

**The Revd Rupert Allen**  
**DAC Secretary & Database Manager**  
**Church Buildings Team**  
 Direct Line: 0116 261 5332 (with voicemail)  
 Applications: <https://cofeportal.org/>  
 Email (Correspondence): [rupert.allen@leccofe.org](mailto:rupert.allen@leccofe.org)  
 Email (QIs etc): [dac@leccofe.org](mailto:dac@leccofe.org)  
 Website: [www.leicester.anglican.org/dac](http://www.leicester.anglican.org/dac)



## The Faculty Process

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St Martins House  
 7 Peacock Lane  
 Leicester  
 LE1 5PZ

## **1. Introduction**

This leaflet gives a brief outline of the procedure that applies for obtaining **either**: -

- Authorisation of a List B Matter not requiring a Faculty from the Archdeacon (see page 3) – **please note** that the Archdeacon's Certificate / Licence to undertake works was abolished with the introduction of the Faculty Jurisdiction Rules 2000

**or**

- A faculty, which is the permission from the Chancellor of the Diocese, is needed for all repairs, alterations or additions (including disposals and other transactions) to Church of England churches, their contents, churchyards and land belonging to them

A Faculty, authorisation by the Archdeacon under List B and works being on List A: -

- Are the ecclesiastical equivalent of Listed Building Consent, but also permit works to unlisted churches – which are under the Faculty Jurisdiction but which are not subject to Listed Building Consent
- Provide the D/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 or List B authorisation or undertaking works supposing them to be List A when either authorisation under List B or a Faculty is required leaves the D/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 D/PCC's expense. Equally, the costs of works, architect's fees to produce drawings, etc, which have not been formally sanctioned by the D/PCC could leave the person (be it Churchwarden or Fabric Officer or anybody else) commissioning those costs personally liable for those costs.

The application process, whether for a Faculty or a List B authorisation, seeks to answer the following questions: -

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
2. If the answer to question (1) is "no", the ordinary presumption in faculty proceedings "in favour of things as they stand" is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals. Questions 3, 4 and 5 do not arise.
3. If the answer to question (1) is "yes", how serious would the harm be?
4. How clear and convincing is the justification for carrying out the proposals?
5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2\*, where serious harm should only exceptionally be allowed.'

### **1.1 Legal framework for the Faculty process**

The statutory requirements, as from 1 April 2020, are laid down in the: -

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- Care of Churches and Ecclesiastical Jurisdiction Measure 1991
- Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure 2015
- Faculty Jurisdiction Rules 2015
- Faculty Jurisdiction (Amendment) Rules 2019
- Church of England (Miscellaneous Provisions) Measure 2019

### 1.2 The role of the DAC in the Faculty process

The Diocesan Advisory Committee for the Care of Churches (DAC) is the diocesan committee, required under the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, that advises the Chancellor or Archdeacon on matters affecting places of worship, having due regard to the Church's role as a local centre of worship and mission, relating to their: -

- Architecture, archaeology, art and history
- Use, care, planning and design
- Use and care of their contents
- Use and care of churchyards

The Committee consists of members, appointed by the Bishop, who between them have knowledge of the history, development and use of church buildings, liturgy and worship, architecture, archaeology, art, history and experience of the care of historic buildings and their contents. Additionally, the DAC has a number of Advisers – who are not formally members of the Committee – who have specialist knowledge and experience. Both the members and Advisers give their time free and are an invaluable source of advice to those proposing to undertake works to the church and/or churchyard.

The DAC is required to give advice to: -

- The Chancellor of the Diocese who grants the Faculty
- The Archdeacon who authorises works under List B
- District / Parochial Church Councils, particularly in respect of proposals which will require either a Faculty or List B authorisation, as they develop their thinking about any projects they may have, or repairs or remedial works they may need to undertake
- D/PCCs in the early stages of developing major re-ordering projects, the addition of new facilities (e.g. a WC or kitchen), or an extension to the church building
- Local authorities undertaking works in either a closed churchyard or the consecrated sections of a local authority cemetery
- Anyone else who is contemplating making an application for a private faculty

