

# REPORT ON SIMPLIFICATION OF THE FACULTY PROCESS

## APPENDIX 1: The Faculty Jurisdiction: Rationale – The Revd Alexander McGregor, Deputy Legal Adviser to the General Synod.

1. Canon F 13.3 provides—

“It shall be the duty of the minister and churchwardens, if any alterations, additions, removals, or repairs are proposed to be made in the fabric, ornaments, or furniture of the church, to obtain the Faculty or licence of the Ordinary before proceeding to execute the same.”
2. This canonical provision simply reflects the position under the ecclesiastical common law – the body of practice and case law that has been built up over many centuries. The reason for the jurisdiction was stated by Lord Penzance, Dean of the Arches, in *Nickalls v Briscoe* 4c [1892] P. 269, 283 as follows—

“... the sacred edifice has a future as well as a past. It belongs not to any one generation, nor are its interests and condition the exclusive care of those who inhabit the parish at any one period of time. It is in entire conformity with this aspect of the parish church that the law has forbidden any structural alterations to be made to it, save those which are approved by a disinterested authority in the person of the Ordinary ...”.
3. The Ordinary, for the purpose of the Faculty jurisdiction, is the chancellor of the diocese who is the judge of the court of the bishop, called the consistory court.<sup>1</sup> The chancellor, as vicar-general and the bishop’s official principal, is the judicial *alter ego* of the bishop.
4. At common law, the Faculty jurisdiction applies in principle to all consecrated buildings and land as well as to the ornaments and furnishings of such buildings and to any objects in or on such land.<sup>2</sup> The operation of the jurisdiction originally depended on consecration, the act of consecration bringing the buildings or other land within the jurisdiction of the consistory court. That remains the case; but the jurisdiction has been extended (or has had its extent confirmed) by statute. It now covers certain licensed chapels, the unconsecrated curtilage of any church that is itself within the jurisdiction of the consistory court, and all parish churches and churchyards in the diocese. It is also declared by statute to extend to all articles appertaining to such churches and churchyards.
5. The last major overhaul of the Faculty jurisdiction was carried out in the 1980s. In 1980 the Archbishops and the Standing Committee of the General

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<sup>1</sup> In the diocese of Canterbury the judge is called the commissary general and the court known as the commissary court.

<sup>2</sup> This includes not only parish churches etc. but also the consecrated chapels of institutions such as schools and colleges, consecrated chapels in private houses and the consecrated parts of privately-owned and municipal cemeteries. It does not, however, include any cathedral. Nor does it include any place which can be demonstrated to be a peculiar and outside the jurisdiction of the ordinary; but following reforms in the nineteenth century few peculiars now survive. No parish church has been able to claim to be a peculiar for the purposes of the Faculty jurisdiction since the enactment of section 11(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.

Synod appointed a Faculty Jurisdiction Commission. Its terms of reference were—

“To review the operation of the Faculty Jurisdiction Measure 1964 and, more generally, to consider how and in what ways the Church of England should monitor and, where appropriate, control in the interests both of the Church and of the wider community, the process of maintaining, altering and adapting churches in use for worship, taking account *inter alia* of the operation of the Inspection of Churches Measure 1955, the Pastoral Measure 1968 (and the proposed Amendment Measure), the ecclesiastical exemption and the making available of State Aid towards the cost of repair and maintenance of churches of historical and architectural interest.”

6. The introduction to the Commission’s report shows that there existed a tension between those who held different views on the value of the Faculty jurisdiction. At one extreme there were those who sought the outright abolition of the jurisdiction on the basis that it resulted in a waste of time and resources when it came to making repairs and improvements to churches. The Commission observed the existence of “a somewhat opposite tendency ... in the argument advanced by conservationists that the Faculty jurisdiction did not sufficiently allow them adequate expression of their concerns.”
7. The Commission reported in 1984. Its report ran to over 200 pages and it made 230 recommendations. A considerable part of the report was concerned with the ecclesiastical exemption. The Commission concluded that the exemption of churches in use from listed building control – ‘the ecclesiastical exemption’ – was “sound in principle” and was “beneficial both to the Church and the wider community and should therefore be retained”.
8. The Commission was of the view that “individual and local initiative should not be restricted but rather the hindrances to it removed, for example by reconciling conflicts between different concerns and interests”.
9. The Commission was also of the view that “the judicial character of the Faculty jurisdiction should be preserved as a safeguard of the Church’s doctrine and liturgical tradition but, through its discretionary powers, it should remain adaptable to new styles and to new attitudes to worship, within the framework of canon law”. It also observed that the judicial character of the system meant that it was able to address questions as to ownership, rights of way and other legal matters that frequently arise in Faculty proceedings and which would, but for the judicial character of the proceedings, have to be referred to the temporal courts for determination adding considerably to delay and cost.
10. The Commission nevertheless recommended a number of reforms to the Faculty jurisdiction.
11. These included a recommendation for a wide delegation to Archdeacons of the power to grant faculties in uncontested cases that came within specified classes. And chancellors were to make regulations specifying what did and did not require a Faculty. Court procedure should be “made simpler, more flexible and more investigative (as distinct from adversarial)”. Consultation with the DAC should be mandatory in all cases (save in respect of exhumation

and the reservation of grave spaces). The requirements as to public notice should be improved but not removed, even in uncontroversial cases. Certain bodies should be entitled to special notice of applications in defined circumstances. Provision should be made for the holding of directions hearings in the chancellor's discretion. A new procedure should be introduced to enable contested cases to be decided on the basis of written representations (as opposed to an oral hearing) provided the chancellor and the parties agreed. The consistory court should be given enforcement powers to forbid the execution of unlawful works and to order reinstatement if they have been executed. Archdeacons should be given power to apply for faculties to take remedial action where unlawful works had been carried out and should be able to recover his costs from the persons in default.

