

DIOCESE OF LEEDS



CHANCELLOR'S GENERAL DIRECTIONS

Issue 3
April 2020

“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.”

The Canons of the Church of England, canon F13(3)

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“A person carrying out functions of care and conservation under this Measure, or under any other enactment or any rule of law relating to churches, must have due regard to the role of a church as a local centre of worship and mission.”

Ecclesiastical Jurisdiction and Care of Churches Measure 2018, section 35

NOTE

These Directions (Issue 3) take effect on 1 April 2020. They replace Issue 2 in their entirety.

The Additional Matters Order No 1 of 2018 is hereby revoked.

Incumbents, priests-in-charge, churchwardens, parish administrators and inspecting architects are reminded of the importance of being familiar with their content.

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1. INTRODUCTION

- 1.1 Church buildings are held in trust for generations yet to come and do not belong to any particular worshipping congregation. These sacred buildings need to adapt continually so as to equip communities of faith to undertake the mission of the church and to preach and model the gospel in fresh and imaginative ways to succeeding generations. However, work in churches and churchyards requires permission before it may be undertaken. The system for granting that permission is known as the faculty jurisdiction.
- 1.2 Many churches are listed buildings, the alteration of which would ordinarily require listed building consent from the local planning authority. Churches enjoy the benefit of the ecclesiastical exemption, on the understanding that the faculty jurisdiction has equal safeguards to those under listed building control. If the jurisdiction is flouted, the continuance of exemption may be reviewed.
- 1.3 The exemption does not extend to planning permission. If building or engineering operations are contemplated (such as the construction of an extension), or if an alteration is proposed which will materially affect the external appearance of the church, then planning permission will be required. This necessitates an application to the local planning authority and is in addition to the requirement for a faculty.
- 1.4 The faculty jurisdiction seeks to balance the views of the petitioners (who propose change) with those of parishioners (whether churchgoing or not), heritage organisations, local planning authorities and others who have a legitimate interest, any of whom may object to some or all of what is proposed. Notwithstanding the online faculty system, petitioners are embarking upon a formal court process: the chancellor is the judge of the consistory court which is the name given to the court of the diocesan bishop. Just like litigants in the secular courts, there is an obligation on them to put before the court sufficient evidence to satisfy the chancellor that a faculty should be granted. The consistory court is bound by rules of practice and procedure. Appeals from the Leeds Consistory Court are heard by the auditor in the Chancery Court of York, being the appellate court for the northern province.
- 1.5 Incumbents (which expression throughout these directions also includes priests-in-charge) and churchwardens are under a canonical duty to obtain a faculty if any alterations, additions, removals or repairs are proposed to be made in the fabric, ornaments, or furniture of the church: see Canon F 13 paragraph 3. Equally, it is expected that inspecting architects and others who hold themselves out to work on ecclesiastical projects should not engage in works to churches in the absence of a faculty. The consistory court has power to compel unauthorised works to be remedied, to forbid by injunction threatened breaches of the faculty jurisdiction and to order the wrong-doer to pay the costs of any remedial works.

1.6 Such draconian steps will be unnecessary if incumbents, churchwardens, other intending petitioners and inspecting architects have an understanding of the rationale which underlines the faculty jurisdiction and a working knowledge of its operation. These directions are not intended as a substitute for the primary sources, namely:

- Ecclesiastical Jurisdiction and Care of Churches Measure 2018
- Faculty Jurisdiction Rules 2015 (as amended from 1 April 2020)

The relevant legislation can be accessed on the consistory court webpage on the diocesan website for relevant material together with transcripts of judgments in faculty cases.

Questions of law and procedure should be directed to the diocesan registrar in the first instance. The Diocesan Advisory Committee is an invaluable source of specialist advice on the care and conservation of church buildings and should be contacted via its secretary.

Diocesan Registrar: peter.foskett@luptonfawcett.law

DAC Secretary: lisa.mcintyre@leeds.anglican.org

The diocesan chancellor (or his deputy) is available 24 hours a day, 365 days a year and should be contacted via the registry in all cases of urgency or uncertainty.

1.7 Works to churches fall into one of the following categories:

i. *Minor works not requiring a faculty*

These are works of so minor a nature for which no faculty is required. They are arranged in two national lists which were substantially enlarged in new versions effective from 1 April 2020. The lists are reproduced in Appendix I to these Directions

List A comprises classes of work which may be undertaken without a faculty, providing the specific conditions set out in the right hand column are met.