### 1.3 Other permissions that PCCs may also need in addition to a Faculty

- *Planning permission* may also be required for changes that affect the external appearance of a listed / unlisted church (such as new flues for the boiler) and will be required for an extension.
- *Building Regulations* approval may also be required for certain works (e.g. accessible WCs, additional floors, etc) in addition to a Faculty.
- *Advertising Consent* (a form of planning permission) may also be required for Noticeboards in a churchyard
- *Conservation Area Consent* will possibly be also required for works to trees when the churchyard lies within a Conservation Area &/or if there is a Tree Preservation Order

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- *Listed Building Consent* may also be required for works to a memorial or wall in the churchyard that is separately listed in its own right from the church & churchyard
- *Scheduled Monument Consent* from Historic England where the proposals will affect parts of the church &/or churchyard that have been designated a Scheduled Ancient Monument
- *Sites of Special Scientific Interest* where the churchyard impacts on such an area

### 1.4 Other bodies that need to apply for Faculties for works

Local authorities (Borough / District / Town Councils or secular Parish Councils) also need a Faculty or List B authorisation for works to a churchyard closed for the purposes of burial for which they are responsible for the maintenance and the consecrated sections of local authority cemeteries in respect of works to the memorials, paths, trees and walls.

## 2. Lists A & B of Matters not requiring a Faculty

Tables 1 (List A) & 2 (List B) of the Faculty Jurisdiction (Amendment) Rules 2019 set out those works that may be undertaken without a Faculty subject to certain conditions. The Tables comprise two categories: -

- **List A (Table 1)**, which comprises those matters for which no permission is required.

**N.B.** There is no legal requirement on D/PCC to seek permission for works on this List. However, the DAC and the Archdeacons would strongly encourage the D/PCC to use the Online Faculty System (OFS) as a convenient tool for keeping a log of the works carried out that fall into this category. It may also act as a way of flagging up when repeated works are carried out such that they indicate there is a bigger problem that needs to be addressed, e.g. the rodding of drains.

- **List B (Table 2)**, which comprises those matters which can be authorised by the Archdeacon, subject to certain conditions.

**N.B.1** The Archdeacon is required, when necessary, to consult the DAC Secretary and/or members of the Diocesan Advisory Committee on proposals before granting their authorisation.

**N.B.2** The Archdeacon can decline to approve an application for the authorisation of a List B matter even if the proposed works are listed on List B

**Anything not covered by Lists A and B** require a Faculty from the Diocesan Chancellor – unless they are covered by an Additional Matter Order issued by the Chancellor.

If you are in any doubt as to whether a faculty or List B authorisation is needed, the DAC Secretary ([rupert.allen@leccofe.org](mailto:rupert.allen@leccofe.org) or 0116 261 5332) or the Diocesan Registrar ([registry@stoneking.co.uk](mailto:registry@stoneking.co.uk) or 0207 796 1007) should be consulted **before** commissioning or starting the work.

### 2.1 Submitting an application for works under List B

The D/PCC must pass a resolution supporting the proposals and/or their exploration. The Minutes should record any other views and the voting figures. A copy of the Minutes needs to accompany every application.

All applications – whether by the D/PCC or the Borough/District/Town Council responsible for a closed churchyard – should be made via the OFS (via either <https://facultyonline.churchofengland.org/> or <https://cofeportal.org/>), which will guide you through deciding whether the works proposed are covered by the Matters not requiring a Faculty List or whether a Faculty will be required (see page 6 below).

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- N.B.1** If a D/PCC is totally unable to find anyone to register as an applicant, the please consult the DAC Secretary about how the application can be made
- N.B.2** If the D/PCC is asking for a site visit from the DAC and Statutory Consultees who need to be consulted, the D/PCC Minute will need to agree to explore the options and delay making a substantive resolution until the D/PCC is able to know what it is going to do.

When making the application to the DAC, delays in the process will be minimised if you: -

- a) **Check the closure dates for the receipt of applications for the six-weekly DAC meetings.** These can be found on the website at <https://www.leicester.anglican.org/faculties>

**N.B.** All works under List B in categories

B1 (1) – **Works of repair affecting the fabric or historic material**

B6 (2) – **The routine maintenance, repair or re-building of [churchyard] walls** may need to be considered by the DAC at the next available meeting

- b) **Provide, as far as possible, all of the information required should be submitted at the outset electronically through the OFS.**

### 2.2 What to submit to the DAC

There is a checklist and guidance on what information needs to be submitted on the website at <https://www.leicester.anglican.org/faculties/>. Although each application will, inevitably, be slightly different, the information required is likely to include the following: -

