

COVENTRY DIOCESAN REGISTRY
THE FACULTY JURISDICTION (AMENDMENT) RULES 2019

Background

The Faculty Jurisdiction (Amendment) Rules 2019 (“the 2019 Rules”) will amend the Faculty Jurisdiction Rules 2015 and will come into force on **1st April 2020**.

The Faculty Jurisdiction Rules 2015 (“the 2015 Rules”) were introduced with the intention of simplifying faculty procedures and reducing the burden of administration, in particular for churchwardens and others in parishes with responsibility for church buildings.

The 2015 Rules introduced Lists A and B i.e. matters that could be undertaken without a faculty.

Matters in List A may simply be undertaken by a parish without a faculty and without the need of any form of consultation.

Matters in List B may be undertaken without a faculty provided the Archdeacon is consulted and gives written authorisation.

Following a consultation exercise carried out in 2018 to see how the 2015 Rules were operating and to see whether further improvements might be made the Rule Committee have now introduced the 2019 Rules which include a substantial expansion of Lists A and B.

The respective roles of DACs, the Consistory Court and other persons and bodies involved in the operation of the faculty system remain unchanged.

The most significant changes are as follows:-

New Part 4 entitled, “Consultation and Advice Prior to Starting the Faculty Proceedings”.

- The principal aim is to, “front load” the consultation process with a view to all consultation taking place prior to the issue of a notification of advice by the DAC.
- Therefore all consultation with Historic England, Church Buildings Council, national amenity societies, local planning authorities etc. must take place before the DAC issues its notification of advice.
- The period for statutory consultation has been extended from twenty eight days to forty two days.
- The new Part 4 requires the DAC to assist and support parishes through the consultation process, including by ensuring that all necessary consultations are completed, and so far as possible any issues resolved, before the DAC issues its notification of advice.

- When a parish consults the DAC on its proposals the DAC must consider whether it should give the parish initial advice to assist it in relation to its proposals. Whether initial advice is needed will depend upon the nature of the particular proposals. Where proposals are of an entirely straight forward nature, or do not involve a listed building a DAC might take the view that initial advice is not needed.
- Where proposals are complex or involve making changes to a listed building, the DAC is likely to take the view that it should give initial advice to a parish.
- Where changes will have an impact on the significance of a listed building are proposed the DAC must advise the parish of the need to provide statements of significance and needs (if it has not already provided them) and must also advise the parish of any applicable requirements as to consultation with Historic England, the Church Buildings Council, national amenity societies and the local planning authority.
- The issue of a notification of advice to a parish should mean that the applicable consultation requirements have been complied with so that when the faculty petition reaches the Chancellor for decision there will, in the majority of cases, be no need for the Chancellor to issue special notice to various bodies inviting objections.
- The DAC's notification of advice will include the DAC's principal reasons for recommending proposals for approval, or not objecting to them, where a body consulted has raised objections.

A Public Notice Must Contain the Registry's E mail and Postal Address

- The Public Notice for a petition must provide the Registry's e mail address and postal address

Petition and Associated Documents Must be made Public Online

- The faculty petition and associated documents submitted through an online system must be publicly available for inspection online until the petition has been determined by the Chancellor. This is in addition to the existing requirement for those documents to be available for inspection in the church or in some other place identified in the Public Notice.

Disposal of Proceedings by Written Representations

- The right of a party to a faculty petition to require an oral hearing has been removed. Under the 2015 Rules the Chancellor may order that proceedings be determined by way of written representations with the consent of all parties.

- Under the 2019 Rules if the Chancellor considers that written representations, rather than a hearing, are expedient he must invite the parties to the faculty petition to submit their views in writing on such a course. If taking into account those views the Chancellor decides that the proceedings shall be determined by way of written representations he will make an order to that effect.

Amenity Societies to be Notified of the Final Determination

- Where any amenity society, Historic England, Church Buildings Council etc. has made representations in respect of a faculty petition the Registry must notify that body or society of the final determination in the faculty proceedings.

Expansion of List A and List B

- A new Schedule 1, “Matters which may be undertaken without a faculty” replaces the 2015 version.
- List A continues to prescribe matters which may generally be undertaken without a faculty subject to the conditions specified and List B prescribes matters which may be undertaken subject to giving the Archdeacon written notice.
- The previous requirement that repairs must be identified in the most recent quinquennial inspection report has been removed.
- A distinction is made between listed and unlisted buildings. A wider range of works to unlisted buildings being added to the new List A.
- The general notes to Schedule 1 state that a matter may not be undertaken without a faculty despite being included in List A or List B if it comprises
 - (i) works which involve alteration to or the extension of a listed building to such an extent as would be likely to affect its character as a building of special architectural or historic interest
 - (ii) works which are likely to affect the archaeological importance of a building or any archaeological remains within a building or its curtilage
 - (iii) works for all or part of which Scheduled Monument Consent is required under the Ancient Monuments and Archaeological Areas Act 1979
 - (iv) works which involve the extension, demolition or partial demolition of a building or the erection of a new building
 - (v) a matter which gives rise to a question of law or doctrine, ritual or ceremonial or which would, if undertaken, affect the legal rights of any person
 - (vi) the exhumation or other disturbance of human remains
 - (vii) the reservation of a grave space

- (viii) the sale or other disposal of an article of architectural, archaeological, artistic or historic interest
 - (ix) the sale of any book remaining in or belonging to a parochial library
 - (x) the introduction of an aumbry or another receptacle used for the reservation of the sacrament of Holy Communion
 - (xi) the introduction of a monument, or the carrying out of work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground
- List A and List B define works which either do or do not require permission. If something is not included in either List A or List B then a faculty is probably still required.

Transitional Provisions

- Any petitions that are submitted or commenced prior to 1st April 2020 will continue to be dealt with under the 2015 Rules until they are concluded.

Mary Allanson
Diocesan Registrar
31st January 2020