

SUMMARY

Faculty Jurisdiction applies to all Anglican Churches. Other denominations will also need permission for any work to the organ. Not conforming can have very real and serious consequences.

- Diocesan permission (a faculty) is required before ordering any work on the organ. Your Diocesan Office will advise on the procedure and likely timescale.
- One report and estimate for the work may be sufficient, if provided by a trusted organ builder.
- The IBO Register (www.ibo.co.uk) may be consulted for information about accredited organ builders, if comparative estimates are required.
- The Diocesan Organ Advisor may give advice, but the final decision is made by the PCC.
- If major work on the organ is planned, the PCC might wish to employ a professional organ consultant.
- When the faculty has been granted, send a copy to your organ builder so that he knows that you have clearance to proceed.

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Registered in England Number 3136882

First Edition 2004

Faculty Jurisdiction as it affects Organ Building

WHAT IS A FACULTY?

As soon as the land is consecrated no alteration is permitted to it, the buildings or their contents without a faculty being granted by the chancellor. This applies to the fabric, decoration, fixtures and fittings, whether permanent or temporary, moveable or fixed, whether the building is listed or not.

In practice, an exemption is made for matters of routine maintenance (such as minor repairs and organ tuning etc.) and each chancellor will issue directions as to what is considered *de minimis*. It follows therefore that any work to an organ within a church under the Faculty Jurisdiction, beyond simple maintenance and tuning, needs the authority of a faculty giving permission for it to proceed.

WHAT IS THE PROCEDURE?

A faculty is typically obtained by the appropriate persons from the parish - usually, but not necessarily, the vicar and churchwardens. They will make an application on the appropriate form to the diocesan chancellor via the diocesan registrar. It is quite common for applicants to take advice from the Diocesan Advisory Committee (DAC). The chancellor will normally seek the views of the DAC before granting a faculty.

Depending on the nature of work and circumstances, the process of obtaining a faculty can be lengthy. It is therefore wise to ensure that there are clear dates marked on any areas relating to the work where there are time constraints, or where the cost of the work might rise while the faculty is being sought.

SO WHO DECIDES WHAT?

The DAC responds to requests for advice from Parish Church Councils, individuals and the chancellor. This might involve commenting on ideas at an early stage and advising about matters, such as planning permission, archaeological implications and insurance requirements. The DAC will usually seek involvement from the Diocesan Organ Advisor (DOA) who advises the DAC on organ-related matters.

The DOA may also advise the parish, if requested. In practice, detailed advice is often given and this may involve the organ builder being asked to submit an estimate or to attend a meeting with the member of the DAC who specialises in organ advisory matters (DOA).

In law, the DAC is limited to expressing its outcome through three formal views:

1. Recommended
2. Not Recommended
3. No Objection

The DAC itself does not grant the faculty. Neither can it give permission for any work to be carried out or prevent the chancellor from granting a faculty. Equally it is not necessary to have the DAC's approval to obtain a faculty.

The Council for the Care of Churches (CCC) is the central advisory body which the chancellor or DAC may consult for additional assistance. It functions as a permanent commission of the Church of England's governing body, the General Synod. The CCC is therefore more concerned with general policy rather than the details of a particular situation.

In all cases, it will be the chancellor of the diocese who makes the decision to grant a faculty.

CONSULTATION

Two forms of consultation may be required before the chancellor will grant a Faculty.

Firstly, a public notice is exhibited in a prominent place in (and often outside) the church. Some chancellors may also insist on notices being put in local newspapers and announcements being made at main services.

Secondly, the chancellor can direct that certain bodies, (termed 'Amenity Societies'), which include the Victorian Society and the Twentieth Century Society, etc. are given notice. English Heritage and the local planning authority are sometimes put in a comparable position. Any of these bodies, or a parishioner, or any person 'having an interest' (a legal term – denoting, for example, a person whose family may have given the organ as a memorial) may enter objection to the proposals.

If these cannot be resolved, the matter could proceed to a trial in open court and the organ builder could be called as a witness. However, there is a mechanism by which the chancellor can settle suitable cases by written representations without a formal hearing in open court.

From time to time, a legitimate practice of writing to a chancellor with an opinion may be invoked. If any party or organisation with an interest in the project enters a formal objection as a petition before the consistory court they can be liable for costs if the objection is held to be unreasonable or trivial in nature.

BACKGROUND

Ecclesiastical exemption was first secured by the Church of England as an exemption from the provisions of The Ancient Monuments Act of 1913. This was based on the revival of Faculty Jurisdiction, which it is claimed, offered adequate safeguards against destruction. This does not prevent buildings being listed, but means that the normal listed building consent procedures do not apply while the church remains in use. This quickly became controversial, mainly because it extended to all denominations, few of whom had any system for protecting their buildings. The Ecclesiastical Exemption Order took effect in October 1994, and removed the right of exemption from any ecclesiastical body which could not regulate itself in accordance with a code of practice set out in Planning Policy Guidance Note 15.

The act of consecration (or the licensing of an unconsecrated building for divine worship) brings the land and everything on it, including the unconsecrated boundaries (often referred to as curtilage), within the jurisdiction of the diocesan bishop. His powers are delegated to a judge (normally termed a chancellor) who functions through the consistory court.

OTHER DENOMINATIONS

Most non-Anglican churches have a similar but less formal system for approving work. Self-regulation in accordance with a code of practice set out in Planning Policy Guidance Note 15 requires each denomination to have an approved system in place.

There is no parallel exemption order within the Church of Scotland. Here, the Organ Advisory Service (which operates within the Committee on Artistic Matters) will prepare a report for the Committee. If agreed, this will be forwarded to the congregation along with further recommendations.