- o A copy of D/PCC resolution authorising the works with the voting figures
- o Professional Adviser or other specialist's detailed specification for the work, materials to be used and methodology of working
- o Drawings, plans, photographs and other relevant documents including a site and church plan
- o Approval letter from insurers
- o Quotes / estimates from chosen architect / contractors
- o Photographs to identify proposed works

**N.B.1** If you need more detailed advice as to what to submit, please consult the DAC Secretary ([Rupert.allen@leccofe.org](mailto:Rupert.allen@leccofe.org))

**N.B.2** From 1 April 2020, when you begin a Faculty application, the OFS will automatically ask the DAC Secretary to provide advice as to the documents that will be needed.

### 2.3 How is a List B application processed by the DAC?

- a) Usually, applications are referred to appropriate member(s)/adviser(s)
- b) It may be necessary to ask for more details from the parish and/or request to visit for clarification
- c) Applications will not normally need to go to a DAC meeting except these two categories: -  
B1 (1) – **Works of repair affecting the fabric or historic material**  
B6 (2) – **The routine maintenance, repair or re-building of [churchyard] walls**
- d) If the application needs to go to a DAC meeting, an email confirming that the application will be considered at the next DAC is sent out once the Agenda has been finalised and dispatched to DAC members and other appropriate Statutory Consultees
- e) After the application has been considered (whether at a DAC meeting or not), the: -
- DAC Secretary may revert (i.e. return) the application to you asking for further information

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or

- Archdeacon will issue a Written Notice under List B (via the OFS) which will have additional condition(s) to those set out in Table 2 of the Faculty Jurisdiction (Amendment) Rules 2019

or

- Archdeacon may feel that the Member(s)/Adviser(s) looking at the application have raised issues that need to be discussed at the next available DAC meeting – if this happens, you will get an email from the DAC Secretary telling you at which meeting the application will be discussed.

### 3. Obtaining a Notification of Advice from the DAC

#### 3.1 Seeking early DAC advice

The D/PCC (or Borough/District/Town Council for a closed churchyard) must: -

- Consider what the needs are, the options available and then to develop proposals to meet the identified needs
- Consult the DAC Secretary as early as possible
- Engage a professional adviser on all changes / repair proposals that affect the fabric of the church and/or churchyard

**N.B.** Ideally the appointment of a professional adviser should be made by competitive tender (see DAC Advisory Note on how to do this available at <https://www.leicester.anglican.org/dac/professionaladvisers>)

- Brief the Professional Adviser – and keep them up-to-date as appropriate – especially on complex proposals involving re-ordering and/or extending the church
- Consult the Advisory Notes from the DAC, the Church Buildings Council (CBC), Historic England and other bodies are available on a range of issues and may be accessed on the following websites: -
  - <https://www.leicester.anglican.org/advisory-notes.php>
  - [www.churchcare.co.uk](http://www.churchcare.co.uk)
  - [www.HistoricEngland.org.uk](http://www.HistoricEngland.org.uk)

or are available from the DAC Secretary, who has access to information on technical issues (such as heating, lighting, bells, organs and stained glass) and to the specialist DAC members and advisers.

**D/PCCs are encouraged to seek informal advice from the DAC on all proposals as a matter of course.** The value of such discussions, when ideas are still at a formative stage, i.e. before specific proposals are produced and significant architect's fees incurred, cannot be over emphasised and will assist the D/PCC in considering possibilities/options, ascertaining if the Statements of Significance and Need are required, and in preparing them.

Please see **3.4 Consultation with the Statutory Consultees** (page 9) about formally seeking the views of the Church Buildings Council, Historic England and National Amenity Societies.