List B is similar, except that before any of these classes of work may be undertaken, the written approval of the archdeacon is required who may impose conditions when giving such approval.

There is provision within the online faculty system for works to be recorded when they are undertaken, also incorporating the archdeacon's approval.

An application may be made to the chancellor for **directions as to matters not included in List A or List B** that are of such a minor nature that they may be undertaken without a faculty. In the light of this new provision, it is no longer necessary to make provision for dispensations from faculty.

ii. *Certain headstones and other memorials*

An incumbent has authority (delegated by the chancellor), to permit the erection of headstones of a type and size specified in the Churchyard Regulations at Appendix II. This is discussed in more detail at paragraphs 6.10-6.12 below.

iii. *Temporary minor reordering*

The archdeacon has power to grant a licence for a temporary minor re-ordering under r 8.2. The period for these short-term arrangements has been extended to two years (formerly 15 months). See paragraph 6.20 below.

iv. *Faculty*

All other matters require a faculty which only the chancellor can grant.

2. PRELIMINARY STEPS

- 2.1 Works requiring faculties vary from the comparatively trivial to the major. The greater the effect upon the historic integrity of the building, the greater the need for consultation. It is imperative that consultation about proposals takes place at an early stage and involves not merely the PCC, but the entire congregation and, where appropriate, the wider parish community and consultee bodies. This can be done in a variety of ways including the distribution of leaflets or the convening of public meetings. If the appearance is given that a project is being forced through by a small minority and in a secretive manner mistrust may be engendered, perhaps leading to lasting resentment or damaging pastoral difficulties.
- 2.2 All PCCs are encouraged to address three core questions: why? how? and when? At the same early stage, consideration must also be given to funding. This should include not merely the cost of the works, but also the professional fees of architects and surveyors as well as the possible costs of contested faculty proceedings. Good stewardship demands commercial realism. What follows concerns the detailed process to be adopted when changes are proposed to a listed church. However, even with unlisted buildings, it is helpful for parishes to prepare both the statements mentioned below, particularly where substantial works are proposed.

Listed Churches: Statements of Significance and Needs

2.3 Where the church is a listed building, the law imposes additional requirements. Parishes need to establish the grade of their church's listing and obtain a copy of the list description. They should then prepare a **Statement of Significance** (which, once prepared, can be updated and re-deployed in future applications) and a **Statement of Needs** (r 4.4).

- The **Statement of Significance** must describe the significance of the church in terms of its special architectural and historic interest (including any contribution made by its setting) and any significant features of artistic or archaeological interest that the church has so as to enable the potential impact of the proposals on its significance, and on any such features, to be understood.
- The **Statement of Needs** should set out clearly and succinctly the justification for the proposal.

If the proposal is likely to result in harm to the significance of the church as a building of special architectural or historic interest, the Statement of Needs must set out the basis on which the petitioners contend that the proposal would result in public benefit that outweighs that harm. It is important that the parish turns its mind to this question at the time the proposal is being formulated and sets out a cogent case, since this is central to the legal test which will be applied by the chancellor when determining whether to grant or refuse the faculty. See paragraph 5.3 below.

Listed Churches: Consultation

2.4 The **Diocesan Advisory Committee** is a statutory body whose functions include advising PCCs on all matters concerning church buildings. Advice should be sought at an early stage. The DAC will also advise upon which consultee bodies to approach and, if necessary, help to convene an on-site meeting of representatives of relevant organisations.

2.5 Certain bodies have a right to be consulted as an integral part of the faculty jurisdiction. The DAC secretariat will advise PCCs when consultation should be carried out. The earlier it happens the better, particularly when ambitious projects are being contemplated. Consultee bodies are sources of expert opinion whose views can often help improve projects or refocus preliminary thinking.

2.6 The criteria for consultation depend on the listing status of the building and the likely impact of the particular works or proposals, and are broadly as follows.