12. The Commission's recommendations in relation to the Faculty jurisdiction were largely implemented. Some were implemented by primary legislation – the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 – and others by way of procedure rules made under that Measure.
13. No review of the Faculty jurisdiction has taken place since that time and no major changes have been made to the jurisdiction or procedure of the courts since the recommendations of the Faculty Jurisdiction Commission were implemented.
14. The basis on which the Faculty jurisdiction is actually exercised – as distinct from the legal basis for, and extent of, the jurisdiction – is not defined by statute but depends on principles developed over many years by the courts. That that is so is entirely consistent with the position in a common law jurisdiction where the law depends on precedent and is developed incrementally, rather than being codified. And it has proved a considerable benefit for the Faculty jurisdiction. It has meant that the ecclesiastical courts have, in particular, been able to develop principles that are to be applied to cases involving changes to listed buildings.
15. So while the period after 1991 did not see any legislative change to the Faculty jurisdiction, it did see significant development in the case law of the ecclesiastical courts – notably in the formulation, originally in the London Consistory Court by Cameron Ch., of what have become known as the *Bishopsgate questions* – a series of questions that the court needs to address in determining whether it should, in its discretion, grant a Faculty for works that would have an adverse impact on the historic or architectural character of a listed building.
16. The formulation of those questions was subsequently endorsed and adopted by the Court of Arches and is now applied by consistory courts in all cases involving substantial changes to listed buildings. The effect of that has been that the Faculty jurisdiction has adapted in a way that meets the requirements that successive Governments have said must be met in order for a denomination to continue to benefit from the ecclesiastical exemption.
17. The position of listed buildings has – perhaps unsurprisingly given the very large proportion of listed buildings that are churches – been very significant in the application of the Faculty jurisdiction for a number of years. It is therefore

necessary to say something about listed buildings and the ecclesiastical exemption.

- 18.** The ecclesiastical exemption began in 1913. Church buildings of the Church of England were exempted from the controls imposed by the Ancient Monuments Consolidation and Amendment Act 1913 as a result of assurances given in the House of Lords by Archbishop Davidson to the effect that the Faculty jurisdiction already provided adequate control over works to churches and that it was neither necessary nor desirable to subject them additionally to the controls imposed by the Act.<sup>3</sup> This exemption has been retained in subsequent legislation, currently in the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010.
- 19.** Buildings of the Church of England benefit from the exemption provided for by the Order on the basis that they are subject to the Faculty jurisdiction. The Government's understanding is that the Faculty jurisdiction does, and will continue to, provide a system of control that meets the criteria set out in the DCMS guidance.<sup>4</sup>
- 20.** The ecclesiastical exemption is an exemption from the statutory controls that apply to listed buildings and to buildings in conservation areas.<sup>5</sup> Under the Planning (Listed Buildings and Conservation Areas) Act 1990 works to a listed building which would affect its character as a building of special architectural or historic interest may not be carried out unless they have been authorised by the local planning authority. Breach of this requirement is a criminal offence carrying a penalty of up to two years' imprisonment.
- 21.** It is possible, under the secular legislation, to obtain permission for works to a listed building that would otherwise be unlawful and works that may have an adverse impact on the character of a listed building can properly be authorised by the local planning authority. Under current Government guidance such authorisation should only be given where the applicant can show "clear and convincing justification". But "substantial harm" to a grade I or II\* listed building "should be wholly exceptional".
- 22.** Were the Church of England not to have the benefit of the ecclesiastical exemption it would be for the local planning authority to determine whether the grounds advanced for any proposals that would involve "loss affecting any designated heritage asset" amounted to "clear and convincing justification". Experience shows that the reasons most commonly advanced in support of such proposals in respect of churches are what can generally be termed pastoral and missionary considerations. A church needs to be re-ordered in order to accommodate the needs of a worshipping community, to accommodate the local church's outreach work in the parish, to provide the sort of facilities that people who use the church can reasonably expect to find there if the church is to continue to be a viable place of worship.

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<sup>3</sup> Whether it did in fact provide such safeguards at that time is not at all clear.

<sup>4</sup> A small number of other churches besides the Church of England also benefit from the current exemption. The condition for their doing so is that they have established denominational systems of control that meet criteria set out in guidance published by the Department of Culture, Media and Sport.

<sup>5</sup> It also provides an exemption from a local authority's powers compulsorily to purchase a listed building that is not being properly maintained and from their powers to carry out works to preserve unoccupied listed buildings.

23. The local planning authority would be ill-equipped to decide such questions: it would have no experience of doing so and would lack relevant expertise among its officers to advise it. But there is an even more fundamental point at stake: namely, that as a matter of principle it is the Church of England, through its duly appointed authorities, who ought to decide what can be considered as necessary for its mission and whether, in a particular, such needs outweigh any adverse impact on a church building as a heritage asset. Those are questions that the Church should not be content to leave to be answered by the secular authorities of the state.
24. Because the Church of England benefits from the ecclesiastical exemption – by virtue of its church buildings etc being subject to the Faculty jurisdiction – decisions on those questions are made by the judge of the bishop’s court who must be a communicant member of the Church of England (or of a church in communion with the Church of England). Moreover, the court is assisted by persons appointed by the Church for that purpose: the diocesan advisory committee, Archdeacons, the Church Buildings Council etc. At the same time, those who represent heritage interests – English Heritage, the national amenity societies – and members of the public have rights to make their views known and to have them considered, as they have in the secular system.
25. Not all church buildings of the Church of England are listed buildings and some might therefore question whether it is necessary or desirable for the Faculty jurisdiction to apply to unlisted churches. Should those in the parish with responsibility for an unlisted church building be left to decide for themselves what to do with the church building, its contents and the churchyard?
26. In that regard, it is necessary to go back the reason given by Lord Penzance for the existence of the Faculty jurisdiction set out in paragraph 2 above: “the sacred edifice has a future as well as a past. It belongs not to any one generation, nor are its interests and condition the exclusive care of those who inhabit the parish at any one period of time”. That statement is just as true of an unlisted church as it is of a listed one. The Church of England does not have the Faculty jurisdiction in order to qualify for the ecclesiastical exemption. It has the Faculty jurisdiction because, as a matter of principle, in an episcopally-ordered church, the Ordinary has a proper interest in what happens to, and in, the churches in the diocese. That is why the Faculty jurisdiction came into existence in the first place and is why it continues to exist today.
27. Even if the church building is such that any proposed alterations would not involve the question of loss to any ‘heritage asset’, the Ordinary has a proper interest in whether proposals are consistent with the doctrine of the Church of England or are consistent with the mission of the Church, both to those who regularly worship in the particular church and to the parishioners generally. It is not only the current worshipping community who have to be considered: the parishioners at large have an interest in their parish church and the Ordinary has a role in protecting that interest.
28. But that is not the end of the matter. The question remains of how the jurisdiction should be applied in different situations. Is there a case for being

less prescriptive in the primary legislation relating to the Faculty jurisdiction so that different types of cases can be dealt with more proportionately to their subject matter? Are there cases in which the interests of the parishioners at large are not particularly significant and do not need to be safeguarded where the worshipping community has particular plans for the church. Is there a case for simplifying procedures generally and for providing for less onerous, more streamlined procedures in certain types of cases?