Make an application (which can be developed over time) through the Online Faculty System (via either <https://facultyonline.churchofengland.org/> or <https://cofeportal.org/> for: -

- Proposals for which there is not a suitable category under either List A or List B – the re-write of the OFS will ask the D/PCC to fill in the first three pages of the Petition form and

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you can then request advice

- Re-orderings or extensions so that either the **DAC Secretary** (Rupert Allen on 0116 261 5332 or [Rupert.Allen@leccofe.org](mailto:Rupert.Allen@leccofe.org)) **Buildings Development Enabler** (Gill Elliott on 0116 261 5353 or [Gill.Elliott@leccofe.org](mailto:Gill.Elliott@leccofe.org)) or **Historic Churches Support Officer** (Simon Headley on 0116 261 5242 or [Simon.Headley1@leccofe.org](mailto:Simon.Headley1@leccofe.org)) can offer the appropriate initial informal advice on proposals concerning: -
  - The process required
  - Preparation of the following documents: -
    - Statement of Significance
    - Statement of Need
    - Options Appraisal
  - Consultation with other bodies such as the Church Buildings Council, Historic England, the relevant National Amenity Societies and the Conservation Officer of the relevant local planning authority – which the DAC Secretary is now responsible for undertaking

### 3.2 Statements of Significance and Need

The Faculty Jurisdiction (Amendment) Rules 2019 require that: -

**4.4.**—(1) Where proposals involve making changes to a listed church or other listed building intending applicants must provide the Diocesan Advisory Committee with—

(a) a document which describes—

- (i) the significance of the church or other building in terms of its special architectural and historic interest (including any contribution made by its setting) and
- (ii) any significant features of artistic or archaeological interest that the church or other building has

so as to enable the potential impact of the proposals on its significance, and on any such features, to be understood (a “statement of significance”); and

(b) a document setting out the justification for the proposals (commonly known as a “statement of needs”).

(2) If proposals are likely to result in harm to the significance of the church or other building as a building of special architectural or historic interest, the document setting out the justification for the proposals must set out the basis on which it is said that the proposals would result in public benefit that outweighs that harm.

**N.B.1** The Statement of Need is also required for changes / re-ordering of an unlisted church

**N.B.2** These are more detailed than the Design and Access Statement required by the secular planning permission process

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.

The Statements of Significance and Need (see guidance below on page 8) should be either

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completed through the OFS using the templates provided or uploaded as separate documents to the **Supporting documents** tab.

In addition, for complex proposals an Options Appraisal {see **3.3 Options Appraisals** below on page 9} is required to enable those considering the application (the DAC, Chancellor and, where appropriate, the CBC, Historic England, the national Amenities Societies and the secular authorities) to understand what options have been considered by the D/PCC to meet the identified needs and why certain of those options have been disregarded and why the proposal being made is the best way of delivering the needs.

The expertise of the Buildings Development Enabler (Gill Elliott on 0116 261 5353 or [Gill.Elliott@leccofe.org](mailto:Gill.Elliott@leccofe.org)) is available to help the D/PCC in formulating these Statements. Copies of Statements by other D/PCCs can also be made available. Guidance is also available from the CBC at either <https://www.churchofengland.org/more/church-resources/churchcare> or <https://www.leicester.anglican.org/dac/faculties/>.

1. 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 of Significance should be composed by completing the form available on the OFS. It is divided up as follows: -

- Section 1: The church in its urban / rural environment
- Section 2: The significance of the area affected by the proposal
- Section 3: Assessment of the impact of the proposals

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

- The needs that are required 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 of the worship and mission of the church outweigh the effects that the proposed works will have the archaeological, architectural and historical significance of the church

The Statement of Need simply sets out the compelling reasons for the proposed changes. It does, therefore, need to be supported with appropriate evidence (including relevant photographs) and coherently argued.

The Statement of Need should be composed by completing the form available on the OFS. It is broken down into 5 sections as follows: -

- Section 1. General Information
- Section 2. What do you need? **N.B.** This is asking 'what are you trying to achieve?' not 'How do intend to achieve this?'
- Section 3. The proposals
- Section 4. Why do you need it and why do you need it now?
- Section 5. What is the evidence for the need?
- Section 6: How is the proposal contributing to the need for environmental sustainability
- Section 7: What other options to meet the need were considered, taking Point 6 and the impact identified in the Statement of Significance into account?



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These Statements of Significance and Need are a valuable way of enabling the D/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 interested in what may appear to be significant changes to **their church** and raise objections.

### 3.3 Options Appraisals (see Section 7 {page 8} under Statement of Need)

For proposals that will have a significant impact on the character and/or archaeology of the church and/or churchyard (for instance the replacement of the pews with chairs, the re-arrangement of the interior or the construction of an extension), an Options Appraisal will be needed. This document is designed to demonstrate that the D/PCC has fully considered all the possible options (regardless of their feasibility or viability) for meeting the needs and the impact of each on the building, with robust reasons why each proposed option was rejected and why the proposed option is the only one that effectively meets the needs as set out in the Statement of Needs. An exemplar of an Options Appraisal can be found on the website at <https://www.leicester.anglican.org/faculties/>.