- 2.7 Consultation with **Historic England** should take place when the works or proposals:
- (a) involve the demolition of a grade I or II* listed building or its alteration to or extension to such an extent as would be likely to affect its character as a building of special architectural or historic interest;
 - (b) comprise the complete demolition of a grade II listed building or removal of all or a substantial part of the structure of its interior (including any principal internal elements such as staircases, galleries, load-bearing walls, floor or roof structures and major internal fixtures such as pews, screens and organs); or
 - (c) are likely to affect the archaeological importance of any building or of remains within the building or its curtilage.
- 2.8 Consultation with any of the **national amenity societies**¹ should take place where the works or proposals:
- (a) involve demolition of a listed building of any grade or its alteration or extension to such an extent as would be likely to affect its character as a building of special architectural or historic interest; or
 - (b) involve demolition affecting the exterior of an unlisted building in a conservation area.
- 2.9 Consultation with the **local planning authority** should take place where the works or proposals:
- (a) involve demolition of a listed building of any grade or its alteration or extension to such an extent as would be likely to affect its character as a building of special architectural or historic interest;
 - (b) are likely to affect the archaeological importance of a building or archaeological remains within the building or its curtilage; or
 - (c) involve demolition affecting the exterior of an unlisted building in a conservation area.
- 2.10 Consultation with the **Church Buildings Council** should take place where the works or proposals :
- (a) involve the demolition of a grade I or II* listed building or its alteration or extension to such an extent as would be likely to result in harm to its character as a building of special architectural or historic interest;

¹ The national amenity societies comprise: the Ancient Monuments Society (before 1715); the Council for British Archaeology; the Georgian Group (1700-1840); the Society for the Protection of Ancient Buildings (1720 or earlier); the Victorian Society (1837-1914); and the Twentieth Century Society (1914 onwards). Whether a national amenity society is likely to have an interest in works will depend on the age of the building (or the relevant part of it) and the likely effect on it of the proposed works.

- (b) involve demolition of a grade II listed building or its alteration or extension to such an extent as would be likely to result in substantial harm to its character as a building of special architectural or historic interest or to its setting;
- (c) are likely to affect the archaeological importance of a building or of remains within the building or its curtilage;
- (d) involve the conservation, alteration or disposal of an article of special historic, architectural, archaeological or artistic interest;
- (e) involve the introduction of an article of special historic, architectural, archaeological or artistic interest (including new work) in a grade I or II* listed building;
- (f) involve the alteration, extension or re-ordering of a church in a way that is likely significantly to affect the setting of an article of special historic, architectural, archaeological or artistic interest; or
- (g) involve the movement or removal of an article of special historic, architectural, archaeological or artistic interest such that the article might be adversely affected unless special precautions are taken.

2.11 The system introduced in April 2020 front-loads consultation and requires the DAC to advise parishes when they should consult Historic England, the national amenity societies, the local planning authority and the Church Buildings Council: rr 4.3 - 4.7. The parishes must do the consultation themselves: the DAC's duty is merely to advise on who should be consulted. There are therefore likely to be fewer occasions where the chancellor has to order special citation.

2.12 When consulting any of these bodies, the parish must provide:

- the **standard information** in Form 1A or Form 1B;
- a summary of the works or other proposals being consulted on;
- any relevant designs, plans and photographs;
- any other documents giving particulars of the works or other proposals; and
- the **statement of significance** and the **statement of needs** prepared in accordance with rule 4.4.

2.13 The bodies consulted have 42 days within which to respond, or 21 days in respect of revisions or amendments to proposals.

3. DIOCESAN ADVISORY COMMITTEE

- 3.1 Parishes must seek the formal advice of the DAC prior to lodging a petition. An intending petitioner must submit the following documents to the DAC when seeking its advice (r 4.2).
- the **standard information** in Form 1A. This comprises generic information about the church and it is to be expected that once completed, this document will subsequently be submitted with the petition and duly retained in electronic form by the parish for future use.
 - a summary of the works or other proposals being consulted on
 - any relevant designs, plans or photographs;
 - any advice or other material relating to the environmental implications of the works or proposals;
 - any other documents giving particulars of the works or proposals; and
 - any relevant correspondence with Historic England, Natural England, a national amenity society, the local planning authority or the Church Buildings Council.
- 3.2 Where the proposal involves making changes to a listed building, the parish must also supply a Statement of Significance and a Statement of Needs. The DAC may also advise that a Statement of Significance and Statement of Needs be supplied in respect of an unlisted building when it considers it appropriate.
- 3.3 After considering a request for formal advice, and where necessary referring the matter back for additional information or clarification, the DAC issues a **Notification of Advice**, which either recommends the proposal; does not recommend the proposal; or does not object. The DAC cannot issue a Notification of Advice until it has had response from the relevant bodies with whom the parish has consulted (provided such responses are received within 42 days).
- 3.4 The Notification of Advice must describe the works or proposals in the manner in which it recommends they should be described in the petition and public notice. If it does not recommend the works or proposals (or does not object to them) the Notification of Advice should include the DAC's principal reasons for so doing. If it recommends the works or proposals (or does not object to them), in circumstances where consultee bodies have raised objections, the Notification of Advice must include the DAC's principal reasons for so doing, notwithstanding those objections.
- 3.5 A **Notification of Advice** is NOT authority for works to proceed. It merely records the advice of the DAC. It is unlawful for works to be carried out without the authority of a faculty. Equally, the absence of a recommendation from the DAC does not prevent a parish from petitioning the chancellor for a faculty.