- 29.** Given that the system has to be operated in the parishes by unpaid volunteers, whose services in many parishes are a scarce and over-stretched resource, what can be done to make its operation less onerous but without undermining the basis of the system and while preserving and applying it in a proportionate manner?

## **APPENDIX 2: Survey of Parishes – Dr Bev Botting, Head of Research and Statistics for the Church of England**

### **1. Introduction**

The parish survey was sent out to 515 contacts. These were selected from casework in the Cathedrals and Church Buildings Division (cases referred to the Church Buildings Council), grants awarded by the Division (via the conservation grants programme) and contacts provided by Diocesan Secretaries. As a result this sample is biased in that it does not reflect the views of those who were not successful or who had not submitted a Faculty request in this period. Nevertheless, it represented a sample of those who had been through system and survived, so they are the people who have first hand experience of the full system. Given the range of responses and constructive criticism of the process, these findings do provide a good basis to understand the experiences of those who use the Faculty process.

### **2. Results**

There were 254 responses to the survey, representing a response rate of 49 per cent which is excellent for this type of web based survey. The responses showed good coverage across the dioceses, with at least one response from all but two dioceses. Nearly one in five (18.7 per cent) of the responses were from the diocese of St Albans, but they had received disproportionately more of the surveys, 112 (21.7 per cent) so this result would be expected. Almost half of the churches given in the responses were Grade I listed, and two thirds were in a rural or village setting. The churches were evenly divided between those with an ongoing Statement of Significance and those without.

The most common reasons for applying for a Faculty were for repairs to the roof (52 mentions) and repairs to the fabric of the church (45 mentions). Other major reasons were for reordering of the church often mentioning kitchens or toilets (32 mentions), restoration and conservation of works of art and memorials (28 mentions), heat/ light/ security/ communications (27 mentions), items relating to the churchyard (24 mentions) and repairs to bells, belfry and tower ( 22 mentions). Some faculties mentioned more than one item.

Thirty five per cent of respondents completed the form in one session and only 10 per cent took longer than a week to fill in the form. Over one half (58 per cent) of respondents were able to gather together all the information they needed about their church in no more than one day. However, it took slightly longer to gather together information about the project with over one third (37 per cent) of respondents needing up to one month.

Almost one half (48 per cent) of respondents either did not contact their DAC before submitting the form or had less than one month between contacting the DAC and submitting the form. One in eight (13 per cent), however, needed over one year between contacting the DAC and submitting the form. For 37 per cent of respondents it took less than one month between submitting their request and receiving a DAC certificate, and for 81 per cent it took less than three months. For one in twenty (5 per cent) it took over one year.

For almost three quarters (72 per cent) there were no changes between submitting their request and receiving the DAC certificate – only 8 per cent required major changes. Details on required changes often related to the materials used and the design. During the project three quarters (74 per cent) of respondents had had discussions with English Heritage, one third (37 per cent) with the Church Buildings Council, and one third (32 per cent) with the Planning Authority.

Over 90 per cent (91 per cent) of respondents received no responses during the local notice period, 2 per cent received over 11 responses, and only one received over 100 responses. Over half (59 per cent) obtained a Faculty less than one month after submitting the forms to the Registrar and only 15 per cent took longer than 2 months. For over half (53 per cent) of all respondents the Faculty was granted with no conditions, 40 per cent were granted with minor conditions, and in 7 per cent of cases the Faculty was granted with major conditions. Only one application was refused. Often the condition was a time limit on the works or a stipulation on materials to be used. The involvement of the architect was also mentioned frequently.

All respondents were asked for their best suggestion on how the process could have worked more effectively. Key suggestions related to the forms being available on line, clearer guidelines on the process and documents required at each stage, having a simpler version of the process for minor projects, and the frustration of the DAC requiring evidence of funding, but the funders requiring evidence of a Faculty.

*“It seemed to us ludicrous that works that were totally non-contentious and necessary to keep the building intact and waterproof should have needed to go through the full Faculty process”*

*“We were happy with the process, but wonder if there could be simpler forms..... rather than ‘one form fits all’”*

*“Biggest issue with the Faculty process is that of chicken and egg. Faculty wants funding in place and funders want Faculty in place”*

*“Document the process in simple language and provide a template that shows the milestones”*

*“It would greatly help if the application was available in a format which could be easily filled in on the computer and the filled in form saved.”*

*“We don’t see why we have to submit basic information about the church every time. Why can’t a database with that information on be maintained by the DAC who can then just ask for any changes”*

*“To reduce anxieties, an email message to confirm important documents had been received”*

Several respondents described their relationship with their DAC, sometimes positive and sometimes problematic. In part this reflected frustrations of respondents on the ability of those on the DAC to provide expert advice.

*“Given that the Local Conservation Officer was totally in favour of the project and felt that brick paths were more in keeping with the church building and its location within the village, the DAC advisors recommendations were at odds and resulted in delays.”*

*“The attitude of the DAC needs to change to a more helpful stance. Many of their advisors do not want to change anything. Our churches are not museums but have over centuries been changed to meet worshipping needs. We do not wish to vandalise*

*the building, we just want to make people warm and comfortable, and to pass the building in good condition to the next generation.”*

*“Our experience has been that early intervention of the DAC has significantly helped us scope our project, and also help put in a dose of realism to our goals!”*

It is notably that very few responses to this question mentioned the time taken as an issue. Indeed several respondents said they could not make any suggestions for improvement as the process had worked well for them

*“No suggestions to make – the process works well and those involved are very helpful”*

*“I think that the system works well. Like any form filling seeking permission to undertake a project, if you provide all the information you are asked to provide all works well”*

### **3. Conclusions**

In general, those who have been through the process of applying for a Faculty have survived the process and understand the necessity for such a process. However, they offered many sensible suggestions to improve the process moving forward. The main request was for the application forms to be available online, with the opportunity to submit online and for information about the church to be retained to save the need to collect the information again for any future Faculty application. They asked for the process to be described in clear English with a template to use and a checklist of documents required. It would also be helpful to give a usual timeline for the process to manage the parish’s expectations. There were also many requests for the process to be simpler for more straightforward projects rather than ‘one process fits all’.

*“Many parishes feel the present process is difficult...Talk to the congregation, talk informally initially to the DAC and Registrar, talk to interested parties, listen to what they say. Go visit a church which has already been through the process and done similar works before – and only then apply. We are temporary custodians of our wonderful buildings – we should not do anything to ruin them if possible”*

## **APPENDIX 3: Survey of DACs - Dr Bev Botting, Head of Research and Statistics.**

### **1. Introduction**

The DAC survey was sent to all DAC Secretaries and 35 responses were received – 83 per cent. They represented dioceses with between 170 and 812 churches in their diocese, and in the period September to November 2011 the DACs had considered between 20 and 233 petitions.