The Options Appraisal is particularly important when the preferred option is an extension as the Statutory Consultees – including the Local Planning Authority (from whom planning permission is 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.

The common mistake made is to give the impression that only the preferred option has really been given any serious consideration or that the document has been written to justify the preferred solution.

**N.B.** The DAC prefers this to be a separate document from the Statement of Need and the Statement of Significance. It should be submitted via the OFS.

### 3.4 Consultation with the Statutory Consultees

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, there is a statutory requirement to for the **DAC Secretary** to consult one or more of the following (as appropriate): -

**Church Buildings Council**, (a national church organisation at Church House, Westminster), on issues of historic, archaeological or artistic interest. The CBC has access to nationwide knowledge, expertise and experience, which can be invaluable.

**Historic England** 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.

**N.B.** Historic England will make a charge for pre-application advice once the initial 15 hours of an Inspector’s time (including site visits and associated travel) has been used up. However, the expectation is that most applications will not need their allocation of 15 hours.

**National Amenity Society(ies)** {the Society for the Protection of Ancient Buildings [up to 1715], the Georgian Group [1715 – 1835], the Victorian Society [1835 – 1915] or the Twentieth Century Society [post-2015] on alterations that affect the character of the church building or items of significance. The age of the church (or subsequent alterations or modifications), the nature and effect of the proposed works will determine which one, or more, of the National Amenity Societies need to be consulted.

**Local Planning Authority’s Conservation Officer** in respect of proposals involving alterations or an extension likely to affect the special archaeological or historical interest or the archaeological significance of the building.

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The D/PCC &/or the professional adviser must consult: -

**Local Planning Authority's Conservation Officer** regarding either planning permission &/or Building Regulations Consent {see notes on page 2} as these will be required for either for external changes to the church (such as an extension) or for internal changes such as the installation of an accessible WC or raised ringing chamber. The "Ecclesiastical Exemption" / Faculty Jurisdiction only replaces Listed Building Consent. The D/PCC will need to check with the relevant Council whether these permissions are required. If it is, the professional adviser should be consulted on the appropriate submissions that will be required.

**Natural England** if the: -

- Church has, or possibly 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
- Works might affect any birds nesting in or on any part of the church building or churchyard

Experience shows that it is not only desirable but also most effective (time-wise and financially in terms of professional fees) for the consultation with the Statutory Consultees to be undertaken as soon as possible – even if that means that the Statements of Significance and Need and the Options Appraisal are only available as preliminary drafts and the proposals are still at a very early formative stage. Consulting at an early stage can prevent delays later and can also ensure that the D/PCC gets the widest possible feedback on its proposals before firming up its plans and incurring professional fees on drawings etc.

The written comments from Statutory Consultees will be: -

- Made through the OFS and recorded against the D/PCCs application
- Forwarded to the D/PCC by the DAC Secretary
- Considered at the next available DAC meeting (which may also be the DAC meeting considering the report on the site visit {see below})

After the meeting, the DAC will be able to advise the D/PCC on how to respond to the questions asked or comments made by the Statutory Consultees.

### 3.5 DAC Site Visits

On significant proposals (usually an accessible WC and/or extension and/or re-ordering), the DAC Secretary will arrange a single site visit of representatives from the Statutory Consultees and DAC Members and Advisers. This minimises the demands on the time of parish representatives, and to enable everybody with an interest to hear what each other is saying. In every case, please contact the DAC Secretary rather than contacting the Statutory Consultees seeking a site visit. After the site visit, a written report will be prepared and considered by the DAC at its next available meeting. After approval by the DAC, a copy of the site visit report will be sent to the D/PCC and uploaded to the Online Faculty System.

Under the Faculty Jurisdiction (Amendment) Rules 2019, the DAC cannot issue the Notification of Advice until the consultation process has been completed.

### 3.6 What to submit to the DAC for advice prior to the issuing of a Notification of Advice

All applications should be made via the OFS.

