

FACULTIES AND CONSISTORY COURT

TRAINING FOR CHURCHWARDENS

**At Wellesbourne, St Peter
at 10.00am on Saturday 27th September 2025**

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GENERAL INTRODUCTION

Rotherham and Company / Chancellor / Consistory Court

The firm, which is one of the oldest legal firms in Coventry, has acted for the Diocese of Coventry for many years. I am the Diocesan Registrar and Legal Secretary to the Bishop of Coventry. My colleague Mary Allanson is Deputy Registrar and Michelle McBrierty is the Diocesan Registry Clerk. In your role as Churchwarden you are most likely to have regular contact with Michelle regarding faculties and other queries.

The Chancellor of the Diocese is Mr Glyn Samuel and the Deputy Chancellor is Ms Caroline Harris. They sit as the judges of the Consistory Court. The consistory court has a long history, but its primary function today is the exercise of the faculty jurisdiction relating to church buildings and their contents. Alterations to churches and their furnishings are unlawful unless they have the prior authority of a faculty granted by the Chancellor in the Consistory Court. The faculty jurisdiction exists to preserve the integrity of churches, many of which are listed buildings of significant heritage value, and to ensure conformity with the doctrine and practice of the Church of England.

The Registry enables the work of both the Consistory Court and Registrar. The Registrar acts as Clerk to the Court and deals with all administrative aspects of a faculty petition.

All faculty cases are proceedings within the Consistory Court which, as mentioned above, is an ancient part of the English common law court system. The Consistory Court procedures are governed by the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 and the Faculty Jurisdiction Rules 2015 amended in 2019, 2022 and 2023. Some of the more recent changes which came into effect in 2022 and 2024 require churches to have due regard to the Church Building Council's advice on Net Zero Carbon and care for the environment.

Like other courts, the Consistory Court is required to apply the overriding objective to manage cases justly. Parties to faculty proceedings should pay particular attention to this obligation in all aspects of their involvement in proceedings.

The Chancellor's judicial jurisdiction is exercised wholly independently of the Bishop and Diocese and the Registrar must therefore act neutrally in all matters which are or are likely to proceed in the Consistory Court.

Legal role of Churchwardens

1. Churchwardens are the senior lay leaders in a parish.
2. According to Canon law “Churchwardens shall be foremost in representing laity and in co-operating with the incumbent; they shall use their best endeavours by example and precept to encourage the parishioners in the practice of true religion and to promote unity and peace amongst them.”
3. Churchwardens must, amongst other matters, maintain order and decency in the church and the churchyard and, in consultation with the incumbent, annually inspect or arrange and inspection of the fabric and articles of the church and arrange the Quinquennial Inspection.
4. It is also part of the role of Churchwarden to ensure that the church and churchyard are compliant with health and safety legislation, which may necessitate works to the church or churchyard.
5. Churchwardens must apply for permission for changes to the church fabric and all articles appertaining to the church (e.g. pews) via the DAC, who will advise on whether a List A or B permission is appropriate or a faculty is required, depending on the nature of the works.
6. The reference to changes of the church fabric, as referred to above, does not just cover the physical building, but also its contents and grounds. Under Canon law, the plates, ornaments and other moveable goods of the church are vested in the legal ownership of the Churchwardens, who must maintain accurate inventories, and any changes to these items will need permission as referred to above.

As a Churchwarden you do not have authority (whether in interregnum or not) to:

- * Agree to reserve a gravespace or cremation plot verbally or in writing.**
- * Agree and/or sign an application for any memorial including the installation, removal, alteration or addition to a memorial whether conforming to the Churchyard Regulations or not.**
- * Agree to an exhumation of any human remains.**

If your parish is in interregnum you must contact your Area Dean. The Registry is also happy to assist.

As a Churchwarden you will be asked as part of your responsibilities to:

Keep and maintain a detailed plan of the churchyard to show all existing burials and interments, plots available, plots reserved by faculty, trees and any other churchyard furniture e.g. benches, etc. It is a legal requirement for each parish to keep an up to date plan of the churchyard. Details on what is to be included in the plan can be requested from the Registry. However, please note that there is no requirement for the plan to be professionally prepared by a surveyor – it can be an accurate sketch plan.

