

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.

CONTENTS

1.	Introduction	1.1
2.	Preliminary Steps	2.1
3.	Diocesan Advisory Committee	3.1
4.	The Petition	4.1
5.	Adjudication	5.1
	Written Representations	5.2
	Burden of Proof	5.3
	Costs	5.4
6.	Particular Cases	
	Churchyards	6.2
	Closed churchyards	6.4
	Demolition	6.5
	Disposal of Church Property	6.6
	Exhumation	6.7
	Funding	6.8
	Gardens of Remembrance	6.9
	Graves	6.10
	Health and safety	6.13
	Inscriptions	6.14
	Licences and leases	6.15
	Memorial plaques	6.16
	Planning permission	6.17
	Reservation of grave spaces	6.18
	Reordering	6.20
	Telecommunications	6.21
	Trees	6.22
7.	Urgent and Emergency Applications	7.1

Appendix I	Minor Works Not Requiring a Faculty	
	List A	Page 21
	List B	Page 25
Appendix II	Churchyard Regulations	Page 31
Appendix III	Application for Introduction of a Headstone	Page 37

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

APPENDIX I

MINOR WORKS NOT REQUIRING A FACULTY

List A – Matters which may be undertaken without the need for consultation

This table prescribes matters which may be undertaken without a faculty subject to any specified conditions.

Note r 3.5 of the Faculty Jurisdiction Rules 2015 which specifically excludes a range of items

Matter	Specified conditions
A1. Church building etc.	
(1)(a) Works of maintenance, not involving repair or substantial replacement of material, carried out as part of the regular course of care and upkeep of the building	The parochial church council's insurers are notified if external scaffolding is to be erected
(b) works of repair not materially affecting the fabric or any historic material	
(2) Repairs and replacement of fittings in existing kitchens, lavatories, office accommodation and other ancillary rooms	
(3) Like for like repairs to window glass	The works do not include repairs to stained glass or to clear glass manufactured before 1960
(4) The repair or like for like replacement of wire mesh window guards	Only non-corroding fixings are used and, where practicable, are fixed in mortar joints

Matter	Specified conditions
(5) The treatment of timber against beetle or fungal activity where the church is not a listed building	The works do not involve the replacement of timber
(6) Works of maintenance, repair and adaptation (not amounting to substantial addition or replacement but including re-wiring) to existing— (a) heating systems (including the replacement of control equipment) (b) gas, water or other services (c) electrical installations (including lighting installations) and other electrical equipment	The works do not involve making additions to an electrical installation Any work to a gas fitting is carried out by a person who is registered on the Gas Safe Register (or is a member of another class of persons approved by the Health and Safety Executive for the purposes of Regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998) Any work to an oil-fired heating system or 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)) In the case of adaptation, the parochial church council's insurers are notified of the proposals

Matter	Specified conditions
(7) The replacement of a boiler in the same location and utilising an existing fuel supply and existing pipe runs (See matter B1(5) in List B for replacement using different fuel supply of pipe runs)	Any work to a gas fitting is carried out by a person who is registered on the Gas Safe Register (or is a member of another class of persons approved by the Health and Safety Executive for the purposes of Regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998) Any work to an oil-fired heating system is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6)) The works do not involve the creation of a new external flue The parochial church council's insurers are notified of the proposals
(8) The like for like replacement of roof lead or other material covering the roof of a building which is not a listed building	The original introduction of the material being replaced was authorised The parochial church council's insurers are notified of the proposals
(9) The installation of a roof alarm (including an alarm with an image capture facility)	The amount of associated cabling is kept to the minimum that is reasonably practicable The parochial church council's insurers are notified of the proposals Any work to an electrical installation is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))

Matter	Specified conditions
(10) The application of forensic marking on roof lead or other material covering a roof or to rain water goods or flashings	
(11) Work to an existing lightning conductor	The parochial church council's insurers are notified of the proposed work The parochial church council is satisfied that the person who is to undertake the work has the necessary skill and experience
(12) The replacement or introduction of a weathervane on a church which is not a listed building	
(13) The repair, maintenance, removal, disposal or replacement of a flagpole	Only non-corroding fixings are used where a flagpole is repaired or replaced
(14) The introduction, removal or disposal of furniture, furnishings, office equipment and minor fixtures (including safes) in vestries and similar rooms	The existing use of the vestry or similar room is not changed No article of historic or artistic interest is removed or disposed of
(15) The introduction, removal or disposal of fire extinguishers	Any instructions from the supplier or the parochial church council's insurer in relation to their type or location is complied with
(16) The making of additions to an existing name board	The board is not a war memorial or roll of honour The addition is in the same style (including colour and materials) as existing names on the board
(17) The installation of bat boxes as part of a bat management programme	