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- N.B.1** If a D/PCC is totally unable to find anyone to register as an applicant, the D/PCC should consult to the DAC Secretary about how the application can be made
- N.B.2** If the D/PCC is asking for a site visit from the DAC and Statutory Consultees who need to be consulted, the D/PCC will need to agree to explore the options and delay making a substantive resolution until the D/PCC is able to know what it is going to do.

The supporting documentation required through the OFS is: -

- **Online forms to be completed**
  - **Standard Information form** (the data is already stored in the Church Heritage Record {CHR} ready to populate the form) but the applicant will need to re-load the data using the button provided to ensure that the details of the Church Inspector are updated
  - **Statement of Significance** (see guidance above on page 8)
  - **Statement of Needs** (see guidance above on page 8)
- **Options Appraisal** for complex or aesthetically sensitive schemes only

See guidance above starting on page 9.
- **Copy of D/PCC resolution authorising the works with the voting figures**

The D/PCC must pass a resolution supporting the proposals and/or their exploration. The Minutes should record any other views and the voting figures. A copy of the Minutes needs to accompany every application.
- **Professional Adviser's detailed specification for the work, materials to be used and methodology of working**

**N.B.** The DAC does not expect the specification to be submitted **before** plans for an extension / re-ordering have been agreed in principle by the DAC and the Statutory Consultees
- **Drawings, plans, photographs and other relevant documents including a site and church plan**

**N.B.** The DAC does not expect the drawings (unless they are illustrative sketches only) to be submitted **before** plans for an extension / re-ordering have been agreed in principle by the DAC and the Statutory Consultees
- **Written confirmation whether Planning Permission will be required / has been obtained (for works affecting the exterior of the church building or in the churchyard)**

**N.B.** D/PCCs will not be expected to apply for planning permission until the plans for an extension have been agreed in principle by the DAC and the Statutory Consultees
- **Approval letter from insurers**

**N.B.** The DAC does not expect the insurers to be notified **before** plans for an extension / re-ordering have been agreed by the DAC and the Statutory Consultees
- **Quotes / estimates from chosen architect / contractors**

**N.B.** The DAC does not expect estimates/tenders to be sought **before** plans for an extension / re-ordering have been agreed in principle by the DAC and the Statutory Consultees

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### o Photographs to identify proposed works

When a Faculty application is started, the OFS will automatically ask the DAC Secretary to provide advice as to what you will need to submit. If in doubt, please consult the DAC Secretary.

### 3.7 Timing the submission to avoid delays

When the D/PCC is making the application to the DAC, delay in the process will be minimised if: -

- c) You check the closure date for agenda items for the six-weekly meeting. The closing dates for applications can be found on the website at <https://www.leicester.anglican.org/faculties/>.
- d) As much as possible of the information required is submitted at the outset electronically through the OFS. This will reduce the need for further correspondence. There is a checklist and guidance on what information needs to be submitted on the website at <https://www.leicester.anglican.org/faculties/>.

### 3.8 How is an application for a Notification of Advice processed by the DAC?

**N.B.** Not all steps will apply to every application and, depending upon the proposals, there may be some re-visiting of steps as the application develops

- a) Initially, the OFS will ask the DAC Secretary to give advice on what information is required from the D/PCC. Once this has been submitted, if there are any omissions, the application will be returned to the D/PCC highlighting what needs to be added
- b) Where significant alterations and/or an extension are being proposed, it will be necessary to hold a site visit to which the DAC Secretary will invite DAC members plus representatives from the Statutory Consultees to discuss the proposals as early as possible
- c) After the site visit, a written report will be produced for the DAC to agree at its next meeting
- d) The DAC Secretary, and possibly the Buildings Development Enabler as well, will want to work with the D/PCC as the documentation and the proposals are developed
- e) Usually, applications are referred to an appropriate member(s) and/or adviser(s) prior to the meeting to enable them to make informed comments on the detail as part of the discussion at the DAC meeting
- f) If necessary, the DAC Secretary will invite, as appropriate, the Statutory Consultees to comment on the proposals – see **D. Consultation with the Statutory Consultees** on page 9. **N.B.** under the Faculty Jurisdiction (Amendment) Rules 2019, the Statutory Consultees are allowed a period of up to 42 days to consider a request for consultation. If there follows an exchange of correspondence, they are permitted a further period of 21 days for such consideration.
- g) Steps d) to f) may be repeated as many times as is necessary whilst the proposals develop
- h) It may be necessary, prior to the meeting, for the DAC Secretary, having received a request from the Member(s)/Adviser(s) or a Statutory Consultee, to ask for more details from the parish and/or request to visit for clarification
- i) An email confirming that the application will be considered at the next available DAC will be sent out when the Agenda has been finalised and dispatched to DAC members and other Statutory Consultees
- j) Applications are considered at the next six-weekly DAC meeting

