**The Ecclesiastical Court of the Bailiwick of Guernsey**

# **Applications for faculties to permit works to church premises**

## All alterations (including redecoration), repairs, additions or removals from a church of churchyard or other consecrated ground must be subject to an application for a Faculty before any work is begun.

# Checklist and notes for applicants

### Contents

*Paragraph Contents*

1. Nature of the proposed work

2. The Deanery Faculties Sub-Committee

3(a). Secular consents

3(b). Secular consents subject to conditions

4. Professional advisers

5. Estimated cost of works

6. Budgeting

7. Raising money on the Parish Rate

8. Archaeological considerations

Disturbance of burial places or memorials

9. Insurance during the works

10. Disposal of church property

11. New memorials

12. Tenders

13. Duration of works

14. Date of resolution to proceed with works

15. Procedure

**1. Nature of the proposed work**

What is the nature of the work proposed?

* Repair, redecoration, alteration or addition, to exterior or to interior?
* Removal, addition or replacement of equipment, furniture or fittings?
* Exhumation from a churchyard or from a parish cemetery or other consecrated ground?
* Erection of a monument?

***Note:***

*The granting of a Faculty permits the work in question to be done but generally does not order that it be done. It is, however, possible for a Faculty to be issued ordering restoration, or to remedy previously unauthorised works. Faculties may also be issued subject to conditions.*

*In certain cases it might be necessary to apply for two separate faculties for the same project – the first to enable investigative or preparatory work to be done, and the second to enable the project itself to go ahead. If in doubt applicants should seek advice from the Commissary.*

*Churchwardens should notify the Registry of all works, however minor. In certain cases a Faculty might not be necessary, in which case a dispensation will be issued by the Commissary[[1]](#footnote-1).*

*In appropriate cases, and purely to assist with applications to the secular authorities, the applicant can request the Commissary to issue an interim certificate of approval of the proposed works. Such a certificate would not itself amount to a Faculty but would indicate that in principle the Ecclesiastical Court raises no objection to the proposed works. If in doubt, the applicant might wish to consult the Commissary or Registrar first.*

***Exhumations:***

*See Ordonnance relative aux Lieux d’Enterrement et à la disposition des restes mortels des êtres humains et à l’exhumation d’iceux – 12 octobre 1929 – Ordonnances, tome VIII, p. 63 et seq.*

**2. The Deanery Faculties Sub-Committee**

Most applications for a Faculty will be considered by the Deanery Faculties Sub-Committee (‘the Sub-Committee’) before they are referred to the Ecclesiastical Court for a citation to be issued. The principal exceptions to this rule are proposed works which have been included in a remède, since they will already have been considered by the ratepayers and electors.

The Sub-Committee meets as required. Applications for its considerations must be submitted, with all supporting documentation, to the Registrar of the Ecclesiastical Court at the earliest opportunity.

**3(a) Secular consents**

Have:

* the Constables and Douzaine; and
* the Development and Planning Authority

been informed of the proposed works, and do they each approve them unconditionally?

***Note:***

*Except in cases where an interim certificate is applied for from the Court, all permissions required from the secular authorities must be obtained before formal application is made for the Faculty. Where permission (or, in certain cases, confirmation that formal permission is not actually required) is usually given in writing (e.g. from the Development and Planning Authority), a copy of it must be submitted with the Faculty application. Copies of applications received will be sent to the Ecclesiastical Court Registry by the Development and Planning Authority. By long-standing convention, re-ordering of church furniture does not require Development and Planning Authority consent.*

**3(b) Secular consents subject to conditions**

If either of the bodies in paragraph 3(a) above approve of the works subject to conditions, are the conditions acceptable and can they be complied with? Will any additional cost be involved, and if so, has it been budgeted for?

**4. Professional advisers**

Has an architect or surveyor or other professional adviser been:

(a) Engaged to design the current proposals? and/or

(b) Engaged to supervise the execution of the works? and/or

(c) Asked for general advice in connection with the current proposals?

If the answer to (a), (b) or (c) is yes, the application should state the name and address of the person concerned and his or her firm, and copies of any drawings should be submitted with the Faculty application.

Has the cost of professional fees been budgeted for?

**5. Estimated cost of works**

What is the estimated cost of the proposed works? Has the estimate been done professionally?

If so, by whom?

