

GUIDANCE NOTE

Faculty – What is it and how does the system work?

Introduction

Faculty refers to the Church's system of permission for alterations and repairs to church buildings (including contents) and churchyards. Faculty is regulated under the Constitution of the Church in Wales through the Rules of the Diocesan Courts. Each diocese operates the faculty system in its area. This guidance note seeks to set out, in a straightforward way, an explanation of the Faculty system and how it operates to help those involved, especially parishes, understand the system better. The guidance is set out by a series of 'Frequently Answered Questions'.

1. What is a Faculty?

A Faculty is an ecclesiastical licence which gives permission to make physical alterations. It is the Church in Wales' mechanism for controlling and approving works and changes to its church property. It is a permission system which seeks to carefully consider proposals before changes are made and includes provision for expert advice and external consultation in arriving at a decision.

2. Who grants a faculty?

A faculty is granted by the Diocesan Chancellor. This person is legally qualified (usually a Judge), and assesses each application (or petition) for a faculty on the basis of the 'evidence' presented.

Such evidence will come primarily from the DAC (Diocesan Advisory Committee), but will also include observations from local people (every faculty application is publicised) as well as, in respect of Listed Buildings Cadw, the Local Authority and Amenity Societies (Victorian Society, Georgian Group, SPAB, etc).

3. What does the DAC do?

The DAC (Diocesan Advisory Committee) is the principal body which advises the Diocesan Chancellor. It consists of clergy (Archdeacons) as well as specialists in areas such as architecture, archaeology, history, bells or organs. The Committee is voluntary and we rely on the generosity of those volunteers in giving their time and expertise to DAC's.

The DAC is managed by a Secretary who will coordinate meetings and applications with the Registrar of the Diocese. Whilst a key part of the DAC's work is in meeting to discuss proposals, they are also there to offer guidance and advice to Parishes generally. It is strongly recommended that Parishes discuss proposals at an early stage with their DAC – it could save you time and money and will certainly make the application process smoother.

4. Is there any work that does not require a faculty?

Yes. The rules include various 'minor matters' where a faculty is not required. The rules are quite detailed but essentially mean that no faculty is needed for:

- Moving furniture

- Temporary additions for events and special occasions
- Cleaning (only) of gutters and drainage pipework;
- Refixing or replacing length(s) of rainwater guttering in a like-for-like manner;
- Re-fixing or replacing a small number of slipped or broken roof slates/tiles, or section of leadwork on a like-for-like basis; or
- Replacement of light bulbs, light fittings and/or other electrical fittings on a like-for-like basis where no new cables or additional fittings are required.

It should not be assumed that 'like for like' work does not require a faculty. Discuss with your DAC secretary in each case.

It should also be noted that introductions of items into a church will need a faculty e.g plaques, paintings, permanent fittings and furniture etc. It should be noted that there is a presumption against granting a faculty for memorial plaques in churches except in very special cases.

A further detailed guidance note is available on minor matters.

5. What about emergency works?

Sometimes, there can be an immediate need to undertake works when some unforeseen incident has occurred such as:

- a. where there is a serious threat to the building's security and contents (eg. following forced entry, vandalism or weather damage, etc.);
- b. where there is a serious risk to the health and/or safety of the public or persons (eg due to structural instability resulting from accidental impact, weather damage, fire, flood, etc.);
- c. where there is a serious risk to the integrity of the building fabric (eg. resulting from examples such as those given in (b) above and theft of critical materials, such as lead);
- d. where the cancellation or severe disruption of an important and imminent planned event (eg. wedding, concert, etc.) is unavoidable as a result of the failure of building services (eg. failure or malfunction of electrical or water supply, heating plant or associated fuel supply, lighting or drainage system);
- e. where it is necessary to comply with measures necessary to fulfil obligations of building insurance where associated with any of the above situations.

Emergency works are different from works that are urgently needed to be completed (as should be identified in a Quinquennial Inspection report). Emergency works relate to works where a delay in acting could prove seriously problematic, especially where public safety is concerned.

In these circumstances, you should immediately contact your Archdeacon and, if possible, the DAC secretary. They are able to authorise the minimum necessary works required to deal with the emergency so that a faculty application can be later submitted to cover any more long term works.

A detailed guidance note on this procedure is also available.

6. Who can apply for a faculty?

Anyone can apply for a faculty though it is usually the incumbent and churchwardens (or their authorised agent). The views of the PCC will always be required for a faculty to be considered.

7. How do I apply for a Faculty?

It is necessary to complete an application form to apply for a faculty. This form asks a number of detailed questions about the building, the proposal, the project team and consultations. It is available from the DAC Secretary and/or the Diocesan Website.

The key to submitting a faculty is to provide full and detailed information that will enable the DAC, in advising the Chancellor, to fully consider the proposal. The biggest cause of delay in considering a faculty is the provision of inadequate or limited information.

