
STATUTORY INSTRUMENTS

2013 No. 1916

The Faculty Jurisdiction Rules 2013

PART 3

Seeking advice prior to commencement of proceedings

Seeking the advice of the Diocesan Advisory Committee

3.1.—(1) Before commencing proceedings in the consistory court, intending applicants should seek the advice of the Diocesan Advisory Committee on the works or other proposals in respect of which a faculty, injunction or restoration order is to be sought unless paragraph (2) applies.

(2) The advice of the Diocesan Advisory Committee is not required if the proceedings—

(a) relate exclusively to—

(i) exhumation, or

(ii) the reservation of a grave space; or

(b) are sufficiently urgent to justify the grant of a faculty, the issue of an injunction or the making of a restoration order without obtaining the Committee's advice.

Documents etc. to be submitted to the Diocesan Advisory Committee

3.2.—(1) Except in a case to which rule 3.5(2) applies (trees), intending applicants must submit the following to the Diocesan Advisory Committee when seeking its advice—

(a) the standard information in Form 1A (where advice is being sought pursuant to a resolution of the parochial church council) or Form 1B (where advice is being sought by the relevant person or body) (but see paragraph (2));

(b) a summary of the works or other proposals on which advice is being sought;

(c) any relevant designs;

(d) any relevant plans;

(e) any relevant photographs;

(f) any other documents giving particulars of the works or other proposals;

(g) any relevant correspondence received from the Church Buildings Council; and

(h) in the case of works that fall within paragraph 1 of Schedule 1, the information and other documents required to be provided to the Committee by paragraph 7 of that Schedule.

(2) If the intending applicants have previously submitted the standard information required by paragraph (1)(a) to the Diocesan Advisory Committee they need not do so again unless the information that was previously submitted has changed.

Proposals involving changes to listed buildings: statements of significance and needs

3.3.—(1) Where proposals involve making changes to a listed church or other listed building intending applicants must provide the Diocesan Advisory Committee with—

- (a) a document which describes—
 - (i) the significance of the church or other building in terms of its special architectural and historic interest (including any contribution made by its setting) and
 - (ii) any significant features of artistic or archaeological interest that the church or other building hasso as to enable the potential impact of the proposals on its significance, and on any such features, to be understood (a “statement of significance”); and
- (b) a document setting out the justification for the proposals (commonly known as a “statement of needs”).

(2) If proposals are likely to result in harm to the significance of the church or other building as a building of special architectural or historic interest, the document setting out the justification for the proposals must set out the basis on which it is said that the proposals would result in public benefit that outweighs that harm.

Consultation with English Heritage, amenity societies and the local planning authority in certain cases

3.4.—(1) Schedule 1 makes provision for intending applicants to consult the following bodies in certain cases—

- (a) English Heritage;
- (b) any national amenity society which has an interest in the proposals; and
- (c) the local planning authority.

(2) Intending applicants should refer to Schedule 1 and follow the steps set out there if proposals—

- (a) 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;
- (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.

Trees

3.5.—(1) When considering whether proposals for planting, felling or for works to a tree or trees require a faculty, intending applicants must have regard to the written guidance given by the chancellor to all parochial church councils in the diocese as to the planting, felling, lopping and topping of trees in churchyards and in cases of doubt they should consult the registrar.

(2) Where intending applicants are proposing to plant, fell or carry out works to a tree or trees in a churchyard for which a faculty is required they must complete Part 1 of Form 15 and send it, together with the standard information in Form 1A, to the Diocesan Advisory Committee when seeking its advice.

(3) If the standard information required by paragraph (2) has previously been submitted to the Diocesan Advisory Committee the intending applicants need not submit it again unless the information that was previously submitted has changed.

Giving of Diocesan Advisory Committee's advice

3.6.—(1) In the case of works or other proposals in respect of which a faculty is to be sought, the Diocesan Advisory Committee's advice must be given in a notification of advice in Form 2.

(2) The notification of advice must state whether the Diocesan Advisory Committee—

- (a) recommends the works or proposals for approval by the court;
- (b) does not recommend the works or proposals for approval by the court; or
- (c) does not object to the works or proposals being approved by the court.

(3) If the notification of advice recommends the works or proposals for approval by the court it must include a statement that the advice does not constitute authority for carrying out the works or other proposals and that a faculty is required.

(4) If the notification of advice does not recommend the works or proposals for approval by the court it must include—

- (a) the Committee's principal reasons for giving that advice; and
- (b) a statement that despite the Committee's advice, the intending applicants may, if they wish, petition the court for a faculty authorising the works or other proposals.

(5) If the notification of advice does not object to the works or proposals being approved by the court—

- (a) the Committee must consider whether to include its principal reasons for giving that advice; and
- (b) the notification of advice must include a statement that the advice does not constitute authority for carrying out the works or other proposals and that a faculty is required.

(6) A notification of advice may include a recommendation that the intending applicants should consult any of the following about all or some of the works or other proposals on which the advice of the Diocesan Advisory Committee has been sought—

- (a) English Heritage;
- (b) the local planning authority;
- (c) one or more of the national amenity societies;
- (d) the Church Buildings Council;
- (e) any other body or person.

(7) The Committee must include a recommendation that the intending applicants consult a body mentioned in paragraph (6)(a) to (c) if it appears to the Committee that its advice relates to works in respect of which Schedule 1 provides for that body to be consulted and that the relevant consultation has not already taken place.

(8) The Committee must include a recommendation that the intending applicants consult the Church Buildings Council if it appears to the Committee that its advice relates to a proposal to which rule 8.6 applies (proposals affecting articles of particular historic, architectural, archaeological or artistic interest) and the Council has not already been consulted.

(9) In the case of works or other proposals in respect of which an injunction or restoration order is to be sought—

- (a) the Committee's advice must be given in the form of a report or letter; and
- (b) paragraphs (6) to (8) are to apply to that report or letter as they apply to a notification of advice given under paragraph (1).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Interim faculties and interim injunctions

3.7. This part is without prejudice to the court's power at any time to grant an interim faculty under Part 14 or an interim injunction under rule 15.6.