4. THE PETITION

- 4.1 The following narrative concerns parochial petitions for works to the fabric, which are by far the vast majority. Slightly different provisions apply for non-parochial places of worship and for exhumations and reservations of a grave space which are discussed separately below.
- 4.2 If after this process of consultation, a parish decides it wishes to pursue a proposal, it must initiate a legal process in the consistory court. The court is separate from and independent of the diocese and is presided over by a judge, known as the chancellor. Parishes become litigants in a judicial process which is entirely different from what has preceded it.
- 4.3 Once the DAC's **Notification of Advice** has been received, the parish must submit a petition for a faculty to the registry using Form 3A. The proposal must be fully and accurately stated and must be the same as that in relation to which the advice of the DAC was sought. The following are to be submitted with every petition:
- **Standard Information**
 - DAC's **Notification of Advice**;
 - any relevant designs;
 - any relevant plans;
 - any relevant photographs: these can often be particularly helpful as the chancellor is unlikely to be familiar with the individual church;
 - any other documents giving particulars of the proposal; and
 - copies of any relevant correspondence received from consultee bodies.
- 4.4 Every petition is subject to the requirements of public notice unless dispensed with by the chancellor (r 6.1). The notice must be displayed for a continuous period of 28 days both inside and outside the church.
- 4.5 A copy of the petition and of all the supporting documentation submitted with it must be displayed in the church or in another place where they may conveniently be inspected by the public. These must remain on display *until the determination* of the petition (r 5.7) which could be many months if the petition is contested. The petition and supporting documentation will be publicly accessible on line.
- 4.6 The chancellor may be required under the Rules or may exercise his discretion to give special notice of the petition to specific individuals or organisations (eg the Commonwealth War Graves Commission); or to order publication in newspapers or other publications; or on the diocesan website. Special provisions apply in the case of demolition or partial demolition.

5. ADJUDICATION

5.1 Petitions for a faculty are determined by the chancellor.

Written representations

5.2 Objectors to a petition may elect to become a party to the proceeding or simply to have their letter or other representations taken into account by the chancellor when determining the matter. If appropriate, contested proceedings may be determined on written representations.

Burden of proof

5.3 The burden of proof lies on the proponents of change and must be discharged on the balance of probabilities. However, where changes to a listed church are proposed, a more rigorous approach is adopted. Consistory courts now follow the framework and guidelines commended by the Court of Arches in *Re St Alkmund, Duffield* [2013] Fam 158, by asking a series of questions:

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
2. If the answer to question (1) is no, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals. Questions 3, 4 and 5 do not arise.
3. If the answer to question (1) is yes, how serious would the harm be?
4. How clear and convincing is the justification for carrying out the proposals?
5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm?

In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.

Costs

5.4 With regard to costs, two separate instances must be considered - first the court costs themselves, and secondly the legal fees, expenses and disbursements which may be incurred by the parties.

5.5 In the Diocese of Leeds, the Diocesan Board of Finance pays the issue fee for routine, uncontroversial parochial petitions. Where the matter is not straightforward and the court makes further directions or issues a judgment, these will be subject to additional statutory fees, the liability for which will rest with the PCC.

