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Recent changes in faculty rules

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The concept of faculty

Under the Ecclesiastical Exemption, churches are exempt from listed building consent provided that they operate an equivalent system which is sufficiently robust. For the Church of England, this is exercised by faculty.¹ Faculty also includes matters relating to conservation of historic furnishings, provision of new artistic and architectural objects and the provision of what is needed for the conduct of worship. Bells are included in the faculty system.

Faculty applies to all Church of England churches and to some school chapels, university chapels and similar places. These places that are not parish churches will have opted in to faculty.² Cathedrals in England are subject to separate control under the Care of Cathedrals Measure. Permission for work in cathedrals is given by the cathedral's Fabric Advisory Committee for matters that don't amount to a change to the fabric or concern a historic item. For changes to the fabric and for work to historic items, the Cathedrals Fabric Commission gives advice and permission.³

Faculty jurisdiction in the Church of England has roots in the thirteenth century. Its original purpose was to protect parishioners' rights in their parish church and to control changes to the fabric. Faculty is more than a listed building control system, or a planning system. It is about ensuring that each parish is provided with an appropriate place to worship.

It is for this latter reason that the faculty form asks about non-planning matters such as costs. If a parish starts a major proposal and is not able to see it through financially the parish could be left with no viable place of worship – and it is partly the role of faculty to see that this does not happen.

Gaining a faculty

There are essentially two stages to gaining a faculty. The first is advice and the issue of a formal Notification of Advice by the Diocesan Advisory Committee (DAC). The second is permission – the faculty – which is granted by the Diocesan Chancellor.⁴ As part of taking advice, on projects relating to bells the DAC will normally involve its bells adviser. For more complex cases or for historic bells and bell frames, the Church Buildings Council may also be consulted.

Please bear in mind that permission can only be given by the chancellor or, for 'List B' (explained below), the Archdeacon. The bell adviser cannot give permission and has no power of veto over works in the diocese, although the DAC will normally heed their advice.

Faculty Jurisdiction is a legal system based around a court. This is most obvious if an open hearing is held over a faculty petition. The diocesan chancellor will approach the determination of a faculty application on the basis of the papers, the evidence, that is submitted with the faculty application. For matters that involve loss of, or harm to, historic fabric (including bells), the chancellor will use the framework set out in the **Duffield Questions**.⁵

These questions require the chancellor to balance the benefits of the proposals for the mission of the church against the impact of the proposals on the church, and in particular its impact on historic significance. It will be a great help to the chancellor in determining a petition if the statements and other documents present a clear and consistent case for what is proposed.

Although it is the responsibility of the church to apply for necessary permissions, it is also important for the bell hanger (or other contractor) to be sure that permission is in place. This will usually mean seeing a copy of the faculty or the List B authorisation. Although it is rare, contractors working for churches are occasionally fined for doing works without the right permission being in place.

Works not requiring a faculty: ‘List A’ and ‘List B’

In 2015 new faculty rules introduced some changes and simplifications. These made some quite far-reaching changes to the works that require – or don’t require – a faculty. There are two lists, known informally as List A and List B, and works not on these lists require a faculty.

New faculty rules will come into force on 1st April 2020. The main change so far as bell hangers are concerned is an increased number of works that will not need a faculty – but instead require the simpler procedure of List B permission from the Archdeacon.

List A

Works on List A can be done with no permission or consultation. From April 2020 List A is as follows; the second column lists the provisos:

A3. Bells etc.	
<i>Type of permissible work</i>	<i>Conditions</i>
(1) The inspection and routine maintenance of bells, bell fittings and bell frames	No tonal alterations are made to any bell No bell is lifted from its bearings
(2) The repair and maintenance of clappers, crown staples (including re-bushing) and bell wheels Works do not include the re-soling or rerimming of a bell wheels	No bell is lifted from its bearings
(3) The repair or replacement of bell stays, pulleys, bell ropes (including in Ellacombe apparatus), rope bosses, sliders or slider gear	No bell is lifted from its bearings
(4) The repainting of metal bell frames and metal bell fittings	No bell is lifted from its bearings

This list is the same as the current List A.

List B

List B defines matters that can be done without a faculty, provided that the Archdeacon confirms that a faculty is not needed. Before the Archdeacon confirms this they must take advice from at least one member of the DAC or its Secretary. For bells this will probably mean asking the DAC bells adviser. The bell adviser cannot give permission themselves.

