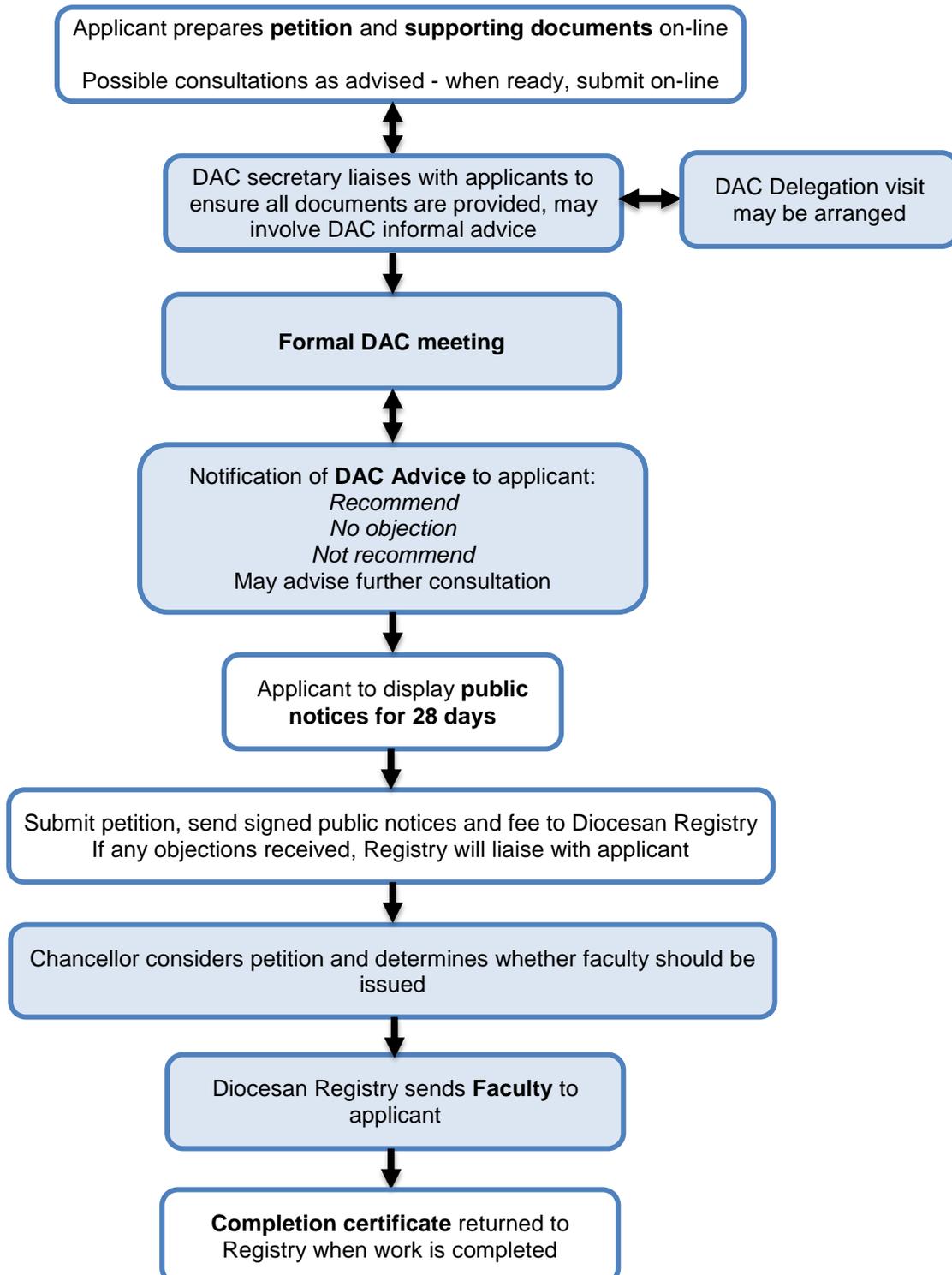




DAC Guidance Applications for faculties

BASIC GUIDE TO FACULTY PROCESS



INTRODUCTION

What is a faculty?

- 1 A **faculty** is permission from the **consistory court** which is the court of the Diocese to carry out work on a church building or its contents or churchyard. It covers repairs, alterations, additions or disposals.