5.6 The relevant principles may be summarised as follows:

Court Fees

- i. fees are payable at rates fixed by annual Fees Orders made by the Fees Advisory Commission under the Ecclesiastical Fees Measure 1986. The current version can be accessed via the consistory court webpage;
- ii. prescribed fees for uncontested petitions which are determined without the court making additional directions are met by the Diocesan Board of Finance. Any additional prescribed fees are prima facie payable by the parish;
- iii. parishes will be ordered to pay the additional court costs even when they are successful. Whilst the consistory court retains a discretion, an order for reimbursement of some or all of the court fees is unlikely to be made unless there is clear evidence of unreasonable behaviour which has unnecessarily added to the procedural costs prior to the hearing;
- iv. since appeals lie only with leave, the same principles will apply in the Chancery Court of York as in the consistory court on the question of court fees;

Legal expenses of the parties

- v. the practice in the consistory court is not to make an order for costs between the parties save where unreasonable behaviour has occurred;
- vi. if a party appeals to the Chancery Court of York and is unsuccessful, then there is no reason why as a general rule that party should not pay the other party's costs of resisting the appeal.

5.7 The Ecclesiastical Judges Association has produced a booklet entitled *Guidance on the Award of Costs in Faculty Proceedings in the Consistory Court* (Revised and Reissued 2011), which is available on the consistory court webpage of the diocesan website.

6. PARTICULAR CASES

6.1 What follows is a miscellany of the more common matters which arise in the consistory court. For convenience they are arranged alphabetically.

Churchyards

- 6.2 Every parishioner (together with those whose names are entered on the electoral roll, and those dying in the parish) has a right of burial in the graveyard of the parish provided room permits. Other persons may be buried only with the consent of the incumbent which should be given or withheld in accordance with general guidance given by the PCC. The position within the churchyard for a burial to take place is a matter for the incumbent. The burial plot is not owned by the next of kin of the deceased, but remains in the ownership of the parish priest. See also **Graves** and **Reservation of Gravespaces**. Since access to the church building will often be required for routine maintenance and inspection or for the erection of scaffolding, incumbents generally ought not to permit interments within 3 metres of any external wall.
- 6.3 Incumbents and PCCs having the care of churchyards should, if they have not already done so, draw up regulations governing the upkeep of graves so that those who wish to tend a grave in the churchyard may know what is and is not allowed. These provisions make the care of churchyards (which relies on voluntary labour) much easier and ensures the serenity and tranquillity of God's acre for those who grieve or enter in search of solace. The following provisions should be included in order to underline the importance of the Churchyard Regulations (see Appendix II):
- i. bulbs and small spring flowering plants may be placed in the soil of any grave;
 - ii. plants or cut flowers may be placed in a removable sunken container (of an unbreakable material, preferably unpolished aluminium) in the soil of any grave;
 - iii. wreaths and cut flowers placed on graves and plants and flowers in containers may be removed, when withered, by those authorised to do so by the incumbent;
 - iv. no artificial flowers or foliage may be placed on or about graves (except for Remembrance Day poppies) and, if so placed, will be removed.
 - v. Other objects, including railings, chippings, pebbles and similar materials, statues, keepsakes, solar lamps or similar, toys and other mementoes are not permitted on a grave.

Careful thought will need to be given to requests for the planting of trees and shrubs in preference to the erection of headstones. Memorials for persons not buried in the churchyard may not be sanctioned by the incumbent. They require a faculty and exceptional circumstances will need to be demonstrated.

Closed churchyards

- 6.4 Where a churchyard has been closed by Order in Council, responsibility for its ongoing maintenance can be, and often is, transferred to the local authority. However, the freehold continues to vest in the incumbent and legal responsibility for those injured when visiting the churchyard may still lie with the PCC. The faculty jurisdiction continues to apply in a closed churchyard.

Demolition

- 6.5 When proposed works include the demolition or partial demolition of a church, certain additional provisions apply. Parishes should consult the registry for guidance if this is contemplated.

Disposal of church property

- 6.6 The consistory court is traditionally reluctant to sanction the sale or other disposal of church property since it was acquired for a sacred purpose and hallowed for such use. However, the court will consider granting a faculty where the parish can demonstrate some good and sufficient reason or pressing need (eg redundancy or financial emergency). In respect of the disposal of 'church treasures' there have been several guideline cases in the Court of Arches in recent years. The CBC must be consulted in relation to the disposal of an article of special historic interest.

Exhumation

- 6.7 The doctrine of Christian burial constitutes the permanent consignment of mortal remains (which includes ashes) into consecrated ground where they should lie undisturbed. The concept of 'portable remains' transported by relatives for their convenience is alien to this teaching. English ecclesiastical law is clear that exhumations should only be permitted in exceptional cases.