All Licensed Clergy, Churchwardens and PCC Secretaries were contacted in 2023 by the then Associate Archdeacon in relation to the Church of England's nationwide digital churchyard mapping project. This is an ambitious project to create a free digital map of every churchyard in the country, made available through a new web-based record system.

Over the next few years, partnering with a professional surveying company, the vast majority of all Anglican burial grounds in England will be mapped to present the most complete picture of churchyards to date. The project will come at no cost to parishes or dioceses, being funded largely by Historic England. As well as capturing details of burials, the online interactive map will detail biodiversity in churchyards, including ancient trees, plant-life and green technology such as solar panels.

Parishes will be contacted ahead of local surveys taking place with minimal preparation being required.

FACULTY INTRODUCTION

The faculty jurisdiction is the Church of England's regulation of works to church buildings, their contents and churchyards. This includes most Church of England churches and churchyards, a number of unconsecrated chapels and the consecrated parts of local authority cemeteries.

A faculty is the legal permission given by the Chancellor to undertake works proposed i.e. repairs or removals or additions to a church building or churchyard, the reservation of a gravespace, the installation, alteration or removal of a memorial and the exhumation of human remains.

The legal framework for the faculty process is currently derived from the following legislation:

- Care of Churches and Ecclesiastical Jurisdiction Measure 1991
- Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure 2015
- Faculty Jurisdiction Rules 2015
- Ecclesiastical Jurisdiction and Care of Churches Measure 2018
- Faculty Jurisdiction (Amendment) Rules 2019
- Faculty Jurisdiction (Amendment) Rules 2022
- Faculty Jurisdiction (Amendment) Rules 2023
- Church of England (Miscellaneous Provisions) Measure 2024

The DAC is required under the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 to advise the Chancellor or the Archdeacon on matters affecting places of worship, relating to their architecture, archaeology, art, history, use, care, planning, design, use and care of contents and use and care of churchyards and also care for the environment..

Any work to a church, churchyard or their contents has to be authorised either under a faculty from the Chancellor, permission through List A by the DAC or List B by the Archdeacon. Works carried out without such authority is unlawful and the PCC and/or the individual who authorised the works without obtaining the above formal authority may be subject to a costs or restoration order from the Chancellor.

What is ecclesiastical exemption?

The ecclesiastical exemption means that the Church of England (together with certain other Christian denominations) is exempt from certain provisions of planning legislation, including the need to apply for listed building consent, for ecclesiastical buildings. Ecclesiastical buildings are church buildings which are currently used for worship or are now vacant and have never had any other use. The intention is that the historic buildings are afforded the same standards of protection as the secular system operated by local planning authorities.

If the proposed works involve the development of land, such as building or engineering operations including demolition, floodlighting and significant earth works e.g. landscaping or a change of the use of the land, planning permission will be required just as for any secular building in addition to a faculty.

The normal procedure is that where planning permission is also needed, the faculty will not be issued until the planning permission has been granted or be granted subject to a condition preventing its implementation until planning permission has been granted.

In the case of secular buildings which are listed, listed building consent is also required for many works both to the interior or the exterior of the building. Any work, whether it is an alteration or extension which would affect the character of the building as a building with special architectural or historic interest would need listed building consent.

However, under statute, ecclesiastical buildings which are for the time being used for ecclesiastical purposes are exempt as the faculty jurisdiction replaces the need for listed building consent.

Enquiries should also be made as to whether the building is in a conservation area because those areas are designated heritage assets in respect of which there is a statutory duty to have regard to the desirability and preservation or enhancement of the character and appearance of the area.

DIOCESAN FACULTIES submitted on the Online Faculty System

There are certain procedures to be followed when a parish decides that it wishes to petition for a faculty up to the point where the parish is ready to display the public notices. The diocese is subscribed to the Online Faculty System which your parish should now all be signed up to, and all petitions for faculties are made via this system (subject to the exemptions referred to below).

The procedural aspect of using the Online Faculty System will be explained by the DAC to the point of issuing a Notification of Advice, but if you log onto the system, there are guidance notes in the "Help" section which includes a step by step process of how to submit a faculty petition. There are also instructions shown on each page of an online petition in yellow boxes which will assist. The DAC is also available to help and we are also willing to assist at the Registry with any queries you may have with Michelle as a first point of contact.