### **2. Results**

In the period September to November 2011 the various DACs had recommended between 5 and 134 petitions for approval in just one meeting. This varied by DAC between 8 per cent and over 90 per cent of the petitions considered in this period. For almost all the petitions deferred (97 per cent), this was due to insufficient information and 71 per cent of petitions deferred required a site visit.

Over the same three month period DACs undertook between 2 and 49 site visits, of which between zero and ten were repeat visits. The visits were split equally between officer visits, delegation visits and visits with consultees.

All DACs except one gave suggestions for simplifying the Faculty process. Broadly these agreed with the helpful suggestions made by the Parishes to the same question. The main suggestions were to provide an on-line facility to complete the forms and that it should allow applicants to skip irrelevant sections. It was also suggested that the forms should be simplified, the instructions clarified, and there should be greater use of plain English. It was suggested that an on-line system could allow all parties to track progress of applications. The Planning Portal was given as a good model

<http://www.planningportal.gov.uk>

*“Make an ‘intelligent’ Faculty application form available online, to prevent omission of mandatory fields and to direct petitioners to what they need in their particular case in terms of supporting information and consultation”*

It was also suggested that the ‘de minimis’ procedure should be improved so it is the same for all dioceses and is kept under a rolling review. Another proposal was that the level of de minimis should be increased for minor works and repairs. Also the list of items that can be authorised by Letter of Authority by the Archdeacon after consultation with the DAC should be expanded.

Another suggestion was to remove the Public Notice Period for maintenance and repair work, or alternatively to run the notice period concurrently with the DAC rather than after the Certificate has been issued to speed up the process. It was also suggested that the Registry and DAC processes should be combined into one as the two processes are confusing for parishes.

*“Could the requirement for public notice period be removed for quinquennial repairs where there are no changes to architecture or fittings?”*

### **3. Conclusions**

Both parishes and DACs recommended that there should be an online application form, as this would help ensure mandatory information was supplied and skip over questions which were not relevant. Both surveys highlighted the need for clearly understood guidelines written in plain English.

The DAC respondents made helpful proposals to improve the ‘de minimis’ procedure, to remove the need for a public notice period in some cases, and to combine the Registry and DAC processes. All these suggestions were thought to simplify the process for parishes.

#### **APPENDIX 4: Evidence was taken from the following individuals:**

- Sherry Bates – Vice President, The Ecclesiastical Architects and Surveyors Association
- Tim Berry - Registrar, Bath & Wells and Bristol, and Dee Elston - Registry Clerk Salisbury
- Sarah Buckingham – Head of Heritage Protection Reform at English Heritage and Peter Aiers – (Churches Conservation Trust) Institute for Historic Building Conservation
- Revd Nigel Cooper – Vice Chair of Shrinking the Footprint Steering Group and Oliver Caroe – Member of Shrinking the Footprint
- Rt Worshipful Charles George - Dean of the Arches and Auditor
- Ven Christine Hardman - Archdeacon of Lewisham, Diocese of Southwark & Ven John Reed – Archdeacon of Taunton, Diocese of Bath and Wells
- Revd Alex McGregor - Deputy Legal Advisor, National Church Institutions
- Ian Morrison – Head of Historic Environment Conservation at Heritage Lottery Fund
- Geoffrey Hunter - DAC Secretary, Diocese of London
- Dr Richard Morrice - Heritage Protection Reform at English Heritage
- Matthew Saunders – Secretary of Ancient Monuments Society and Matthew Slocombe – Secretary of Joint committee of National Amenity Societies
- Canon Brian Shenton – area Dean, Reading, Diocese of Oxford
- Matthew Smith - Chapel Studios

## APPENDIX 5: Minor Items - ROUTE A

### Church contents

- Church plate and cruets.
- Vases and flower stands.
- Authorised service books.
- Hymn books, song books, bibles and choir and organ music.
- Movable hymn boards.
- Fire extinguishers (subject to supplier's or Insurer's instructions as to location in the church).
- Altar linen (but not altar frontal or falls).
- Surplices, albs, cassocks, choir robes and vergers' robes.
- Kneelers, hassocks, pew runners and cushions (but not where a substantial replacement of items amounts to a change of overall appearance or colour scheme).
- Security-marking of movable items with UV pen or other invisible security-marking.
- The introduction of hand-held musical instruments into the church. Inspection, tuning and routine maintenance (without dismantling or alteration) of organs, pianos and harmoniums.
- Registers and deposit thereof in the Diocesan Records Office.

### Church building / Churchyard

- The application of forensic marking (e.g. Smartwater) onto a roof structure.
- Repair/works to a lightning conductor by a suitably qualified contractor.
- Repair to, and like-for-like replacement of, window guards.
- Inspection and routine maintenance of bells, bell frames and the replacement/repair of damaged wooden bell stays, pulleys, bell ropes, the replacement of sliders, ball bearings and the repair of bell wheels.
- Inspection and routine maintenance of clocks and clock faces (but not repainting).
- Purchase or disposal of lawnmowers, tools, small electrical items (subject to safety testing), cleaning equipment, domestic utensils and moveable ladders.
- External or internal redecoration using the same colours and materials, providing that those original colours and materials had been approved by Faculty when first used. In the case of listed buildings and unlisted buildings without damp courses but with lime washed interiors DAC advice must be sought before redecoration work is begun.
- Repair of flag poles.

## **APPENDIX 6: List of Works - ROUTE B**

### Church contents

- Introduction of a small movable bookcase no larger than 100 cm x 200 cm x 30 cm, display stands or tables.
- Routine repair and maintenance of silver plate.
- Replacement of carpet/curtains (but not rubber or gel backed carpets or carpet tiles) on a like-for-like basis. This permission extends to the replacement of rubber or gel backed carpets by breathable-backed carpets of similar appearance.
- Introduction of altar frontals, falls and vestments.
- Treatment of fixtures and furniture against fungal or beetle infestation (unless bats are affected).
- The introduction of peal boards in a location not normally viewed by the public.