Funding

- 6.8 Financial assistance for the care and conservation of churches may be obtained from, amongst others, Historic England, the Church Buildings Council, and the National Lottery Heritage Fund. Grants may also be sought from the various Historic Churches Preservation Trusts both local and national. The secretary to the DAC can advise on possible sources of grant aid.

Gardens of Remembrance

- 6.9 Cremated remains may be buried anywhere in the churchyard as the incumbent permits. The scattering of ashes is unlawful; they must be poured from the container into the soil. Ashes attract the same reverence as a corpse and should not be divided for burial in different places but treated as a whole. A specific area within a churchyard may be set aside for the burial of ashes, provided a faculty has first been obtained. The form of such gardens of remembrance depends very much upon individual circumstances and calls for vision and sensitivity. They will be a focus of grief, prayer and reflection for many generations and need to reflect

something of the resurrection. Parishes are encouraged to use imaginative designs and to utilise good quality materials. The utilitarian use of rectangular slabs is unimaginative and, after all too little time, unsightly. Individual marker stones are discouraged, it being more appropriate to record names in a book of remembrance. Each parish will need to draft regulations for the use of the garden of remembrance. The content of such regulations will vary from one parish to another, but all should include provision for re-use after a period of say 25 or 50 years.

Graves

- 6.10 There is no right to erect a headstone or other memorial on a grave. The incumbent has delegated authority to authorise the erection of any headstone which falls within the types and classes permitted at Appendix II. Although the incumbent may refuse to permit the erection of a headstone which conforms with the Appendix, he or she has no discretion to allow the erection of one which does not. It is open to individual applicants to apply for a faculty for the erection of headstones outside these categories. A standard form of application is reproduced at Appendix III. Ownership of a headstone does not vest in the incumbent or the PCC but in the person who erected it and, after that person's death, in the heir-at-law of the deceased.
- 6.11 Incumbents need to be meticulous in ensuring compliance with these provisions, particularly as this will need to be done at a time when relatives may be distressed and vulnerable. Well intentioned laxity will result in pastoral difficulties in later years for their successors. Equally, monumental masons who hold themselves out as competent to work in consecrated churchyards in this diocese will be expected to be familiar with the relevant regulations. Headstones erected without the authority of the incumbent or which are not within the types or classes permitted by the regulations are liable to be removed by order of the consistory court. The costs incurred will fall upon the person responsible for the unlawful erection of the headstone, the incumbent and/or the monumental mason concerned.
- 6.12 The purpose of the regulations is not to impose homogeneity, since variety is to be encouraged, but to ensure that headstones are erected which are appropriate for the environment in which they are set and in keeping with the church building. Thought must be given to aesthetics and to the sensibilities of those who will have cause to visit other graves in the same churchyard. Where possible, local materials should be used. The consistory court welcomes applications from parishes to permit the creation or variation of regulations for specific churchyards which take into account local practice, tradition and custom and the particular environmental needs of the church and graveyard. Such regulations, created by the parish itself and authorised by faculty, are likely to be easier to implement and police.

Health and safety

- 6.13 Places of worship can be dangerous. Towers and belfries, roofs and clocks are potential hazards and PCCs need to be aware of their legal responsibilities to lawful visitors and trespassers alike. Headstones are liable to cause injuries if they fall so regular testing is recommended. Both the *Churchcare* website and Ecclesiastical Insurance Group can provide helpful advice on health and safety concerns, and parishes are well advised to consult the archdeacon if they have particular concerns.

Inscriptions

- 6.14 Headstones, memorials, stained glass windows and other church furnishings may all bear inscriptions. It is essential that inscriptions are factually accurate and are written in such a way as to be comprehensible by future generations. The wording of inscriptions should interest and inspire the reader. They should be reverent and seemly and avoid the bland. Readers will want to know something of the person or event commemorated, and descriptions should be fulsome and well expressed. The use of pet names should generally be avoided as they can become meaningless and appear trite with the passing of time. Dates are better expressed in the form *1 April 2020*, and those of birth and of death should generally both be included. Skilled craftsmen and letter cutters should be used.

Licences and leases

- 6.15 It is increasingly common for parishes to request a faculty to permit the 'secular' use of part of a church or churchyard. Such secondary uses must be consistent with the mission and pastoral outreach of the church and should not compromise the primary use of the building for worship, pastoralia and mission.