When is a faculty required?

Any works not carried out under Lists A or B and in the absence of a faculty are illegal. If there is any doubt as to how the proposed works are categorised you must contact the DAC in the first instance. The Registry is also happy to assist.

What are Lists A and B?

List A are works that do not require a faculty and can be carried out without consultation. A list of such works can be found on the www.legislation.gov.uk website. Some examples are:

- a) *"The repair or like for like replacement of wire mesh window guards."*
Condition: *"Only non-corroding fixings are used and, where practicable, are fixed in mortar joints."*
- b) *"The repainting of metal bell frames and metal bell fittings."*
Condition: *"No bell is lifted from its bearings."*

Certain routine maintenance works and works to trees is also included in List A but you must always check with the DAC before the works are carried out – do not assume that they are covered by List A.

The List A works refer to conditions which must be adhered to in carrying out these works.

List B are works that require permission following consultation with the Archdeacon who must then give notice in writing that the works can be carried out without a faculty. A list of these works can be found on the same website as above. Two examples would be:

- a) *"The installation of a wall offertory box."*
Condition: *"The installation does not affect historic fabric."*
- b) *"The introduction, replacement or alteration of a notice board."*
Condition: *"A new notice board is not illuminated. The Town and Country Planning (Control of Advertisement) Regulations 2007 are complied with."*

Always check with the DAC to ensure that a faculty is not required for the proposed works – do not assume that they are covered by List B.

The List B works refer to conditions which must be adhered to in carrying out these works.

Who can help?

The DAC and Registry are here to assist you. The DAC must be consulted concerning diocesan faculties in the first instance and the Registry contacted with any queries concerning gravespaces, memorials, exhumations and any other legal queries you may have.

Can we go ahead with List A or List B works without DAC consultation?

No – do not presume that your proposals fall under Lists A or B. The DAC must be consulted on each occasion and any works proposed that they advise do not fall under Lists A or B will require a faculty from the Chancellor.

How do we apply for a diocesan faculty?

If someone at your parish has not petitioned for a faculty before please contact the DAC who will advise how upload your proposal onto the Online Faculty System and submit your petition.

Why do we have to use the OFS?

The online system keeps each step of the faculty process transparent for all parties e.g. the petitioner, the DAC, the Registry and Chancellor and reduces the amount of paperwork being passed from party to party. The process remains the same as before the introduction of this system, the only difference being the documents are uploaded onto the online system as well as hard copies of the public notice and signed certificate of publication to be posted to the Registry.

What happens if we don't obtain a faculty but do the work anyway?

If the works are not listed under Lists A or B and you carry out the proposed works without a faculty from the Chancellor then those works have been carried out unlawfully. In such circumstances the Chancellor may:

- a) Issue a Restoration order which will require the PCC/contractor to return the building or churchyard to its previous state before works at a cost to the PCC or individual who carried out the works.
- b) Issue a Costs Order to the PCC or individual who carried out the works without the required authority.

Can we petition for gravespaces, memorials or exhumations on the OFS?

No. At present only diocesan faculties can be petitioned for online. Private petitions such as gravespaces, cremation plots, memorials and exhumations still have to be submitted by post to the Registry for processing.

What does a faculty look like?

The faculty is a legal document signed by the Diocesan Registrar stating the petitioners' details, a description of the works permitted, any conditions imposed by the Chancellor and it is sealed with the Chancellor's seal. Works must not be commenced until receipt of the sealed faculty which will be posted to the lead petitioner's address as shown on the petition form.

We have submitted a petition online and the DAC have issued their Notification of advice. What do we do now?

Once the Notification of Advice has been made available online you will receive a prompt from the OFS to complete and print off two public notices. These are to be displayed at the church, one inside the church and one outside the church in prominent positions so they can be read by the public for a continuous period of at least 28 days not including the day they were first displayed or taken down. This is the same procedure for private faculties.