### Church building

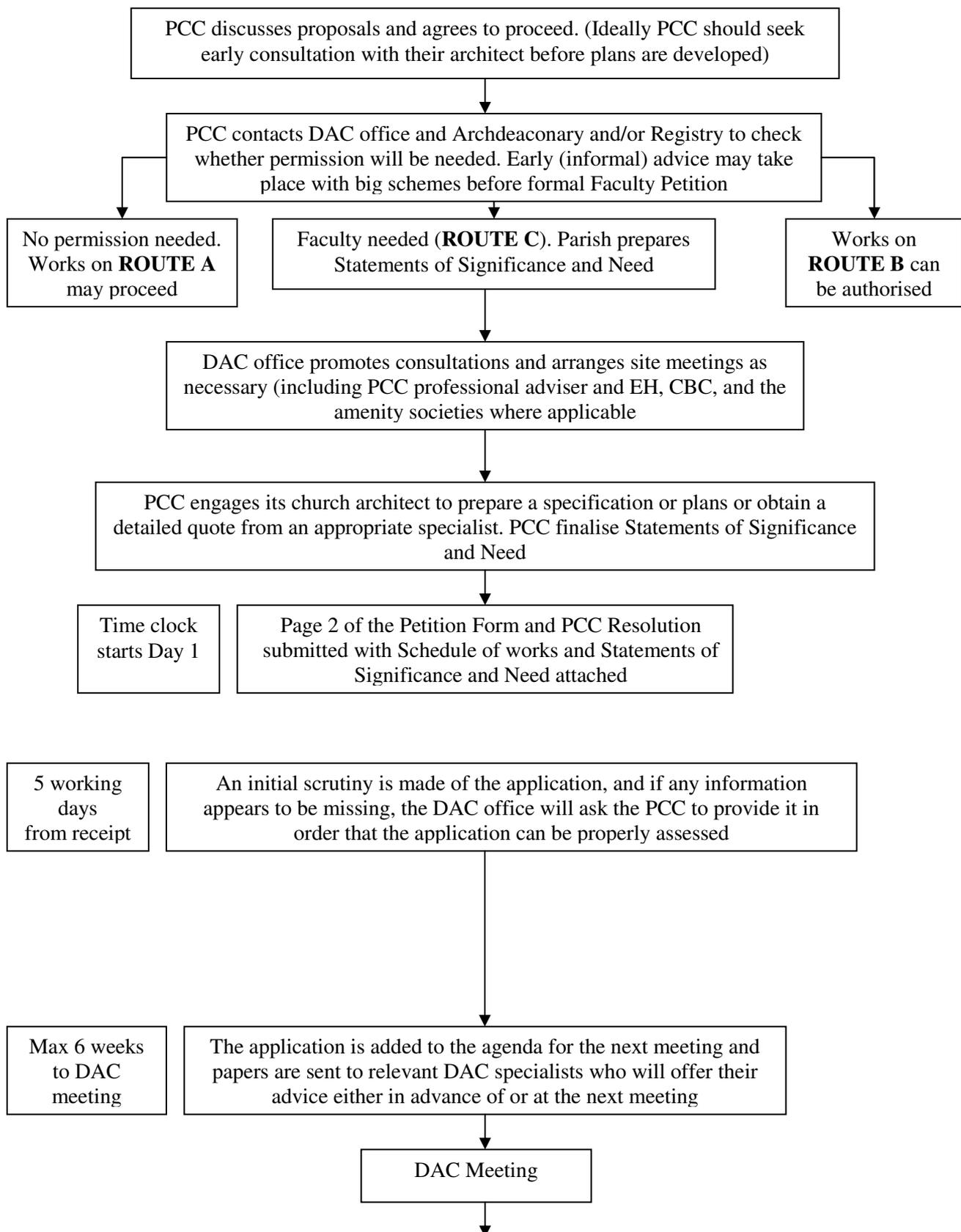
- Works of routine maintenance to the fabric and repairs listed in a QI, up to a value specified in each diocese by the Chancellor and exclusive of fees, VAT and scaffolding. The architect must have specified the mix for any mortar to be used on stone or on a listed building.
- Works of routine maintenance to heating system, gas, water, electric or other services (by approved contractor) up to a value specified in each diocese by the Chancellor and exclusive of VAT.
- The lifting of a bell and/or headstock to allow cleaning of bearings and housings, the replacement of roller element bearings and their housings (by those of an identical manufacturer, type and dimension) and the replacement of steel/cast iron headstocks by those of an identical manufacturer, material, type and dimension.
- Replacement of a boiler in the same location and utilising existing fuel and pipe-runs. The introduction of ancillary control equipment.
- Repairs to plain non-historic glass on a like-for-like basis up to a value specified in each diocese by the Chancellor and exclusive of VAT and scaffolding.
- Replacement of stolen lead or other materials on a like for like basis, up to a value specified in each diocese by the Chancellor and exclusive of VAT and scaffolding.
- Installation of a roof alarm as approved by the church's insurer provided the inspecting architect or surveyor is informed.
- Temporary bat boxes as part of a bat management programme.