*Note: except for minor works, applications must be accompanied by –*

1. *a report giving details of the work proposed and specification showing the materials to be used and the manner of execution of the works; and*
2. (*except where the works have already been approved by the Ratepayers as part of the Remède) a detailed schedule of costs, specifying the total cost of the project, including a sum for contingencies, and (in cases of fixed-price contracts) when each amount of the contract price is to be paid.*

*The documents must be professionally prepared for complex projects.*

*If in any doubt as to what constitutes ‘minor works’, enquiry should be made of the Commissary.*

**6. Budgeting**

Is sufficient money in hand to pay for all the proposed works? If not, is it (or the balance not in hand) to be raised:

* By gift from a benefactor?
* By a specific appeal?
* By general fund-raising?
* By a request to the Ratepayers for an addition to the parish Rate?

***Note:***

*Generally, (except where the works have already been approved by the Ratepayers as part of the Remède) a Faculty will not be granted until it can be shown that the necessary funds are in hand or are reasonably expected to be so. If a building contract can be divided into self-contained parts, and each part paid for separately, then it might be acceptable to apply for a Faculty on the basis that funds are in hand for (say) parts 1 and 2 but that work will not begin on parts 3 or 4 until funds are in hand to pay for them.*

**7. Raising money on the Parish Rate**

If a request is to be made to the Ratepayers for an addition to the parish Rate:

* Is the proposed work covered by the *Loi relative à la Taxation Parroissiale 1923*, as amended?

***Note:***

*Reference should now also be made to the Parochial Church Property (Guernsey) Law 2015 which has recently come into force.*

* Have the Constables and Douzaine been informed, and do they agree unconditionally?

***Note:***

*If the proposed work is not covered by the Law then the parish Rate cannot be used to raise the funds and the entire cost must be raised by the congregation. The parish advocate will usually advise the Constables on this point. However, even if it is not possible to raise the funds on the rates, the Constables and Douzaine must still be informed and must give their consent to the works.*

* Have the necessary steps been taken to ensure that the *Publication* will include reference to the proposed works and the amount involved? The Constables, in conjunction with the parish advocate, will usually attend to this.
* At the Ratepayers’ Meeting, who will present the matter, and should professional assistance be on hand to answer any questions of a technical nature?

***Note:***

*It is administratively very expensive, particularly in the more populous parishes, to raise a (supplementary) parish Rate at a time other than at the usual annual Ratepayers’ Meeting, since a separate Rates demand will have to be sent out, and receipts and non-payments processed, specifically for that supplementary Rate. Furthermore, a vote in favour of the item should not be presumed: the Ratepayers may refuse the request. Therefore, no commitment should be made, contractually or otherwise, to spend the funds until the Ratepayers’ Meeting has approved the expenditure.*

**8. Archaeological considerations**

**Disturbance of burial places or memorials**

Are the proposed works likely to have archaeological significance, or to involve the disturbance of burial places or memorials? If so, has the States Archaeological Officer been informed and will he or she be involved in the works? And were the contractors made aware of this before tenders were sought so that they can made due allowance?

If identifiable graves, gravestones or memorials are to be disturbed, removed or disposed of, have the descendants concerned been consulted and given their agreement? If descendants are not immediately traceable, what steps have been taken to find or inform them?

***Note:***

*If burial places are likely to be disturbed this must be specifically mentioned in the Faculty application. Generally, any excavation must be presumed to have archaeological significance, and the States Archaeological Officer’s requirements must be accommodated.*

**9. Insurance during the works**

Have the church insurers been informed that works are to be carried out? For minor works this might not be necessary, but it is prudent to advise the insurers in any case.

If any of the work is to be done by voluntary labour, is adequate insurance cover in place against the risk of accident or injury?

**10. Disposal of church property**

Do the proposed works involve the disposal of any item belonging to the church? If such an item is to be sold, has its value been properly and fairly assessed?

Is it proposed to dispose of any items which it is not appropriate to sell? If so, for what reason and how is disposal to be effected?

If the disposal involves pews, will any private rights to them be affected and, if so, have the owners of those rights consented?

***Note:***

*The disposal of any item of church property will require a Faculty.*

**11. New memorials**

Is it proposed to introduce a new memorial (other than on the grave of a person buried in the churchyard) into the church or churchyard? If so, what was the special contribution of the person to be commemorated to the life of the church or the community?

***Note:***

*By convention, graveyard memorials do not usually require a Faculty, although the Ecclesiastical Court reserves jurisdiction in any case and particularly in case of dispute.*

**12. Tenders (other than in cases covered by the Remède)**

Which contractors have submitted tenders for the proposed works or parts thereof? What were the amounts of the tenders submitted? If a tender is to be accepted other than because it was at the lowest cost, what was the reason for that decision?