Once the 28 day period has expired you must complete and print off the certificate of publication from the OFS and physically sign it to confirm the correct dates and locations of display. The documents must then be posted to the Registry. Please also ensure that the "submit" button is pressed on the OFS when the documents are posted to the Registry. **Without receipt of the hard copy public notices or certificate of display at the Registry and without pressing "submit" your petition cannot be submitted to the Chancellor for consideration.**

Following submission of the petition to the Chancellor, he will issue his determination and the Registry will either a) issue a faculty or b) request further information from the petitioner(s).

What happens if someone objects when the public notices are displayed?

All objection letters must be sent to the Registry within the display period shown on the public notice. The Registry will then contact the objector(s) to enquire whether or not they wish to become a party opponent in the matter. The letter(s) of objection will be provided to the Chancellor with confirmation as to whether or not the objector(s) wish to become party opponents. The lead petitioner will have the opportunity to respond to the letters of objection and will be kept updated by the Registry of any developments.

We have received a message from the OFS that a faculty has been granted. Can we start the works?

No. The faculty document will be issued, sealed and signed at the Registry and posted to the lead petitioner. Following receipt of the sealed faculty through the post the works can then commence.

We have received the sealed faculty. What do we do now?

You must check whether there are any conditions imposed by the Chancellor. If so, these must be adhered to. Failure to do so may result in a restoration order being issued meaning that any works carried out may need to be reversed at a cost to the PCC or the individual who failed to comply with the conditions imposed.

The sealed faculty document must be kept with the church records as it is a legal document and reference to it may be required in the future. A copy of the faculty will also be provided with the original so it can be passed to the contractor to show that formal permission has been granted to undertake the work shown in the faculty schedule. Documentation submitted with the petition is retained at the Registry and on the Online Faculty System.

Being aware of any conditions, the contractor(s) can commence the works detailed on the schedule. Following conclusion of the works, Form 8 is to be completed on the OFS. It is important that after each step of inputting the details on the form on the OFS you press the “save” button otherwise the form will be submitted to the Registry blank and you will be required to complete a Form 8 by hand.

Can I alter a petition, public notice or other application form?

No. Petition and application forms are legal forms issued in accordance with the Faculty Jurisdiction Rules. They should not be amended, altered or reproduced in any way as the forms are prescribed by legislation. Private petition forms can be obtained from the diocesan website or requested from the Registry. These are amended annually on or around 1st January when the statutory faculty fees are also reviewed. Public notices issued by the Registry must not be amended, altered or reproduced in any way. If an error is contained within a public notice please notify the Registry immediately.

We are unable to get the works completed within the Chancellor’s time limit. What do we do?

If you require an extension of time you must apply for this before the prescribed faculty time limit expires. It is recommended that at approximately four weeks prior to the expiry of the time limit you can apply by email to the Registry stating the parish name, faculty reference and an explanation of why the works have not yet been completed and an estimated date of completion. The Registry will then request an extension of time from the Chancellor and return to you by email.

If you envisage that the works cannot be completed within the prescribed timescale it is important that you do not breach the terms of the faculty by allowing the faculty to expire without requesting an extension of time prior to its expiration. An expired faculty cannot be extended.

Can we request the works under the faculty be amended?

Yes but you will need to give an explanation and documentary evidence as to why an amendment is required. You should approach the DAC in the first instance and they will contact the Registry on your behalf. The Registry will then make a request to the Chancellor and if granted, the Registry will return to you by email. **An expired faculty cannot be amended.**

TOP FIVE DO'S AND DON'T'S FOR DIOCESAN FACULTIES

1. **DO** contact the DAC in the first instance for all works. They will advise you if you need a faculty or if the works can be authorised under Lists A or B.
2. **DO** read all instructions in the yellow box on each page of the online petition and press submit after each step on the Online Faculty System so that the next step in the process can be completed.
3. **DO NOT** attempt to petition for a gravespace, private memorial or exhumation on the Online Faculty System. These petitions must be dealt with on the papers and submitted directly to the Registry by post.
4. **DO** ensure that if you are granted an interim faculty that you petition for a full faculty on the Online Faculty System within the timescale prescribed by the Chancellor. Failure to do so will result in a breach of the interim faculty.
5. **DO NOT** carry out any faculty works without a sealed faculty being in the parish possession. If you do you are breaking the law.