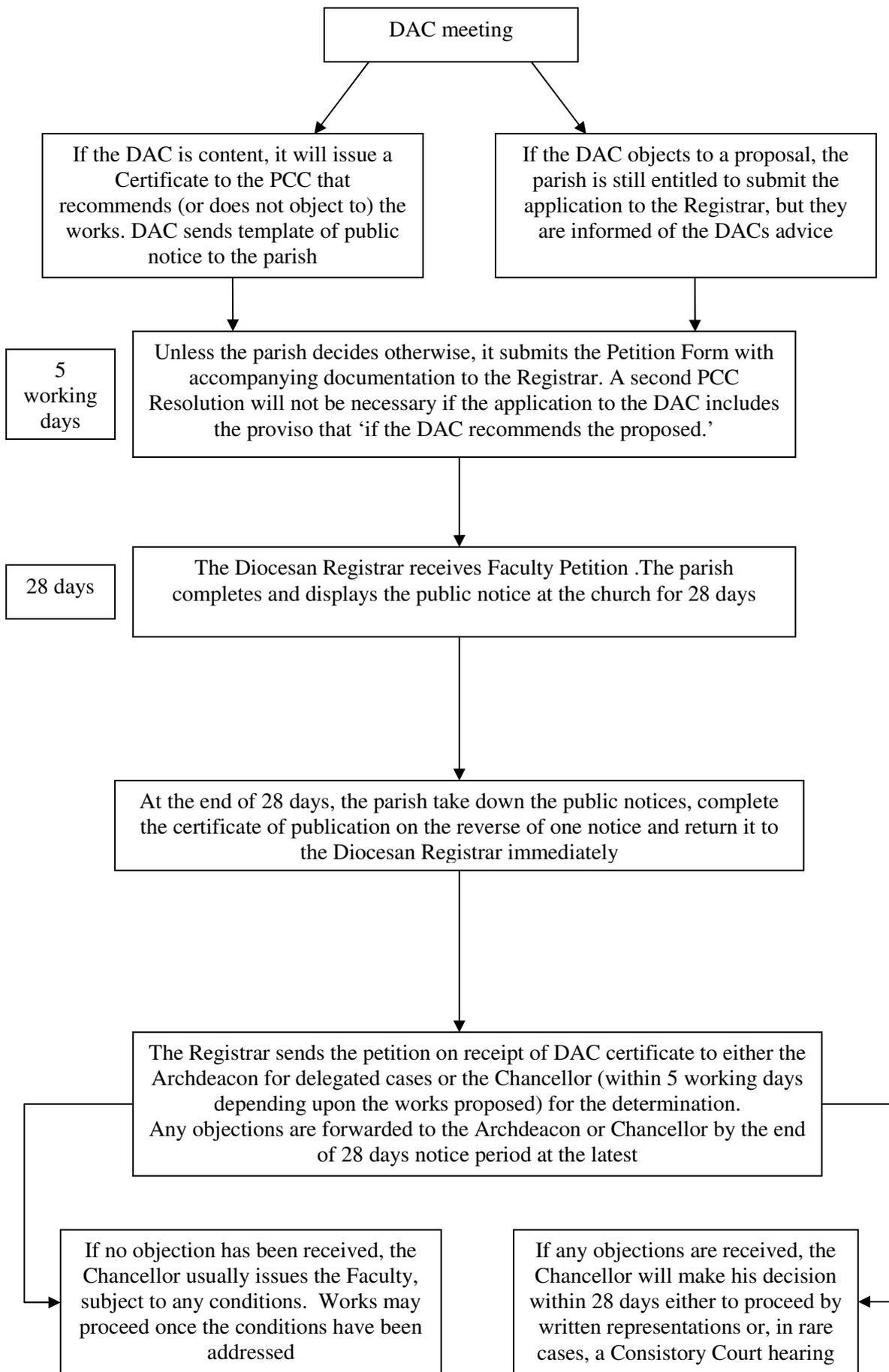
### Churchyard

- The introduction of churchyard benches.
- Repair or replacement of oil tanks if of the same capacity and in the same location as previously, subject to meeting current storage regulations.
- Resurfacing of churchyard paths.

- Repairs to fences and gates on a like-for-like basis up to a value specified in each diocese by the Chancellor and exclusive of VAT.
- Notice boards, provided they comply with the Town and Country Planning (Advertisements) Regulation.
- Trees – refer to Chancellor’s Direction on trees

## APPENDIX 7: List C: Simplified Faculty Procedure





## APPENDIX 8: Standard Information Form

### DIOCESE OF XXX

Church of

In the Parish of

#### STANDARD INFORMATION

(A copy of this form, updated as required, may be attached to a Quinquennial Report or a Statement of Significance.)

- |    |   |   |  |
|----|---|---|--|
| 1. | Approximate date of church  | <table border="1"><tr><td> </td></tr></table> |  |
|    |   |   |  |
| 2. | Listing   | <table border="1"><tr><td> </td></tr></table> |  |
|    |   |   |  |
| 3. | Whether the church, or its churchyard, or any adjoining structure, is wholly or partly scheduled as an ancient monument | Yes/No*                                       |  |
| 4. | Whether a church is in a conservation area (if so, giving details of it)  | Yes/No*                                       |  |
| 5. | Whether the church is in a national park (if so, giving details of it)  | Yes/No*                                       |  |
| 6. | a. Whether bats use the church  | Yes/No*                                       |  |
|    | b. Details of any private chapels, aisles or windows  | <table border="1"><tr><td> </td></tr></table> |  |
|    |   |   |  |
| 7. | Name of Lay Rector, if any <sup>i</sup>   | <table border="1"><tr><td> </td></tr></table> |  |
|    |   |   |  |
|    | Whether the churchyard or burial ground is consecrated  | Yes/No*                                       |  |
| 8. | Whether the churchyard or other land is still used for burial   | Yes/No*                                       |  |

<sup>i</sup> Lay Rectors are responsible for keeping the Chancel in repair. If you are not sure who your lay rector is, or indeed if you have one, you may like to contact the Diocesan Registry for advice.

9. If no longer used for burial, whether the churchyard or burial ground has been closed by Order in Council (giving date of Order where known)

Yes/No\*

Date:

10. Whether there is any grave identified as a War Grave by the Commonwealth War Graves Commission

Yes/No\*

11. Details of any historic structures, listed tombs, war memorials or ancient trees in the churchyard or burial ground

12. Name and address of the architect or surveyor appointed for the church under the Inspection of Churches Measure 1955

\* Please delete as applicable

**APPENDIX 9: Petition Form**

**PETITION FOR A FACULTY**

To the Consistory Court of the Diocese of \_\_\_\_\_

Church of \_\_\_\_\_

In the Parish of \_\_\_\_\_

We:

*Full Name	*Residential Address (Including Postcode)	*Office Held

\*Please use capital letters. Usually the minister and churchwardens should be the petitioners.

Please indicate here which of the above should be regarded as the contact address.  
(Telephone and fax number would also be helpful)

\_\_\_\_\_

**Petition as follows:**

We seek a Faculty to authorise the following:

*Please set out clearly in numbered paragraphs what you seek permission to do, using wording on the diocesan advisory committee certificate (if one has been obtained), and including the number and date on the architect's or surveyor's drawing[s] where relevant.*

**SCHEDULE OF WORKS OR PROPOSALS**

Copies of the drawings, plans, specifications, photographs or other documents showing the proposals which were considered by the Diocesan Advisory Committee should be provided with this petition.

## QUESTIONS

### A. PROFESSIONAL ADVICE

Please answer this section in every case.

1. Has the architect or surveyor appointed under the Inspection of Churches Measure 1955 been:

a. engaged in connection with the proposals?                      Yes                       No

b. asked for general advice in relation to these proposals?                      Yes                       No

2. If another architect or surveyor is being engaged:

a. what are his/her name and address?

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b. why is he/she being instructed in relation to the proposed works?

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### B. CHANGES TO THE INTERIOR AND/OR THE EXTERIOR OF THE CHURCH

*Please answer this section if applicable. Otherwise proceed to the next section.*

3. a. If such changes are proposed has the PCC prepared a Statement of Needs?                      Yes                       No

b. If the answer to a. is yes, please supply a copy of the Statement with this petition.

c. If the answer to a. is no, what are the reasons for asking for permission for the proposals? (Please supply separate explanatory statement if more space is required).

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## C. FINANCIAL INFORMATION

Please answer this section in every case.