***Note:***

*Usually at least three tenders should be sought for the proposed works, or for each aspect of them. However, it is accepted that, for certain specialist works (e.g. to stained glass), this might not be possible.*

**13. Duration of works**

How soon after the Faculty is granted will work begin? How long will the works take? Will alternative arrangements have to be made for holding public worship, and if so, what is proposed?

**14. Date of resolution to proceed with works**

On what date was the relevant resolution passed to proceed with the works? Was the decision unanimous or by a majority?

***Note:***

*The relevant resolution may be passed at a meeting of the congregation or (if the cost of the works is to be met in whole or in part from the Rates) at the Parish Meeting. Even if it is not necessary to put the matter before a Parish Meeting, the Constables and Douzaine should still be informed of the proposed works.*

***The date of the relevant resolution, and whether it was carried unanimously or by a majority, must be stated in the application for the Faculty.***

**15. Procedure**

All applications for faculties should be made in writing by the incumbent of the parish concerned, or by one or both churchwardens, or by a person (usually but not necessarily a parishioner) having a particular interest (e.g. a family member wishing to erect a memorial plaque inside a church; or an undertaker charged with the exhumation and reburial of human remains). Applications made by the incumbent or churchwardens must state the date of the meeting of the congregation or ratepayers at which the matter was resolved upon, and whether the decision was unanimous or by a majority.

The application (whether for a Faculty or for an interim certificate) should be addressed to the Registrar of the Ecclesiastical Court and must be accompanied by such plans, sketches, photographs, professional reports and other documentation as are necessary or relevant and to enable a Citation (where relevant) to be prepared, and by any other information as might assist the Commissary[[2]](#footnote-2) in assessing the application. The letter of application and supporting documentation are lodged in the Court’s records for future reference. An application may be sent back if insufficient details are supplied.

The Deanery Faculties Sub-Committee, and any professional advisers deemed appropriate in the circumstances, may wish to inspect the site of the proposed works in appropriate cases. The cost of any professional advisers which the Faculties Sub-Committee deem it appropriate to consult may be recoverable from the applicant.

When the Deanery Faculties Sub-Committee has reported to the Ecclesiastical Court, Development and Planning Authority consent (if required) has been granted, and the Commissary has considered the application and approved the issuing of a Citation, a Citation is prepared at the Registry of the Court and sent to the incumbent of the church concerned who must post it up on the church notice board for three consecutive Sundays, starting with the Sunday nine days after the date of issue of the Citation. The Citation gives brief details of the proposed works and notifies any interested parties that they must appear at the Court sitting on the Friday following the last of the three Sundays to lodge their objections to the proposed works. After the Citation has been exhibited for this period, the incumbent and both churchwardens must sign the certificate found on its reverse and immediately send it back to the Registry. In some circumstances it is not necessary to publish the Citation in this manner (e.g. in certain cases of exhumation where publication might excite unwarranted public attention; or where the matter has already been explained and discussed at the Parish Meeting with a view to raising the necessary funds on the Parish Rate), and in others additional publication may be called for (e.g. in the Guernsey Press) where it would otherwise prove difficult to contact all parties who might have an interest in the application.

At the Court sitting on the Friday designated for the hearing of the application, any objectors (‘appearers’) are heard by the Commissary, who may deal with the matter there and then or may adjourn it for further particulars to be submitted, and/or for witnesses to be called and/or for the matter to be heard by a full sitting of the Court. The details of procedure in pleadings before the Court are beyond the scope of these notes.

If there are no appearers, or if, having heard them, the Commissary (or the full Court) finds that the application should be approved, a Faculty is issued and sent to the applicant by the Registrar of the Court.

Applicants should note that, although certain costs are associated with the preparation and issuing of faculties, currently no charge is made for this service except in cases where the Faculty is required for purely private purposes (e.g. exhumations).

NMO/August 2017

1. The Commissary is the Dean of Guernsey. To avoid any conflict of interest, he may refer applications to a Vice Dean when he is also chairing the Deanery Faculties Sub-Committee. [↑](#footnote-ref-1)
2. The Commissary is the Dean of Guernsey. To avoid any conflict of interest, he may refer applications to a Vice Dean when he is also chairing the Deanery Faculties Sub-Committee. [↑](#footnote-ref-2)