The current legal requirements are laid down in the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and the latest Faculty Jurisdiction Rules 2013.

- 2 Faculties are usually granted by the **Chancellor** of the Diocese, who is the judge of the Consistory Court or occasionally by the **Archdeacon**. Works arising from the Quinquennial Inspection may well require a faculty but additions or changes to the fabric or contents of the church will almost certainly need one.

The term "church" as used in this context includes all parish churches (including their curtilage) and many other churches and places of worship, as well as some consecrated burial grounds.

The **Diocesan Advisory Committee for the Care of Churches (DAC)** is the advisory body on matters affecting places of worship in the Diocese of Bristol.

What can be done without a faculty?

- 3 There are some exceptions where a faculty is *not* required and this has recently been simplified by Parliament so that quite a lot of routine maintenance and updating work can be done by parishes. The list of these items is on the Diocesan web-site
 - a Some **repairs** or changes to the building or church - sometimes called "de minimis" matters do not need formal authorisation. These are contained in List A on the web-site, and you should check the conditions that apply. If there is any doubt as to whether a particular matter is covered by the list you should consult *before* starting the work. You should always keep a record in your church log-book of any work done to the building. Details of these works can be found on the on-line faculty system.
 - b List B sets out works that can be done to the building or the churchyard after the Archdeacon has given his or her written consent. This may cover repairs or like-for-like replacements but you will need to provide full details of the proposed work, and the

proposals will be considered by a member of the DAC before work can be authorised. The request for this authorisation is done through the on-line faculty system at:

www.facultyonline.churchofengland.org.

- c **Temporary re-ordering.** The Archdeacon can authorise temporary re-ordering of a church for up to 15 months, to see whether planned arrangements work satisfactorily and are generally acceptable before a faculty is applied for. Any work done under a temporary re-ordering licence must be reversible. The Archdeacon's office should be contacted in the first instance about this.
- d The Chancellor has delegated to incumbents certain authority in regard to memorials and tombstones etc. This is set out in the **Churchyard Rules**, obtainable on the web-site or from the DAC Secretary.

PRELIMINARY CONSULTATION AND DOCUMENTS

- 4 The first step should be **informal discussion** about the proposals to develop the plans. This will usually involve the **minister**, the **churchwardens** and **parochial church council** and the parish as a whole. Depending on the work to be done, the church architect should usually be consulted at this early stage.
- 5 All faculty petitions are managed through the national on-line portal at:
www.facultyonline.churchofengland.org

On-line help and user guides are available for the system.

The person who is submitting the petition must register for the parish, and complete the summary of works to be undertaken, a statement of significance, statement of need and as much of the petition as is available at this early stage.

Using the on-line faculty system to prepare the documents for the application, the parish should submit the application to the **DAC**. The Secretary to the DAC will advise on further information that might be needed and on any external consultations that might need to take place.

It may be necessary to consult certain **non-Church bodies** in order to obtain their formal consent at the faculty petition stage. Preliminary consultation should begin with them at a very early stage of planning the works. For example:-

- a The **Local Planning Authority** may need to grant planning permission – a faculty does not mean that planning permission is not needed. If the exterior of any listed building is to be materially altered, or any exterior part of an unlisted building in a conservation area is to be demolished, you must consult. Work affecting trees subject to tree preservation orders or within conservation areas will need to be referred to the Local Planning authority.
- b **Historic England** will need to approve the proposals if it is to give a grant for them or (normally) if it or its predecessors (English Heritage) have given a grant in the past for work to the church. It also has a statutory right to be consulted in cases where proposed work will involve alteration or extension to Grade I or II* listed buildings such that it will affect its character as building of special architectural or historic interest or for demolition or removal of substantial element of Grade II building. HE should also be consulted where the plan involves the archaeological importance of a building or archaeological remains within the curtilage.
- c One or more of the **National Amenity Societies** (such as the Society for the Protection of Ancient Buildings, Georgian Group or Victorian Society) may have a statutory right to be consulted where the proposed work involves alteration or extension to any listed building in such a way as would be likely to affect its character as a building of special architectural or historical interest, or the demolition of the exterior of an unlisted building in conservation area. The age of the building will determine which of the amenity societies may need to be consulted.
- d The **Church Buildings Council** has a statutory right to be consulted if the work involves a significant impact to Grade I and Grade II* listed buildings or in relations to articles of particular historic, architectural, archaeological or artistic interest.
- e The **Commonwealth War Graves Commission** should always be consulted if the proposals may affect any of their graves, monuments or memorials.
- f **English Nature** should be consulted if the church has bats or a history of roosting bats and the proposals (e.g. structural repairs or timber treatment) may affect the bats or their roosts.

