

Archdeacons' Briefing No 20 February 2020

Revised March 2020

New Faculty Jurisdiction Rules

Further to the briefing sent to all clergy, churchwardens and PCCs in the diocese in January, about the new faculty jurisdiction rules that come into force on 1st April 2020, please see below a fuller briefing from Lucy Burfield, the DAC Secretary.

Peter Robinson and Mark Wroe
February 2020

Effective from 1st April 2020, the Faculty Jurisdiction (Amendment) Rules 2019 will come into force, amending the current Faculty Jurisdiction Rules 2015.

The Faculty Jurisdiction Rules 2015 were introduced with the intention of simplifying faculty procedures and reducing the burden of administration. A major innovation of these rules was the introduction of lists – known as Lists A and B – of matters that could be undertaken without faculty.

Under the new rules, Lists A and B have been substantially revised and expanded. Various other amendments have been made to the rules to improve their operation.

In addition, there are new requirements for dealing with consultation and advice prior to a faculty application. Its purpose is to ensure that by the time the Diocesan Advisory Committee (DAC) issues its notification of advice, all necessary consultations have already been carried out, thereby avoiding delays following the submission of a petition.

List A and List B

Matters in List A may be undertaken by a parish without a faculty and without need for consultation. Matters in List B may be undertaken without a faculty providing the Archdeacon is consulted and gives written authorisation. A condition of List B is that the Archdeacon must seek advice from a DAC member before making a decision.

A number of matters previously in List B have been moved to List A and a significant number of new matters have been added to List B.

Advice should be sought from the Archdeacons or the DAC Secretary if a parish is uncertain whether a scope of work falls within List A or List B.

The wording of the new Lists can be found [here](#):

It is important to note that List B work is authorised at the Archdeacon's discretion and the Archdeacon can insist that a faculty is required. In addition, the rules have always included a list of work which may not be undertaken without a faculty, despite being included in the Lists, such as:

- the alteration or extension of a listed building to such an extent as would be likely to affect its character as a building of specialist architectural or historic interest.
- Works which are likely to affect the archaeological importance of a building or remains.

- A matter which gives rise to a question of law or doctrine which could affect the legal rights of a person.

For a full list of such matters, please contact the DAC Secretary.

The Archdeacons can seek directions from the Chancellor as to whether matters, not included in Lists A or B, are of such a minor nature that they may be undertaken without a faculty.

Statutory Consultation

As part of a faculty application, there has always been a requirement to refer to statutory consultees over certain categories to listed buildings. Consultees include the Church Buildings Council, Historic England and the Amenity Societies (such as the Victorian Society, the Society for the Protection of Ancient Buildings and the Georgian Group among others).

The need for consultation has not changed but the new rules seek to ensure that when the DAC gives a parish formal advice there has already been extensive consultation with such bodies. The consultees have 42 days to respond.

Please note, without the completed referral process the application cannot go before the DAC.

The DAC Secretary will manage the referral process but it is important that parishes are aware of the requirements and the timescales involved. Parishes are encouraged to use the online faculty system as consultation can be carried out easily using this method.

The consultees will require sight of a Statement of Significance and Statement of Need before being able to comment on a proposal. Appendix 1 outlines who and when to consult. Please contact the DAC Secretary for contact details and for further information.

Parishes can seek informal advice from the DAC on proposed work in advance of any formal faculty application process. The informal advice will include advice on any necessary consultation with statutory bodies.

More information on the faculty process can be found on the ChurchCare website: <https://www.churchofengland.org/more/church-resources/churchcare/church-buildings-council/how-we-manage-our-buildings>

The DAC Secretary's contact details are:

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0191 270 4127

Appendix 1 - Consultation with Historic England, amenity societies, the local planning authority and the Church Buildings Council

Consultation with Historic England must be undertaken if works or other proposals—

- (a) involve the demolition of a grade I or II* listed building or its alteration or extension to such an extent as would be likely to affect its character as a building of special architectural or historic interest;
- (b) comprise the complete demolition of a grade II listed building or the removal of all, or a substantial part, of the structure of its interior (including any principal internal elements such as staircases, galleries, load-bearing walls, floor or roof structures and major internal fixtures such as pews, screens and organs); or
- (c) are likely to affect the archaeological importance of any building or of remains within the building or its curtilage.

Consultation with each national amenity society which has an interest in works or other proposals must be undertaken if they—

- (a) involve demolition of a listed building of any grade or its alteration or extension to such an extent as would be likely to affect its character as a building of special architectural or historic interest; or
- (b) involve demolition affecting the exterior of an unlisted building in a conservation area.

The question of whether a national amenity society has an interest in works or proposals is to be determined by reference to the age of the building (or the relevant part of it) and the likely effect on it of the proposals.

Consultation with the local planning authority must be undertaken if works or other proposals—

- (a) involve demolition of a listed building of any grade or its alteration or extension to such an extent as would be likely to affect its character as a building of special architectural or historic interest;
- (b) are likely to affect the archaeological importance of a building or of remains within the building or its curtilage; or
- (c) involve demolition affecting the exterior of an unlisted building in a conservation area.

Consultation with the Church Buildings Council must be undertaken if works or other proposals—

- (a) involve the demolition of a grade I or II* listed building or its alteration or extension to such an extent as would be likely to result in harm to its character as a building of special architectural or historic interest;
- (b) involve demolition of a grade II listed building or its alteration or extension to such an extent as would be likely to result in substantial harm to its character as a building of special architectural or historic interest or to its setting; or
- (c) are likely to affect the archaeological importance of a building or of remains within the building or its curtilage.

Consultation with the Church Buildings Council must also be undertaken where works or proposals involve—

- (a) the conservation, alteration or disposal of an article of special historic, architectural, archaeological or artistic interest;
- (b) the introduction of an article of special historic, architectural, archaeological or artistic interest (including new work) in a grade I or II* listed building;
- (c) the alteration, extension or re-ordering of a church in a way that is likely significantly to affect the setting of an article of special historic, architectural, archaeological or artistic interest; or
- (d) the movement or removal of an article of special historic, architectural, archaeological or artistic interest such that the article might be adversely affected unless special precautions are taken.

The relevant national amenity societies are:

- The Ancient Monuments Society: they look at historic monuments and buildings of all periods
- The Council for British Archaeology: they focus on archaeological features in historic buildings of all periods
- The Society for the Protection of Ancient Buildings: they mainly look at buildings prior to 1700, but have an interest in all periods
- The Georgian Group looks at buildings and features of between 1700 to 1837
- The Victorian Society looks at buildings and features of between 1837 and 1915
- The Twentieth Century Society looks at buildings and features of after 1915