

## Faculties for “unusual” matters

If a church building or land is within the Faculty Jurisdiction, it is not just physical works which have to have the approval of the Chancellor before being carried out. The jurisdiction includes the use of the land, and the introduction or removal of articles. The jurisdiction extends to the whole curtilage of the building or the whole of the consecrated land whichever is the greater extent.

The jurisdiction is very wide indeed, and in case of any doubt, the Registry will be happy to advise the incumbent or minister or churchwardens. Some examples to illustrate the breadth of the jurisdiction, and where Faculty Petitions should be presented, are:

- Churchyards:
  - Reservation of a grave space;
  - Burial of cremated remains within a formally closed churchyard;
  - Exhumations;
  - Memorials that fall outside the scope of the Diocesan Churchyard Regulations
  - Inscriptions on memorials which the incumbent does not feel able to approve;
  - Widespread ‘testing’ of memorials as to their safety;
- Churches:
  - Introduction of unusual moveable items and similarly the removal of such things from the church, and their disposal;
  - Removal of significant or valuable articles to a place of safety or for eg the purpose of display in an exhibition;
- Churches and churchyards:
  - permission to film – such as TV programmes;
  - use of churchyards for appropriate (temporary) secular purposes;
  - leases or licences of the building or land;
  - wayleaves over land for utilities etc.;
  - the grant of easements (such as rights of way, rights as to drainage, and rights of light and air);
  - disposal of surplus unconsecrated land within the curtilage of a church building;
  - transfer of land to form a highway;
  - telecommunication contracts.

This list is not in any sense exhaustive. The purpose of the jurisdiction is to ensure that the sacred purposes for which the land or buildings are held are properly balanced for the sake of the worshipping community and the wider interests of the parish, not just for this generation but also for future generations. It is better to ask the Registry for its advice whenever there might be doubt, than to assume that a matter is uncontroversial. The Registrar may consider that some matters fall below ‘the radar’ and may indeed consult the Chancellor before giving that advice. As an example, the concept of introducing or removing moveable items is very wide – and there is no need to call the Registry if one is thinking of temporarily displaying the work of the Sunday School children; but, on the other hand, introducing pictures of the Stations of the Cross has profound theological significance and is plainly within the jurisdiction; and similarly, removing a couple of worn hassocks may be regarded as *de minimis*, unless of course, they were of historical significance.

The permanence of any arrangement is also important, as is the position within the ‘market place’ where benefits are conferred for secular purposes. So for example where a request for permission to film is made, the Chancellor will wish to see the proposed ‘story boards’ to ensure that they are consistent with the status of the land and with the mission of the church, partly because the film is a permanent record and may reflect adversely on the church; and, in many instances the Chancellor will want to assess whether the parish has had proper

professional advice in relation to the terms of any contract it is proposing and that the amount of any premium or 'rent' is appropriately assessed (there have been situations in which a fairly nominal fee has been accepted for filming rights or indeed easements over land, when a properly advised parish might have secured a better benefit for the mission of the church). In particular, in relation to telecommunications installations, it is not only the installation which requires authorisation but also the contractual relationship, so that in addition to setting out any visual or physical impact of the proposed installation the petitioners would need to provide information: (a) as to the extent of the consultation about the installation which has been undertaken within the worshipping community and the wider local community together with an account of the response to such consultation, and (b) confirmation (if it be the case) that the fee to be charged to the telecommunications company has been calculated in accord with the national rates or (if it has not been) an explanation of the basis on which the fee has been calculated.

The jurisdiction includes not only any initial arrangement but any amendment to that relationship.

In most instances, the Petition will proceed as would any normal Petition, and the advice of the DAC would be taken before the matter is referred to the Chancellor. This helps to ensure that the church is properly protected.

*Correct as of 16th June 2017. This advice is issued by the Registry of the Diocese of Lichfield and may be updated from time to time.*