAC recommends, or has no objection to the proposals, and the Faculty petition: -
 - **Does not require amendment** the DAC office sends to: -
 - The PCC: -
 - A covering letter explaining what to do next
 - The DAC Certificate, copied to the Diocesan Registrar
 - Two completed Public Notices for display
 - The Diocesan Registrar the Faculty petition and all the papers submitted by the PCC to the DAC and the Registrar will be able to start processing it (whilst the Public Notices are on display)
 - **Does require amendment** following the DAC process, the DAC office sends to the PCC: -
 - A covering letter explaining what to do next
 - The DAC Certificate, copied to the Diocesan Registrar
 - The Faculty petition, with the accompanying papers, for appropriate action by the PCC, and subsequent submission directly to the Diocesan Registrar
- **Please remember that receipt of the Certificate is not an authority to do the works.** The PCC must proceed to the next stage to Petition the Chancellor to issue a faculty. If work is undertaken before the faculty is received and the Chancellor receives objections, the PCC runs the risk of having to undo or change what has been done at its own expense.
- If the DAC declines to recommend the work, the PCC is entitled to petition the Chancellor to issue a Faculty notwithstanding the DAC's decision.

Petitioning the Chancellor for a faculty

- The PCC displays the two copies of the Public Notices for 28 days in accordance with the instructions provided – i.e. one inside and one outside the church
- After the Public Notice has been displayed for 28 days, complete and sign both copies of the Certificate of Publication and send to the Diocesan Registrar one copy of: -
 - Certificate of Publication
 - Public Notice
- The Faculty cannot be issued until the Public Notice and Certificate of Publication have been sent to the Registrar and he has confirmed that there are no objections
- The Chancellor will issue the Faculty shortly afterwards
- The Registrar will be pleased to assist you if you have any enquiries during this stage.

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What happens if there are objections?

Objections to a Petition may be raised during the Notice Period by any of the following: -

- The Archdeacon
- The PCC
- Any resident of the parish or person on its electoral roll
- The Local Planning Authority
- Any National Amenity Society
- The Council for the Care of Churches
- Any other person or body appearing to the Chancellor to have a lawful interest in the matter of the Petition.

Objections have to be sent to the Registrar. Once received, the objector has a potential liability for costs.

If all parties agree, the Chancellor may consider the representations and determine the application in writing. Otherwise, the case will be heard at a Consistory Court hearing before the Chancellor, usually in the church, which is the subject of the Petition. The Chancellor's decision is delivered in writing at a later date.

Other Matters

1. Minor works

Some minor works defined by the Chancellor in the Minor Works List may be undertaken without a faculty.

There are two categories: -

- a) Routine maintenance, which may be undertaken without a faculty and with no prior consultation with the DAC or Archdeacon, including: -
 1. Cleaning, clearing and removal of vegetation from gutters and downpipes
 2. Regular servicing (but not repairs or alterations) of equipment e.g. boilers and heating systems, electrical and lighting installations (by approved NICEIC or ELA contractors), bells, organs, clocks, fire extinguishers
 3. Routine churchyard maintenance (not including repairs or alterations)
 4. Introduction of vestments, robes, bibles and service books (authorised by the General Synod), choir and organ music and altar linen (excluding frontals) and disposal of existing (except hand-bound or other unique or valuable books)
- b) Some works of minor repair and disposal of fixtures and fittings may be undertaken without a faculty, but **do require consultation with the DAC or Archdeacon**. This requires the completion of a simple Minor Works Form, available from the website or DAC Office, which can be processed through the office within days

All other works/changes require a faculty.

2. Urgent maintenance problems

From time to time, repair problems arise which require urgent attention because failure to attend to the problem might cause additional damage and expense e.g. ingress of water through the roof; there is a potential danger to people e.g. falling stonework; there is a security problem e.g. arising from vandalism; or because of the loss of a basic service, e.g. boiler breakdown.

In these circumstances, contact the DAC Secretary who, after discussion with the Archdeacon, will: -

- Usually authorise whatever emergency or investigative action needs to be taken under the direction of the church architect and
- Request that a faculty application be submitted subsequently to authorise emergency work done or further work required after investigation

The Church Architect or Surveyor should always be kept informed.

3. Memorials and Trees in churchyards

These are the subject of separate regulations by the Chancellor and guidelines. Copies can be obtained from the DAC Secretary or the joint website (www.leicester.anglican.org/dac/faculty.htm).