THREE GOLDEN RULES

1. If the article is not within List A or B it will require a faculty.
2. If the article has any historic or artistic interest it will require a faculty.
3. If the step proposed would be in any way controversial it will require a faculty.

IF YOU ARE UNSURE ABOUT ANY OF THESE POINTS
PLEASE CONTACT THE REGISTRY
BY TELEPHONE ON 02476 227331 OR
BY EMAIL ON m.mcbrierty@rotherham-solicitors.co.uk

INTERIM/EMERGENCY FACULTIES

An interim faculty is permission given by the Chancellor for works that are of an urgent or emergency nature. In order to apply for an interim faculty contact must be made with the DAC who will take details of the proposed works, request relevant documentation from you and forward this by email to the Registry with a formal request. The request will then be made by the Registry to the Chancellor who considers the request and usually responds within 24 hours.

If an interim faculty is granted the parish and DAC will receive an emailed document detailing the emergency works permitted and any conditions imposed by the Chancellor

It is a legal requirement and a condition of the grant of an interim faculty that a petition for a full confirmatory faculty for the works is submitted on the Online Faculty System in the usual manner within a timescale prescribed by the Chancellor. Failure to do so is a breach of the Faculty Jurisdiction Rules.

FACULTY JURISDICTION FOR UNUSUAL MATTERS

If a church building or land is within the faculty jurisdiction it is not just physical works that 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.

Jurisdiction is extremely wide and so please do contact the Registry for advice if there is any matter you are unsure of.

There are some examples to illustrate the wide range of the jurisdiction and where petitions for faculties should be presented. In a churchyard this could be the reservation of a gravespace; burial of cremated remains and any works to a memorial or the installation of a new memorial within a formally closed churchyard by Order in Council; exhumation of human remains; memorials that fall outside the scope of the Churchyard Regulations; inscriptions on memorials which the incumbent does not feel appropriate to approve; widespread testing of memorials as to their safety sometimes called the “topple test”.

In churches this could be the introduction of unusual and moveable items and the removal of such items from the church and their disposal; removal of significant or valuable articles to a place of safety or for the purpose of display in a museum or exhibition.

In churches and churchyards this could be permission to film, e.g. television programmes; use of churchyards for appropriate (temporary) secular purposes; leases or licenses of the building or land; wayleaves over land for utilities, e.g. an electricity line crossing the churchyard; grant of easements, e.g. rights of way, rights of 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.

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 for future generations. It is always better to ask the DAC and/or the Registry for advice whenever there may be doubt, rather than assume that a matter is going to be uncontroversial.

It is also important to note that the faculty jurisdiction not only includes an initial permission but any amendment to it.

GUIDANCE ON THE MOVEMENT OF ARTICLES

The basic principle of the faculty jurisdiction is that the Chancellor's consent by faculty, is required for any change within a church. This is to ensure that the church is protected for the benefit of future generations but also ensures that people's views are considered before changes are made.

There is a legal presumption that the introduction, movement, removal or disposal of any article will require a faculty. However, common sense has to be applied as there is no absolute definition as to what will require the authority of a faculty. It is always best to err on the side of caution and to remember that the presumption is not displaced lightly. Examples of when a faculty is most likely to be required are as follows:

1. The introduction of new articles if they are an issue of concern. For example, if they represent a new form of liturgical sympathy, if they are gifts of high value and will require special care.
2. Disposals are very unlikely to be acceptable without a faculty.
3. Moving an item within the building can be a sensitive issue. Something regarded as a treasure of the church such as a special painting or piece of communion plate should never be moved without consent. Something long used in the body of the church may cause strong feelings if it is suddenly consigned to a store cupboard.
4. Introducing an item into the church may change the whole ambience of the building.
5. The removal of items whether temporarily or permanently and whether for sale or destruction is also a significant step. There is a difference between removing things which have simply worn out where no one could ever contemplate the item having any value or recognising that something may actually be of special archaeological importance. Where disposal is authorised by faculty the Churchwardens will need guidance as to what method if acceptable and sometimes as to the terms of marketing or sale. When a faculty is issued authorising a disposal the purchaser should be provided with a copy of the faculty.