4. a. What is the estimated cost of the proposed works? £
- b. Who has estimated this cost?
- 
- c. Are the proposals to be wholly paid for privately or by way of gifts?  
Yes  No
- d. If the answer to question 4.c. is no, how are the proposals to be paid for? (Please give figures in the boxes below.)
- From:
- i. The PCC's current balance of general funds? £
- ii. A gift or legacy? £
- iii. Grants or fund raising? £

Please provide details of your fund raising strategy in your Statement of Need.

## D. PERMISSIONS FROM OTHER BODIES

Please answer this section in every case.

5. a. Are any external works to the building proposed? Yes  No
- b. If yes, have you consulted the local planning authority as to whether planning permission is required? Yes  No
6. a. If you have been advised that planning permission is required, has outline or detailed planning permission been granted? Yes  No
- b. Please attached a copy of the planning permission, if any, to this petition.

7. a. If any of the proposals affect a scheduled ancient monument has scheduled monument consent been obtained.
- Yes  No
- b. If yes, please attached a copy of the consent.

## E. ARCHAEOLOGICAL MATTERS

*Please answer this section if applicable. Otherwise proceed to the next section.*

8. a. Have you been advised that the proposals may have archaeological significance?
- Yes  No
- b. Is an archaeologist to be involved and to be given facilities for inspection and recording during the course of the works of excavation or works to the fabric?
- Yes  No

## F. CONSULTATIONS FOR WORKS OF ALTERATION TO THE EXTERIOR OR INTERIOR OF A LISTED CHURCH.

*Please answer this section if applicable. Otherwise proceed to the next section.*

9. a. Have you consulted the Church Buildings Council?
- Yes  No
- b. Have you consulted English Heritage?
- Yes  No
- c. Have you consulted any of the following National Amenity Societies?
- |   |     |                          |    |                          |
|---|-----|--------------------------|----|--------------------------|
| The Council for British Archaeology             | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| The Ancient Monument Society                    | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Society for the Protection of Ancient Buildings | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| The Georgian Group                              | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| The Victorian Society                           | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| The Twentieth Century Society                   | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
- d. If the answer to any of the above is yes, please attach copies of correspondence giving the views of the Church Buildings Council,

English Heritage and each amenity society concerned.

10. a. Have you consulted the Local Planning Authority? **Yes**  **No**

b. If yes, please attach correspondence giving its views.

### G. CHURCH INSURANCE

Please answer this section for any work to or in the church.

11. a. Have you informed the church's insurance company that work is to be carried out in the church? **Yes**  **No**

12. If the answer to question 11.a. is yes, please supply a copy of the insurer's approval or a letter of reply.

13. a. Is the work or part of the work to be carried out by voluntary labour? **Yes**  **No**

- b. If yes, has the PCC taken out insurance to protect voluntary labour against the risk of injury during the course of the work? **Yes**  **No**

### H. DETAILS OF CONTRACTORS

*Please answer this section when you wish to carry out work of any kind.*

14. Please give the name and address of each contractor to be employed for the different aspects of the works (e.g. builder, electrician, stained glass artist, organ builder etc.)

**Contractor 1:**

**Contractor 2:**

**Contractor 3:**

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

## I. TIME FOR WORK

Please answer this section in every case.

15. a. How soon will the work start after the faculty is granted?

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- b. How long is it anticipated that it will take for the work to completed?

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16. a. Will it be necessary to hold public worship in another building whilst the work is being carried out?

Yes  No

- b. If yes, has the Bishop consented to alternative arrangements for public worship?

Yes  No

## J. ARCHDEACON'S LICENCE

*Please answer this section if applicable. Otherwise proceed to the next section.*

17. a. Has the archdeacon granted a licence authorising temporary re-ordering?

Yes  No

- b. If yes, please attach a copy.

## K. PCC RESOLUTION

*Please answer this section in every case.*

18. The Parochial Church Council at its meeting on \_\_\_\_\_ Passed unanimously/without dissent/by a majority of \_\_\_\_\_ to \_\_\_\_\_ (please delete as appropriate) among those present and voting, a resolution relating to the works or proposals. A copy of such resolution signed by the Chairman/Secretary is attached to this petition. There are \_\_\_\_\_ members of the Council.

## L. THE DIOCESAN ADVISORY COMMITTEE

19. A certificate from the Committee accompanies this petition.

Yes  No

**M. FURTHER INFORMATION**

20. Will the work affect any graves? Yes  No
21. Are any private rights, including rights in seats in the church, affected by the works? Yes  No
22. If the answer to either of these questions is Yes, please provide details on Page 2.
23. Is the information about the church and churchyard attached to the most recent Quinquennial Report or Statement of Significance still accurate? Yes  No
24. If there is any further information that the petitioners would like the Court to take into account, details should be set out in the accompanying statement or letter.

The statements in this Petition and the answers to the questions above are true to the best of the knowledge and belief of each one of use.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

(Signatures of Petitioners)

## **APPENDIX 10: Care of Churches Ecclesiastical Jurisdiction Measure 1991 - Trees in Church Yards.**

**IN THE CONSISTORY COURT**

**PRACTICE DIRECTION 2012 NO 1**

**DIOCESE OF YORK**

**CARE OF CHURCHES AND ECCLESIASTICAL JURISDICTION MEASURE 1991**

**TREES IN CHURCHYARDS**

**After consultation with the Diocesan Advisory Committee, the Chancellor gives written guidance to all Parochial Church Councils in the Diocese as to the planting, felling and pruning of trees in churchyards pursuant to Section 6(3) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.**

### **GENERAL**

- 1.1 Every parochial church council has the responsibility for caring for trees in the churchyard, whether the churchyard is open or closed. The responsibility extends to the planting of trees as well as to every aspect of the maintenance of trees and, ultimately, their felling.
- 1.2. Trees are a traditional feature of churchyards, and are to be valued for their aesthetic and environmental advantages. Some modern uses of churchyards can inadvertently cause damage to established trees, for example, a parking area close to trees can damage roots near the surface of the ground, as can spillage from a fuel heating tank. Conversely, ill-advised tree planting can give rise to damage from roots spreading to a wall of the church, tombstones, a churchyard path, or the nearby highway. The roots of some types of trees actively seek and may damage and block drains.
- 1.3. All this points to the need for the parochial church council to seek and follow expert advice as to the planting, felling and pruning of trees in churchyards. The parochial church council would be well advised to appoint one of their members as their trees officer, who should be responsible for seeing that the requirements of this Direction are put before the PCC as appropriate.
- 1.4. Work to trees either comes within this Practice Direction or requires a Faculty. No work relating to trees comes under the List of Matters Not Requiring a Faculty (published by the Chancellor of the Diocese). Additionally there is "dual jurisdiction" in regard to those trees over which the local authority exercise some control by tree preservation orders and in conservation areas (see paragraph 9 below).

