

FACULTY – A GUIDANCE NOTE FOR PARISHES

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 Faculty Rules of 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' (FAQs).

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.

In January 2018, the Representative Body of the Church in Wales introduced a new Online Faculty System which now processes three types of faculty application: List A, List B and full. Previously there was only one type of faculty application (full) for all types of work which was submitted on a paper form. List A and B applications can be thought of as a reduced form of Faculty which covers routine maintenance, like-for-like repairs and straightforward works (eg. replacing a boiler) that have little or no impact on the historic fabric of the church or churchyard. Dioceses are now moving over to the new online system and may be processing both online and paper applications. Check with your DAC Secretary to see which type of method is operating in your diocese.

2. Who grants a faculty?

A List B faculty is granted by the Diocesan Registrar. A full faculty is granted by the Diocesan Chancellor. Both are legally qualified (although the Chancellor is usually a Judge) and assess each application for a faculty on the basis of the 'evidence' presented and the application's compliance with the Faculty Rules.

Such evidence will come from the supporting documentation attached to the application (eg. architect's plans and specifications, builder's quotes, photographs, etc) supplied by the applicant and, in the case of a full faculty application, from the Diocesan Advisory Committee (DAC), observations from local people (every faculty application is publicised) and certain statutory

consultees (Cadw, Local Planning Authorities, Amenity Societies and the Royal Commission on Ancient and Historic Monuments of Wales).

3. What does the DAC do?

The DAC 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 the Church in Wales relies on the generosity of these volunteers in giving their time and expertise to the DAC.

The DAC is managed by a Secretary who coordinates 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 therefore strongly recommended that parishes discuss proposals at an early stage with their DAC – it could save 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, although it is recommended that parishes still record these as a List A item on the Online Faculty System. The rules are quite detailed but essentially mean that no faculty is needed for things like:

- 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
- 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. There is also a presumption against granting a faculty for memorial plaques in churches except in very special cases.

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 need to be completed urgently (as 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, your DAC secretary. They are able to authorise the minimum necessary works required to deal with the emergency so that a faculty application can be submitted later to cover any more works that may be required as a result of the emergency. Do not forget to inform the Ecclesiastical Insurance Group (EIG) as soon as is feasible.

Further information on emergency works is available from the Property Department of the Representative Body in a separate guidance note. It can be viewed online and/or downloaded at:

<http://cinw.s3.amazonaws.com/wp-content/uploads/2015/10/Minor-and-Emergency-Works-Guidance-Note.pdf>

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 can be done using a paper form or via the Online Faculty System. The paper form asks a number of detailed questions about the building, the proposal, the project team and consultations. It is available from your DAC Secretary and/or the Diocesan Website. The amount of information and detail required for the online forms is dependent on the type of application you are making ie. List A, List B or full. Check with your DAC secretary to ascertain which method of submission is appropriate for your diocese.

For information on how to register with the Online Faculty System (OFS) and complete an online application, click on the following links:

[OFS Registration Guidance for Applicants](#)
[OFS List A & B Faculty Application Guidance](#)
[OFS Full Faculty Application Guidance](#)

The key to submitting a good faculty application (List B and full) is to provide the appropriate amount of information that will enable a full and detailed assessment by the Registrar and/or DAC and Chancellor. The biggest cause of delay in considering an application is the provision of inadequate or limited information. If you are unsure what type of information should accompany an application, consult your DAC Secretary.

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 the situation will be 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 Statement of Significance and a Statement of Justification (or Needs) should therefore accompany every full faculty application. Your DAC secretary can explain more of this process.

For large or complex works, the following should be used as a guide for the supporting documentation for your application:

- a location map at scale 1:1,250 or 1:2,500, with the building in question outlined
- a description of the proposed work, including the design principles and concepts, and a schedule of works
- plans and drawings showing existing and proposed situations. For all but the simplest work, this will normally mean measured drawings of all floor plans, and external or internal elevations affected by the work proposed
- a heritage impact statement (or equivalent). See Cadw's guidance which explains what a heritage impact statement should contain¹
- detailed drawings of particular features affected by proposed works (for example, doors, windows or stone mouldings)
- dated photographs of the parts of the buildings affected by the proposed changes
- a copy of the listing entry
- any other details as appropriate; for example, archaeological assessments, conservation reports on the building, its elements or fittings, paint analysis, ecological statements, etc.

¹ *Heritage Impact Assessment in Wales, Welsh Government, Cadw, 2017.*
<http://cadw.gov.wales/docs/cadw/publications/historicenvironment/20170531Heritage%20Impact%20Assessment%20in%20Wales%2026917%20EN.pdf>

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

If you are aware that work is needed but you are not sure exactly what should be done, or you do not want to incur high fees from a professional advisor, you can seek advice from the DAC, who may recommend that you complete a Prior Notification Form (or something similar). This is a simple procedure which needs very limited information but should help you get a good idea of how to take your project forward in the best way.

9. How long will the process take?

This is dependent on the type of faculty application you are making. It is therefore difficult to give precise time limits to the process. List A applications for routine maintenance and very minor repairs require no formal consultation and can be completed online quickly. List B applications normally only require consultation with an appropriate DAC member or members (not the full panel) and are reviewed by the Diocesan Registrar, who takes the views of the member/s into consideration when making his/her determination. Full applications are discussed at a formal DAC meeting and may also require consultation with external statutory bodies (such as Cadw, Local Planning Authority, Amenity Societies, etc). They are determined by the Diocesan Chancellor who takes the advice of the DAC, consultee responses and any comments from the public into consideration when making his/her determination. The full application process will be quickest if:

- You discuss your proposed works with the DAC secretary first and if necessary submit a Prior Notification Form to seek the initial advice of the DAC
- Provide full information in accordance with the faculty application forms 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?

For full faculty applications, if the Diocesan Chancellor refuses to grant a faculty after considering all the evidence submitted, 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?

For full faculty applications, it is necessary to place a notice outside your church giving people 28 days to submit their comments on the proposal to the Diocesan Registrar. 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). It may also be necessary to advertise in the local press or on the Diocesan website. 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 buildings as well as a 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.

Further information on the management of churchyards and gravestones is available from the Property Department of the Representative Body in a separate guidance note. It can be viewed online and/or downloaded at:

<http://cinw.s3.amazonaws.com/wp-content/uploads/2015/09/Churchyards-Policy-Documents-and-Guidance-Note.pdf>

13. Why is so much information requested for a full Faculty application?

It is true that the full 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 and your DAC Secretary will be able to advise and/or the Property Department of the Representative Body. 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 to your building
- Works that materially change the external appearance (this will include painting the outside of a previously unpainted listed building or installing a roof light)
- Significantly changing the use of the church such as installing offices or a cafe
- Installing a mobile phone mast on 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 it is required can be severe, including an enforcement order 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 that the works are needed, usually with evidence from a qualified tree specialist.

If your church lies within a Conservation Area or is protected by a Tree Preservation Order (TPO), you will also need consent from your local authority. You can check whether a tree has a TPO by contacting your local authority.

16. I have heard about ‘Ecclesiastical Exemption’, what does it mean?

The Government considers the faculty system such a rigorous and effective permissions 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 must balance the needs of the church and the conservation of heritage.

However, 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.

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