To avoid every matter having to be considered for a faculty the Faculty Jurisdiction Rules allow some changes to be made without the full procedures. Please check List A and List B "Church Contents" which permits certain actions without a faculty. **If an article is not listed a faculty will be required.**

As a view has to be formed as to whether the item has any historic or artistic interest before it can be removed or disposed of, advice from the Archdeacon or the DAC should always be sought.

- If an article is of special interest then consultation with the Church Buildings Council will also be required before a faculty is sought. The DAC will be able to guide parishes as to whether an article is of any interest or indeed is of special interest.
- If the item is of very significant value it is likely that the Archdeacon will be directed to intervene in any faculty petition even if it is unopposed and supported by the DAC. The object of such an intervention is to ensure that all the arguments are challenged and contested before the Chancellor rules on them.
- It is also open to the parish to consider loaning the article to a museum or an exhibition.

TEMPORARY REORDERING WORKS/ARCHDEACON'S TEMPORARY LICENCE

Under Regulation 8 of the Faculty Jurisdiction Rules there is a procedure that allows temporary minor reordering works. This rule is a general exception to the Canon Law duty on a minister to ensure that any alteration, addition, removal or repair to the fabric, ornaments or furniture of the church is made under faculty from the Chancellor.

The exception takes the form of a licence issued by the Archdeacon. This applies whether or not a church is listed.

Liberty to reorder on a temporary basis might be on an experimental basis, i.e. to see whether a change will work for the future. Equally it might be to facilitate a change needed during a festival period or special service which is never intended to be permanent.

Where the appropriateness of a permanent change is being tested, the grant of a temporary licence may help the parish to decide whether or not to seek a permanent change.

It therefore follows that the grant of the licence is only available if a change is easily reversible and the grant does not in any sense pre-judge the Chancellor's later consideration as to whether or not to allow the change to be made permanent by faculty.

The Archdeacon will make clear that the grant does not mean that the parish can assume the Chancellor will grant a faculty. Those parishioners who are concerned about the temporary reordering may find that to be a comfort.

You should be aware that if a temporary reordering is costly and a faculty is then refused, the costs of that temporary reordering are wasted.

The procedure is only available if the works are not only temporary but also minor. There is no definition of "minor". A common example would be the removal of a single pew which could be regarded as minor but the removal of all the pews would be significant and therefore not suitable for temporary reordering. A simple common sense test would need to be applied.

The Archdeacon will only grant a licence if they decide that:

1. There is no material interference with or alteration to the fabric of the church.
2. There are no electrical works involved.
3. Anything that has to be moved can be easily reinstated.
4. No fixture or article is to be disposed of.

Temporary Licence Important Points:

- **A temporary licence cannot be issued if there is no minister in the parish.** A minister is defined as the incumbent, a priest in charge, a curate in charge or a team vicar with a special cure of souls assigned for the place or a team ministry member who has pastoral care or responsibility for the parish concerned. If this condition is not satisfied the matter must proceed by faculty.
- **The minister must make the application to the Archdeacon jointly with the PCC.** The Archdeacon will want to know how wide consultation has been within the parish and congregation and whether there is or is likely to be any objection.
- **A licence cannot be granted without the Archdeacon consulting with the DAC.** The Archdeacon must take the advice of the DAC or such of its members or officers as the Archdeacon thinks fit. The Archdeacon might also consider that consultation ought to be had with an amenity body as to the implications before deciding to grant a licence.
- **The licence could be made subject to whatever conditions the Archdeacon decides are necessary.**
- **The terms of the licence can be amended at any stage during its currency. It may also be revoked.**
- **The licence will specify the period of the experiment which may be up to twenty four months.** The Archdeacon may impose a shorter period but no extension can be granted to whatever period is initially imposed.
- **There is no obligation to prepare a Statement of Significance before the licence is considered.**
- **A copy of the licence must be provided by the Archdeacon to the Registry and the DAC Secretary.**
- **If the licence is refused the Archdeacon will advise the minister and PCC to petition for a faculty.** The Chancellor may decide to grant a faculty for the experimental reordering on such terms as he thinks fit.

What happens towards the end of the temporary licence?