### **EXPERT ADVICE**

- 2.1 Many local authorities employ an Arboricultural Officer or Trees Officer, who should be able to give advice as to the safety of a tree in a churchyard and as to the type of maintenance work required.
- 2.2 An Arboricultural Consultant is a person with special experience in the management and assessment of trees, able to give advice on what work should be undertaken. A report from such a consultant would be evidence that the parochial church council has acted in a prudent manner, as is expected generally by the law and by insurance companies. A Consultant will, however, charge for this advisory work.
- 2.3. An Arboricultural Contractor is more often known as a tree surgeon and it is he who will undertake work to a specification prepared by a Consultant or on the basis of his own recommendations.
- 2.4. A Directory of Arboricultural Consultants and Contractors (Tree Surgeons) is maintained by the Arboricultural Association, which is a registered charity concerned

K/PRACTICE DIRECTION FOLDER/PD 2012 NO 1 TREES

with tree care. Listing within the Directory is an assurance that the consultant or contractor has been examined and found to have satisfied a number of standards such as technical knowledge and provision of insurance cover. The address is Arboricultural Association, Ullenwood Court, Ullenwood, Cheltenham, Gloucestershire, GL53 9QS. Their web site is [www.trees.org.uk/index.php](http://www.trees.org.uk/index.php). The Diocesan Advisory Committee may well have an Arboricultural Consultant who can assist.

### **INSPECTION OF TREES**

- 3.1. The need for a full and regular inspection of trees increases with their age. In order to start on the right footing every churchyard (open or closed) with any trees more than 10 years old which has not had the trees inspected within the last five years should be inspected within 12 months from the date of issue of this guidance. The inspection should be carried out by one of the experts mentioned above. The inspecting person should be asked to categorise any work recommended in his report in order of priority, so that it can be undertaken as funds permit.
- 3.2 Mature trees should be marked and identified on the churchyard plan.
- 3.3 Thereafter good practice requires that regular inspections of all mature trees in the churchyard should take place every five years at the time of the quinquennial inspection under the Inspection of Churches Measure 1955 with the tree report annexed to the quinquennial report. This is in fact obligatory in the case of a tree which is subject to a tree preservation order (Care of Churches and Ecclesiastical Jurisdiction Measure 1991 Schedule 3 para 3). Any concern expressed by the inspecting architect or surveyor should be referred to an expert, as identified in paragraph 2 above.

### **PLANTING**

4. Before planting any trees the parochial church council should consult an expert identified in paragraph 2 above as to the suitability of any proposed species for the churchyard in question and as to the appropriate location in the churchyard. The parochial church council must also obtain the consent of the Archdeacon. In any case where a major scheme of planting is proposed (for example more than two trees which when mature will be large trees either in terms of height or spread), the parochial church council must seek the advice of the Diocesan Advisory Committee and a Faculty from the Chancellor. It is often useful to seek the advice of the local authority trees officer or the Yorkshire Wildlife Trust on the choice of appropriate species for planting.

### **FELLING**

- 5.1 Where the parochial church council is advised by an expert, as identified in paragraph 2 above, that a tree or trees should be felled because of disease or for safety reasons, relating to either buildings or people, a copy of the written report of such expert must be supplied to the Archdeacon for the archdeaconry in question, who may authorise the felling. A photograph of the churchyard with the tree or trees concerned should be taken and retained, together with the expert's advice, with the parish records.
- 5.2 If the parochial church council wishes to fell a tree which is sound but is occupying a space in the churchyard required for some other use, then the parochial church council must seek the advice of the Diocesan Advisory Committee and a Faculty from the Chancellor.
- 5.3 No permission under this direction is required to remove self-seeded saplings up to 2m high with the proviso that the Archdeacon must be consulted in the case of any that have been in situ for more than 10 years.

## **ROUTINE MAINTENANCE AND MINOR REMEDIAL WORK**

6. All trees are capable of shedding deadwood and can consequently be hazardous to persons using the churchyard. Beech, ash and sycamore are especially prone to this. Minor remedial work such as the removal of split and hanging limbs and major deadwood (more than 50mm in diameter) may be carried out as advised by an arboricultural contractor (tree surgeon) in the Directory of the Arboricultural Association.

## **LOPPING, TOPPING AND OTHER MAJOR PRUNING AND TREE SURGERY**

- 7.1 Methods of major pruning include lopping, pollarding, coppicing, crown thinning and crown lifting, cable bracing, crown reduction, removal of major limbs.
- 7.2 Works of major pruning and tree surgery, (including those works described in para 6.1) must be recommended in a written report by an expert as identified in paragraph 2 above. The report must be submitted to the Archdeacon in the archdeaconry in question, who may authorise the work or part of it, but in any case of doubt or difficulty or where the proposals may in the Archdeacon's opinion excite comment locally the Archdeacon should require the Parochial Church Council to seek the advice of the Diocesan Advisory Committee and a Faculty from the Chancellor.
- 7.3 Before authorising any such work the Archdeacon should require any necessary local authority consent to be first obtained and a copy supplied to him.

## **ARCHDEACON**

8. The Archdeacon should notify the Diocesan Advisory Committee of any works authorised by him under any of the paragraphs of this Practice Direction.

## **TOWN AND COUNTRY PLANNING ACT 1990: tree preservation order and trees in a conservation area**

- 9.1 Where any tree is subject to a tree preservation order made under Section 193 of this Act, or is in a conservation area in respect of which no tree preservation order is for the time being in force, restrictions are imposed by the Act upon cutting down, topping, lopping and other acts to the tree in question (see Sections 198 and 211). They do not apply where the tree is dying, dead or has become dangerous (Section 198(6) (a)). In any other case the consent of the local planning authority, as well as any other authorisation mentioned above, will have to be obtained before anything is done to the tree.
- 9.2 As soon as the local authority becomes involved with a tree or trees in a churchyard the Parochial Church Council should consult the Archdeacon.

## **PETITION**

10. Petition: The attached form of petition for faculty shall be used in the Diocese of York for works/proposals relating to trees.

The Conversion of St Paul 2012

HIS HONOUR JUDGE CANON PETER COLLIER QC  
CHANCELLOR OF THE DIOCESE

This Practice Direction was first published in 1993 amended in 1999 and was adopted and re-issued on the 29 September 2009 by Canon Peter Collier QC, Chancellor of the Diocese.

It was revised with minor clarifications by Canon Peter Collier QC on 25 January 2012.