It is often helpful, especially for larger works, to ask your professional advisor to submit the application on your behalf as they should be able to provide the necessary information. The key issue is to clearly show what the present situation is like and what will be the situation after the works are completed. Photographs can be very useful in this respect.

It is also vital to fully justify your proposal. This is best done by setting out your proposals in terms of the significance of the building and the need for the proposal. A form called a Statement of Justification is also available to help you frame your explanation. Your DAC secretary can explain more of this process.

8. I am not sure exactly what work is needed. Should I still apply for a faculty?

If you are aware work is needed but you are not sure exactly what work will be done or you do not want to risk abortive fees, you can seek advice from the DAC via a Prior Notification Form. This is a simple procedure which needs very limited information but should help you to get a steer on how to take your project forward in the best way.

9. How long will the process take?

There are no precise time limits to the process. However, the process will be quickest if:

- You discuss your works with the DAC secretary first and if necessary submit a Prior Notification Form and seek the initial views of the DAC
- Provide full information in accordance with the faculty application form guidance
- Provide a full justification for your proposals
- Use a professional to provide accurate and detailed information
- Consult widely on your proposals before submitting them
- Ensure your Archdeacon is aware of your submission.

10. What if a faculty is refused?

If, after considering all the evidence submitted, the Diocesan Chancellor refuses to grant a faculty there is a procedure for an appeal to a Provincial Court. There is no right for objectors to appeal where a faculty is granted unless they can show some failure of judicial process.

11. Who should I consult as part of my faculty application?

It is necessary to place a notice outside your church giving people 28 days to submit their comments on the proposal to the Diocese. There is a form for this notice and the DAC secretary will advise on this as part of the application.

For listed buildings, the DAC secretary will seek the views of various bodies (Cadw, Local Authority, Amenity Societies etc) and it is also necessary to advertise in the local press. However, it is sensible for you or your advisers to consult these organisations before you submit your faculty particularly for significant work or controversial proposals.

Where works significantly affect the property, the Representative Body, as owner, will likewise be consulted by the DAC secretary. Again, it is sensible to consult with the RB in advance of your faculty application.

It will also help consideration of your case if you can show that your local community and key stakeholders have been consulted and support what you are trying to do. This will be particularly important for projects which develop the use and purpose of your building.

12. Does faculty cover any other building other than the Church?

You need a faculty for works to your church or in your churchyard. If there is a building within the church grounds (which is not a separately listed building), works to it will also need a faculty. Examples would be bier houses or lych gates.

If there is a separately listed building within the church grounds, works to it will need Listed Building Consent/Conservation Area Consent and a faculty.

New gravestones or repairs to existing ones will not generally require a faculty provided they fall within the limits of the churchyard regulations of the Constitution.

Grave spaces can only be reserved by grant of faculty and this will only be granted in exceptional circumstances.

Detailed guidance on the management of churchyards and gravestones is available from the Representative Body (and in the form of an additional guidance note).

13. Why is so much information requested on the Faculty application form?

It is true that the faculty application form asks more questions than might be found on a secular application form for Listed Building Consent. This is because the faculty is the only form of consent that the church itself requires – it is a one-step process – and allows for all issues that might be of interest to the church to be covered in one process.

14. When do I have to seek planning permission in addition to faculty?

You should always seek advice on whether planning permission is needed as it is a technical area. Your professional advisor should be able to advise and the DAC secretary and/or RBCW

may be able to help also. In principle, planning permission is needed for any material building or engineering operation or change of use. Typical examples where planning permission will be needed, in addition to faculty, are:

- For an extension of your building
- Works that materially change the external appearance (this will include painting the outside of previously unpainted listed building or installing a roof light)
- Significantly, changing the use of the church such as installing offices or a shop
- Installing a mobile phone mast in the tower
- Installing new paths or altering layout

Your local authority planning department will be able to advise and local policies will differ in each area. You should check carefully in each case as the consequences of not obtaining planning permission when you needed to can be severe including enforcement to undo the works (despite the granting of a faculty).

15. Do I need a faculty for works to trees?

No. BUT you will need the consent of the Archdeacon and he/she will need to be satisfied the works are needed, usually with evidence from a qualified tree specialist.

If your church lies within a Conservation Area you will need consent from the Local Authority too. Also trees may be protected by a Tree Preservation Order and consent from the Local Authority will be needed for any works to these trees. The RBCW may be able to advise on whether such an Order is in place or you should contact your Local Authority.

16. I have heard people talk about ‘Ecclesiastical Exemption’, what does that mean?

The Government considers the faculty system such a rigorous and effective permission system, that it has granted the Church in Wales an exemption from certain secular controls (Listed Building Consent and Conservation Area Consent). This is what Ecclesiastical Exemption means.

Such an exemption is a valuable concession but does mean that the faculty system must be robust and stand up to scrutiny. It has to balance the needs of the church and the conservation of heritage.

The exemption does not extend to Planning Permission (this is a different consent to Listed Building Consent and Conservation Area Consent). See section 14 for more information.