List B advice is based on written documents provided to the Archdeacon. As works in List B can be for quite high-value contracts it is necessary (and appropriate) that proper written agreements are provided. It is not an opportunity for sloppy and inadequate specifications of work, on the basis that everyone involved will know what is going on. The client is the PCC and the PCC must ensure that it is spending its money effectively. A clear agreement with the contractor is also essential in the event that the works don’t turn out as planned. Clear documents will protect the bell hanger as well as their client.

The List B works categories from April 2020 are given in the table overleaf.

Items 5A and 5B are both new, and reflect matters requested in the public consultation over the rules held in 2018.

These new provisions should take a helpful amount of work away from having to wait on a DAC meeting, and then the 28-day public notice and the time for the diocesan chancellor to determine the matter. All works that will lead to a change – either in the character of the ring or the building – need a faculty.

Changes on the inside count as a change in character under faculty. Also the disposal of a bell – which includes its replacement – will require a faculty.

One other change in the rules will have an impact on works to historic bells where consultation outside the DAC is needed. The new rules require consultation to be done before the DAC gives its advice. For dioceses using the online faculty system⁶ the faculty application will be available through the online system to enable comments during the 28-day notice period. This is providing online what now requires attending the church or the diocesan registry to see paper copies.

Changes that are unlikely to have a direct bearing on bell hangers or ringers include some changes in language, clarity over witnesses at consistory courts and some changes to the management of the appeals process. I hope you rarely – if ever – have to engage with these.

Type of permissible work	Conditions
(1) The lifting of a bell to allow the cleaning of bearings and housings	Regard is had to any guidance issued by the Church Buildings Council No modification is made to the manner in which any bell may be sounded No historic material is modified or removed
(2) The like for like replacement of— – bearings and their housings – gudgeons – crown staple assembly – steel or cast iron headstocks – wheels	Regard is had to any guidance issued by the Church Buildings Council The works do not involve the drilling or turning of the bell No modification is made to the manner in which any bell may be sounded No historic material is modified or removed
(3) The replacement of (a) bell bolts (b) a wrought iron clapper shaft with a wooden-shafted clapper	Regard is had to any guidance issued by the Church Buildings Council No modification is made to the manner in which any bell may be sounded No historic material is modified or removed
(4) The treatment of timber bell frames with preservative or insecticide materials	
(5) The re-pinning or re-facing of hammers in Ellacombe apparatus	Regard is had to any guidance issued by the Church Buildings Council No modification is made to the manner in which any bell may be sounded No historic material is modified or removed
(5A) The installation of an electric silent ringing device for the training of ringers	Any work to an electrical installation or electrical equipment is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6)) The device is installed in a location not normally visible to the public No alteration is made to the fittings of the bells other than the installation of electric contacts and wires The device does not adversely affect the church's protection against lightning
(5B) The installation of louvres in a belfry as a sound control measure	Any fixings are made into mortar
(6) The introduction of peal boards in a location not normally visible to the public	

(1) The other exempt denominations are the Catholic Church, the Methodist Church, the Church in Wales, the Baptist Union, the United Reformed Church (in England).

<http://www.legislation.gov.uk/uksi/2010/1176/contents/made>.

In Scotland the exemption is in section 54 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. <http://www.legislation.gov.uk/ukpga/1997/9/contents>.

It is only operated for the interior of buildings.

(2) See <https://www.churchofengland.org/more/church-resources/churchcare/church-buildings-council/how-we-manage-our-buildings#other-places-of-worship-subject-to-faculty>

(3) <https://www.churchofengland.org/more/church-resources/churchcare/cathedral-fabric-commission/legal-framework>

(4) <https://www.churchofengland.org/more/church-resources/churchcare/church-buildings-council/how-we-manage-our-buildings#the-faculty-process>

(5) <https://www.churchofengland.org/more/church-resources/churchcare/church-buildings-council/how-we-manage-our-buildings>

(6) <https://facultyonline.churchofengland.org/>

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Addendum regarding clocks

The following note adds to the information in David Knight's article on faculty printed in the 20th March issue, p.287.

The revision of the faculty rules will increase simplification in many other areas of relevance to bell ringers, including clocks. When work to a clock is required as part of a bell scheme the Council will always advise that this is done by a professional clock maker, with relevant accreditation as far as possible. The items on List A and B for clocks have been expanded. Particular highlights from List A that will ease the regulatory burden for some bell schemes are:

(2) Maintenance and like-for-like repairs, without removing the clock from the church, of:

(e) clock hammers and their springs

(5) Repairs to bell cranks and clock bell hammers