Memorial plaques

- 6.16 Faculties for the erection of memorial plaques inside a church are 'sparingly conceded' and a case of 'exceptionality' needs to be made out, whether in terms of civic or Christian service. Parishes should be encouraged to turn their minds, instead, towards the creation or repair of church furniture or ornaments in lasting memory of particular individuals. Such items may be suitably inscribed.

Planning permission

- 6.17 Development, ie building or engineering operations, such as an extension of the church, the erection of a lych gate, the laying of a path, a material alteration to the external appearance of a building, or (in the opinion of some but not all local planning authorities) floodlighting may also require planning permission. External notice boards which exceed 1.2 m² may also require advertisement consent. The parish's inspecting architect will be able to advise on when additional permissions or consents are required. As a general rule, the consistory court will expect planning permission (or written confirmation that it is not required) to have been obtained prior to a petition for a faculty being lodged.

Reservation of grave spaces

- 6.18 Incumbents are under a statutory duty to maintain a register of burials. It is also important that the parish keeps an accurate plan of the churchyard indicating principal physical features and showing which grave spaces have been filled and which remain available for burial. Any spaces which have been reserved by faculty must be recorded on the plan which should be available for inspection by the archdeacon during a visitation. The reservation of a grave space is a privilege and will not be granted where space is so limited such as to prejudice those with a legal right of burial. See **Churchyards**.
- 6.19 Petitions for reservation will need to state:
- i. the precise location of the grave space in question; to be identified on a plan or, if this is impracticable, (and reasons must be given why it is impracticable) by full written description;
 - ii. the average number of burials of bodies in the churchyard over the last ten years;
 - iii. the number of grave spaces remaining in the churchyard;
 - iv. the full name and age of each person in respect of whom the petition is presented, and a statement of whether such person is married, single, widow or widower;
 - v. the terms of any resolution of the PCC concerning the petition. If the resolution supports the petition the resolution must state in full the reasons why the council supports the petition;
 - vi. the special reasons advanced on behalf of the applicant why the privilege of reservation, involving the curtailment of the rights of parishioners, should be granted.

It is usual to limit the period of time for which a grave space should be reserved (generally 75 years) subject to the holder having the right to apply for an extension. In the event that a faculty for the reservation of a grave space is issued it will be subject to the condition that a contribution of £150 be made to PCC funds towards the ongoing maintenance of the churchyard. Parishes may seek a waiver of this condition (either generally or in relation to a particular petition) and petitioners may request that the condition not be applied in individual cases of hardship.

Reordering

- 6.20 The archdeacon, after seeking the advice of the DAC, has power to grant a licence in writing for a scheme of temporary minor re-ordering for a period not exceeding two years (r 8.2). The scheme must not involve any material interference with the fabric nor the disposal of any fixtures which are to be securely stored. The two year period may not be extended by the archdeacon. If a petition for a faculty is submitted to the registry not later than two months before the expiry of the

period, the scheme is deemed to be authorised until determination of the petition by the chancellor. Prior to lodging a petition with the Registry, the usual process of consultation with the DAC and display of public notices should have been completed. In the absence of a petition, the archdeacon is required to take steps to ensure the church is restored to its pre-existing condition at the expiry of the period.

Telecommunications

- 6.21 Masts and antennae can provide a useful source of income to parishes in a manner which causes limited harm to the fabric of the church. A faculty can be sought giving permission for a licence to be entered into with a telecommunications provider. Parishes contemplating embarking upon such a project are strongly advised seek directions from the chancellor at an early stage. Provision will need to be made for routine maintenance of equipment and for its removal at the expiration of the period of the licence.

Trees

- 6.22 Special provisions apply in respect to petitions concerning the felling or lopping of trees and to their routine maintenance. Guidance as to the planting, felling, lopping and topping of trees is available from the *Churchcare* website.

7. URGENT AND EMERGENCY APPLICATIONS

- 7.1 In the case of an emergency, such as storm, lightning strike, subsidence, arson, or theft of roofing materials, contact should be made with the archdeacon or registrar at the earliest possible opportunity. The court can authorise works necessary for health and safety concerns and to keep the building water tight. It is also empowered to grant interim faculties for urgent works of repair pending a full petition being lodged for a faculty. Permission to proceed can be obtained by telephone or by email when circumstances demand, and out of office hours if necessary.

THE WORSHIPFUL MARK HILL QC
Chancellor of the Diocese of Leeds

1 April 2020