The reordering may be ended and the church to be completely reinstated to its previous state. This restoration will be obligatory unless the minister adopts the other option which is to submit a full petition for a faculty not less than two months prior to the end of the licence period. If the minister submits a petition then the licence period may continue until the petition is determined.

The petition will need to be submitted on the OFS and advice from the DAC obtained in advance.

The golden rule is to engage in the faculty process well before the end of the licence period so as to avoid the obligation to restore the church.

At the end of the licence period the Archdeacon will send a form to the minister to which the minister must respond within fourteen days stating whether the church has been reinstated or whether a petition has been lodged. In the absence of compliance of this rule the Archdeacon has a statutory duty to ensure that the reinstatement has been carried out.

GUIDANCE IN CONTESTED OR CONTROVERSIAL PETITIONS

It would be impossible to summarise the procedures involved in a contested or controversial petition. However, the following should be borne in mind:

The Registrar

The Registrar has to maintain neutrality and will not help a party fight the issues of the case. If there is a dispute, the Registry will recommend that if legal advice is required it must be given by another lawyer.

Advice is sometimes available from Registrars in different dioceses and some Chancellors are practising barristers and are able to advise on the basis of direct public access. There is also a list of lawyers who may be prepared to advise pro bono. The Registry should be contacted if this is required.

The Chancellor

The Chancellor's role is not simply to deal with an adversarial process as would apply in civil litigation. He must adopt an inquisitorial jurisdiction to protect consecrated churches and churchyards.

Objections

An objection can be made by any person who falls into the list of "interested persons" under Rule 10.1 of the Faculty Jurisdiction Rules. The definition of an "interested person" includes a resident of the relevant parish, a person whose name is on the electoral roll of the parish and any other party who can demonstrate a "sufficient interest" in the case. Objectors should set out their claim clearly so the Chancellor can consider whether their claim is valid.

The PCC, the Archdeacon, the local planning authority, relevant national amenity societies and some other bodies are regarded as "interested persons".

If no objections are received or if an objector does not wish to be a party opponent the petition is regarded as unopposed. The vast majority of petitions are unopposed. The Chancellor may decide to allow the faculty to be issued on the basis of the papers before him.

If the Chancellor is not content to grant a faculty on the basis of the information that he has he can give directions as to how to dispose of the case. The Chancellor cannot refuse the petition at this point without either hearing the petition in open court or directing that it should be determined after written representations.

The method of deciding a case after written representations is only available if all the parties agree to it and also if the issues between them are suitable for resolving the dispute.

Written representations are commonly used in unopposed cases where the Chancellor simply wishes to hear more from the petitioner as to the justification of the case.

Any party can insist on a formal hearing in open court.

CHURCHYARD REGULATIONS UPDATE 2025

As a churchwarden you do not have the authority to permit a memorial to be installed, altered, removed or replaced or any other works to a memorial. This is the case even during interregnum. However, it is more than likely that at some time you will be approached by a member of the public to discuss this or be asked for your opinion on a proposal by the incumbent.

Churchyard Regulations were previously set for each diocese by the respective Chancellor. The Regulations for the diocese of Coventry were last updated in 2022 and amendments to the conforming memorial form and the faculty petition form were made in 2023.

However, a national consultation took place following the creation of a Churchyard Task Group who collated information relating to the differing sets of Churchyard Regulations followed by each diocese. Their research culminated in an update to the Churchyard Regulations which have been approved by the Church of England and which now apply nationally.

The new Regulations came into force in the Diocese of Coventry on 20th April 2025 and were circulated to parishes, Archdeacons, local stonemasons and funeral directors prior to that date. A copy of the Regulations is available to download from the diocesan website or can be provided by the Registry upon request.

Also from 20th April 2025 an updated application form was issued to be used to replace the previous conforming memorial and faculty petition forms which are no longer valid.

The procedure for applying for conforming or non-conforming works to or installation of memorials remains the same.

Faculties will still be subject to the non-refundable statutory fee of £342.60 as at 1st January 2025.

**If you require further information and assistance with regard to
any points raised during this training session,
please contact the Registry on
02476 227331 or m.mcbrierty@rotherham-solicitors.co.uk.**