Most of these consulting bodies can be invited to comment through the on-line system.

At this initial stage, the DAC secretary will liaise with the applicants to act as a guide and will often arrange for a DAC delegation to visit and advise where appropriate. This part of the process can take some time as the parish works towards its final proposals. A specified DAC assessor may be in contact about the proposals and details.

Basic information about the church and churchyard is needed, and a Standard Information Form will be built up through the on-line faculty system. The application will require:

- a summary of the proposed work - in bullet-point form, e.g. removal of pews in side aisle, or conservation of reredos.
- b petition – from the outset of the application, this will start building up the information which will eventually be needed for formal submission to the Chancellor.
- c statement of significance - identifies the importance of the current building or item of furniture, both in respect of its history and its impact on the appearance of the church
- d statement of need – to explain what is need, and what the public benefit will be, including to extend the mission of the church.
- e attached documents – all supporting items, such as photographs, plans, drawings, schedules of work, conservation reports

The on-line system will guide applicants through these supporting documents.

FORMAL ADVICE FROM THE DAC

- 7 Once preliminary consultation has been completed and the parish has finalised its plans, the application is put before the DAC for formal advice at its next meeting. Dates for the DAC meetings are available from the Secretary or on the Bristol Diocesan Web-site: www.bristol.anglican.org.
- 8 After the DAC has considered the formal proposals at their meeting, you will receive the **DAC's Notification of Advice** relating to the proposals. This will contain a full description of the proposals and indicate whether the DAC has decided to recommend the proposals, or to raise no objection to them, or not to recommend them. (In the first two cases its decision may be subject to provisos.) This formal advice from the DAC is valid for 24 months, and you would need to come back to the committee again if it is over this time.

The Notification will also indicate whether or not the DAC considers that any of the special cases for consultation apply. These points will be relevant when the Diocesan Registrar comes to decide whether any-non church bodies should be notified of the proposals. If there is evidence in

the attached supporting documents that appropriate consultation has already taken place, that will usually suffice.

- 9 If the DAC decides **not to recommend** the proposals, it is still possible to apply for a faculty. However it will normally be advisable to try to modify the proposals in order to meet the DAC's concerns, and then re-submit them to the DAC before going any further. It is the Chancellor who determines whether a Faculty should be issued, taking into account the advice he has received from the DAC and any other consultees.

PUBLIC NOTICE

- 10 The public notice will be produced by the system and you will need to add details of where people can see the plans and documents, and the names of the petitioners. Copies **must be displayed:-**

- a inside the parish church, on a notice board or in some other prominent position;
- b outside the parish church on a notice board (if there is one) or on or near the principal door and in some other prominent position; or
- c if the petition relates to another church or place of worship in the parish, inside and outside that church or place of worship also.
- d in other places as well, should the Registrar or Chancellor give additional instructions.

The public notice must be displayed for a continuous period of not less than 28 days including at least one Sunday when the church is used for worship. (In certain circumstances the Registrar may direct that the display period should exceed the normal 28 days.) The system will prompt you when the display period is completed.

After this, one copy of the endorsed public notice should be returned to the Registrar's Clerk with the "certificate of execution" duly completed.

- 11 Anyone who wishes to object to the proposals should send the Diocesan Registrar and the petitioners a written letter of objection. Within 14 days the Registrar will inform the objector of the alternative courses of action open to him or her, and keep you informed.

THE PETITION

- 12 The on-line Petition will need be completed before it is formally submitted for the Chancellor to consider. The petitioners are normally the incumbent and churchwardens. If anyone else is to be a petitioner, the Registrar's Clerk should be consulted first.