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k) After the discussion, the DAC will **either**: -

- Request further information or consider it desirable for a sub-committee to visit if it is unable to reach a decision
- Give **either**: -
  - Written advice to the D/PCC / applicant on the appropriateness (or otherwise) of the proposed works in the light of heritage, aesthetic, practical, and pastoral considerations, to enable the proposals to be developed ready for further consideration

**or**

- Its statutory advice to the Chancellor by issuing a Notification of Advice through the OFS. This advice covers the appropriateness of the works in the light of heritage, aesthetic, practical, and pastoral considerations. The Notification of Advice will state that the DAC either: -
  - ❖ Recommends
  - ❖ Does not object to
  - ❖ Does not recommendthe proposed works

**N.B.1** The DAC's Notification of Advice **is not** permission to undertake the works and you must await the arrival of the Faculty via the OFS and hard copy from the Diocesan Registrar before commencing the works.

**N.B.2** The Faculty Jurisdiction (Amendment) Rules 2019 require that the DAC only issues its Notification of Advice once the statutory consultation period has ended. Where the DAC decides to recommend proposals in the face of comments from the Statutory Consultees, the rationale for that decision will also need to be provided to the Chancellor. If work is undertaken before the faculty is received by the D/PCC, and the Chancellor receives objections, it is possible that the D/PCC could be ordered to undo or change what has been done at its own expense.

l) A **Notification of Advice of Recommendation** to the proposed works will contain standard conditions about the D/PCC's Log Book and, where appropriate, some additional conditions, e.g. for an Archaeological Written Scheme of Investigation (WSI) may need to be submitted to the DAC's Archaeological Adviser and agreed. If so, please inform your professional adviser.

m) A **Notification of Advice of No Objection** to the proposed works will contain standard conditions about the length of the validity of the Notification and the D/PCC's Log Book and, where appropriate, some additional conditions, e.g. for an Archaeological Written Scheme (WSI) to be submitted to the DAC's Archaeological Adviser and agreed. If so, please inform your professional adviser. The Notification may also contain reasons for the DAC's no objection.

**N.B.** If a D/PCC carries out works without permission (i.e. an Interim Faculty) and has to seek a Confirmatory Faculty, the DAC will only issue a Notification of No Objection for such proposals.

n) The Notification of Advice will indicate whether or not the DAC considers that the proposals will result in a material alteration to the character or appearance of the church or affect its setting

**N.B.** if the answer is yes, the DAC Secretary will make some, but not all, of the documents supporting the application available through the OFS for the public to see

o) A **Notification of Advice of No Recommendation** of the proposals will set out the reasons why the DAC feels unable to either recommend or raise no objection to them

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**N.B.** If the DAC does not recommend the work, the D/PCC or other applicant is entitled to petition the Chancellor (via the Diocesan Registrar using the OFS) to issue a Faculty notwithstanding the DAC's advice.

The fact that the DAC issues a Notification that recommends or does not object to the proposed works **does not guarantee** that the Chancellor will grant the Faculty.

If the DAC agrees to issue a Notification of Advice the DAC Secretary sends, to the: -

a. **D/PCC or other applicant:** -

- A letter (normally by email) explaining what to do next
- The DAC's Notification of Advice (via the OFS)

**N.B.1** Receipt of the DAC's Notification of Advice is not an authority to do the works - the D/PCC must proceed to the next stage to Petition the Chancellor to issue a faculty before any works are undertaken.

If work is undertaken before the faculty is received by the D/PCC, and the Chancellor receives objections, it is possible that the D/PCC could be ordered to undo or change what has been done at its own expense.