In the petition, the schedule of the proposed works will follow the description in the DAC certificate and will usually refer to specific documents which will be attached.

- 13 The following documents must be attached to the application:-
- a a certified copy of the PCC resolution, if not already submitted; the **PCC** should be asked to pass a resolution supporting (or expressing any other views on) the proposals. The voting figures should be recorded. If you have a DCC, it is specifically a PCC resolution that is needed.
 - b all other correspondence or other documentation referred to in the answers to the questions in the petition (such as any letters from insurers stating that the work has their consent, and any correspondence with English Heritage).

FEES

- 14 Currently (in 2019) the total fee payable, including VAT, is £296.20. The fee is payable by the petitioners, and the petition will not be progressed without it. Payments are to 'Harris & Harris' by cheque or online. Fees are fixed by General Synod and are revised each year.

If there are any objections made to the proposals, or if correspondence is protracted, additional fees will be payable in accordance with the annual Ecclesiastical Judges and Legal Officers (Fees) Order.

THE FACULTY

- 15 The Diocesan Registry will check the application and if all is correct will allocate the petition either to the Chancellor or, occasionally, the Archdeacon. The status of the application will be updated upon the system.

- 16 If the Chancellor or Archdeacon is satisfied that a faculty should be granted and makes an order to that effect, and provided that no objections have been received, the faculty will be issued by the Diocesan Registrar. If the signed public notice has not yet been filed, this will be required before the sealed Faculty is issued. The faculty will set out the timeframe by which the works should be completed and require the petitioners to send in a certificate of completion to the Registrar within that period.
- 17 If the matter is allocated to the **Archdeacon** and he or she **is not willing to grant a faculty**, the matter (if the petitioners wish to pursue it) must then be referred to the Chancellor.

SPECIAL CASES

- 18 **Special requirements** apply if the works for which a faculty is sought
- a are likely to affect the character of the church as a building of special architectural or historic interest; or
 - b affect the archaeological importance of the church or archaeological remains existing within the church or its curtilage; or
 - c involve demolition affecting the exterior of an unlisted church in a conservation area (see also para 24 below).
- 19 In these cases, special rules apply as regards notifying external bodies because 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 concerned are **Historic England, the Local Planning Authority**, and also any relevant **National Amenity Society** which the Chancellor considers to have an interest. (These 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 Registrar will give notice in writing, on an individual basis, to 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 have been approached at an early stage. The Registry staff are always ready to advise petitioners when this special provision is likely to apply.

- 20 In particular cases relating to an article or matter of **historic, architectural, archaeological or artistic interest**, or involving **alteration, extension or reordering or demolition**, 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**.
- 21 In the case of **demolition** of a church or parts of a church, **disinterment or re-interment**, and **reservation of grave spaces**, special rules apply. Applications should be made in the first place to the Registrar's Clerk, who will give instruction as to the procedure to be followed.

EMERGENCY FACULTIES

- 22 There may be occasions where a genuine emergency has arisen and work needs to be undertaken immediately. You should contact the Diocesan Registry if this situation arises.

Useful Addresses

Secretary to the DAC

Ms Emma Bakewell
Diocesan Office
First Floor, Hillside House
1500 Parkway North
Stoke Gifford BS34 8YU
Tel: 0117 906 0100
E-mail: emma.bakewell@bristoldiocese.org

Registry Clerk

Mrs Sarah Williams
Diocesan Registry, 14 Market Place
WELLS, BA5 2RE
Tel: 01749 674747
E-mail: sarah.williams@harris-harris.co.uk

Diocesan Registrar

Mr Roland Callaby
Diocesan Registry, 14 Market Place
WELLS, BA5 2RE
Tel: 01749 674747
E-mail: roland.callaby@harris-harris.co.uk

The Archdeacon of Malmesbury

Diocesan Office
First Floor, Hillside House
1500 Parkway North
Stoke Gifford BS34 8YU
Tel: 0117 906 0100

This document is issued under the authority of the Bristol Diocesan Advisory Committee for the Care of Churches. It may be copied by parishes for use by clergy, churchwardens, the PCC and other proper officers. Permission to copy for other users must be obtained from the Secretary of the DAC.