**N.B.2** If the DAC considers that the proposals will result in a material alteration to the appearance of the church or affect its setting, the text for the Advertisement that is required to go onto the Diocesan website

- The D/PCC will then be invited to complete (via the OFS) the: -
  - ❖ Petition Form – all the pages rather than just the first three pages that were filed in initially
  - ❖ Public Notices with the date on which they will be displayed (which will start a process whereby a reminder is sent to the D/PCC at the conclusion of the Public Notice period

**N.B.** The D/PCC must display **TWO** copies of the Public Notices (i.e. one inside and one outside the church) for 28 days **plus** the day of publication and the day on which they are taken down

o **Diocesan Registrar:** -

- A copy of the Notification of Advice that has been issued

#### 4. **Petitioning the Chancellor for a Faculty**

Once the DAC has issued its Notification of Advice and the D/PCC is ready to proceed with its proposals, it must: -

a) **Complete the Notification of Advice**

**N.B.** The D/PCC or other applicant must ask the DAC to consider any updated documents (e.g. specification, estimate, etc.)

**and**

b) **Publish Public Notices** for 28 days **plus** the day on which the Public Notices are put up and the day on which the Public Notices are taken down – so 30 days in all

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- c) **Submit, not later than the day on which the Public Notices are displayed**, the Faculty application to the Diocesan Registrar's office, via the OFS, so that the Chancellor can consider it during the Public Notice period
- d) **After the Public Notice period has expired (N.B.** The 28-days does not include the day on which the Public Notices are put on display nor the day on which they are taken down so the OFS will send applicants a reminder that the Public Notice period has expired after 30 days): -
- **Complete** the Certificate of Publication **via the OFS**
  - **Submit it** to the Diocesan Registrar

The Diocesan Registrar will be pleased to assist you if you have any enquiries during this stage.

### 4.a What happens if there are no objections?

The Faculty Petition cannot be fully considered until the Public Notice and the completed Certificate of Publication have been received by the Registrar and he has confirmed to the Chancellor that there are no objections.

The Chancellor will, most probably, agree that the Faculty should be issued and the Diocesan Registrar will do this using the OFS.

Even if there are no objections to the proposals, the Chancellor may decide that issuing a Faculty is not appropriate and so issue **Directions** that say what needs to be done or a **Judgement** that gives detailed reasons either why the Petition for a Faculty is granted or rejected.

### 4.b What happens if there are objections?

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

- a) The Archdeacon
- b) The D/PCC
- c) Any resident of the parish or person on its electoral roll
- d) The Local Planning Authority
- e) Any National Amenity Society
- f) The Church Buildings Council
- g) Historic England
- h) Any other person or body appearing to the Chancellor to have a lawful interest in the matter of the Petition.

Objections **must** be put in writing to the Registrar to arrive no later than the date stated on the Public Notice. Once received, the objector has a potential liability for costs.

If all parties agree, the Chancellor may consider the representations and decide to determine the application on the basis of written submissions.

The Chancellor can decide that the case needs to be heard at an aural hearing. This is usually held in the relevant church.

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The Chancellor's decision may be given either verbally on the day or with a written judgement setting out the reasons and conditions at a later date.

### **5. Interim Faculties**

From time to time, repair problems or other issues 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 consultation with appropriate Member(s)/Adviser(s) of the DAC &/or Statutory Consultees (usually Historic England and the local planning authority), will request an Interim Faculty from the Chancellor via the Diocesan Registrar.

The D/PCC should keep their professional adviser informed.

If granted, you will need to make a Confirmatory Application through the OFS – usually within three months of the Interim Faculty being granted.

### **6. Memorials in churchyards**

These are the subject of separate Regulations from the Chancellor and other guidelines. Copies can be obtained from the DAC Secretary or at <https://www.leicester.anglican.org/memorials>.

The repair / removal / replacement of a headstone may require the family of the deceased (the heirs-at-law) to seek a faculty from the Chancellor.

The cost (reviewed annually in January) of a Faculty and details of this can be found on the webpage above. If the heirs-at-law of the deceased cannot be traced then the D/PCC (or the Parish Council / local authority if the churchyard has been closed for the purposes of burial) will have to apply for a faculty to undertake the necessary repairs.

In some circumstances, the Chancellor may be prepared to grant an Interim Faculty for urgent repairs when memorials are unsafe.

### **7. Trees in churchyards and local authority cemeteries**

These are part of Lists A and B along with Statutory Guidance from the CBC. Copies can be obtained from the DAC Secretary or at <https://www.leicester.anglican.org/faculties>. Whether works to require permission is now set out in Lists A and B (see page 4 above).



8. Faculty Process Flow Chart