Matter	Specified conditions
(18) The introduction of anti-roosting spikes	Only non-corroding fixings are used and, where practicable, are fixed in mortar joints
(19) The installation of bird netting to tower windows	
(20) The adaptation of an existing sound reinforcement system	Any work to an electrical installation is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6)) In the case of a church which is a listed building, no alteration is made to existing fixings or cable runs (but see matter B1(13) in List B)
(21) The introduction of a defibrillator in a church which is not a listed building	
A2. Musical instruments	
(1) The introduction or disposal of musical instruments (other than pipe organs and non-portable electronic organs) and associated equipment	No article of historic or artistic interest is disposed of
(2) The routine tuning and maintenance of organs and pianos	In the case of organs, any works do not involve tonal alterations, changes to the action or major dismantling of the instrument
(3) The repair or replacement of electrical motors and humidification equipment for organs	Any work to an electrical installation is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))

Matter	Specified conditions
A3. Bells etc.	
(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 re-rimming of a bell wheel
	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
A4. Clocks	
(1) The inspection and routine maintenance of clocks and clock dials	Works do not include re-painting or re-gilding of clock dials or repainting clock movements
(2) Maintenance and like-for-like repairs, without removing the clock from the church, of: (a) ratchets, clicks and click springs on flies (b) locking levers (c) pulleys (d) broken hands (e) clock hammers and their springs	

Matter	Specified conditions
(3) Replacement of: (a) weight lines (b) suspension springs (c) fixings of clock dials	
(4) The reinstallation of disconnected hands and numerals	Works do not include re-painting or re-gilding of clock dials or repainting clock movements
(5) Repairs to bell cranks and clock bell hammers	
(6) The upgrading of electrical control devices and programmers	Any work to an electrical installation is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))
A5. Church contents	
(1) The repair of woodwork, metalwork and movables	Matching materials are used The repair does not involve any works to: woodwork or metalwork of historic or artistic interest Royal coats of arms hatchments or other heraldic achievements paintings textiles of historic or artistic interest church plate (including candlesticks and crosses)
(2) The application to articles of forensic marking	No article of historic or artistic interest is marked without first obtaining specialist advice

Matter	Specified conditions
(3) The introduction, removal or disposal of kneelers, hassocks, pew runners and cushions	The introduction, removal or disposal of the articles does not result in a change to the overall appearance of the church No article of historic or artistic interest is removed or disposed of
(4) The introduction, removal or disposal of— (a) movable bookcases (b) books (c) free-standing noticeboards (d) movable display stands (e) cruets (f) vases and flower stands (g) hymn boards (h) altar linen (but not altar frontals or falls) (i) flags and banners used for temporary displays (but not the laying up of flags, or the removal or disposal of flags that have been laid up) (j) the Union flag or St George's flag (with or without the diocesan arms in the first quarter) for flying from the church (k) portable audio-visual equipment (l) wi-fi routers (m) equipment for card payment systems	No article of historic or artistic interest is removed or disposed of No article being introduced is fixed to historic fabric
(5) The removal or disposal of—	No article of historic or artistic interest is removed or disposed of

Matter	Specified conditions
(a) redundant sound reinforcement equipment (b) carpet (c) free-standing chairs (but not pews, benches or stalls)	
(6) The like for like replacement of carpet	Only breathable material is used No article of historic or artistic interest is removed or disposed of
(7) Treatment of fixtures and furniture against beetle or fungal activity	No material of historic or artistic interest is treated See matter B4(6) in List B for treatment of material of historic or artistic interest)
(8) The replacement of curtains (other than curtains and other hangings associated with an altar)	No article of historic or artistic interest is removed or disposed of
(9) The introduction of free-standing chairs in a church which is not a listed building	
(10) The introduction, in a church which is a listed building, of additional free-standing chairs of a design which has previously been introduced in the church under the authority of a faculty	
(11) The introduction of a fixed internal noticeboard (including in a porch) in a church which is not a listed building	
A6. Church halls and similar buildings subject to the faculty jurisdiction	

Matter	Specified conditions
(1) Works of maintenance and repair to the building and the replacement of fittings in the building	
(2) The introduction, removal or disposal of furniture and fittings	No article of historic or artistic interest is removed or disposed of
(3) Replacement of material covering the roof where neither the church nor the church hall or similar building is a listed building	
(4) The introduction of a defibrillator in a building which is not a listed building	
A7. Churchyard	
(1) The introduction and maintenance of equipment for maintenance of the church and churchyard	
(2) The repair of paths and other hard-surfaced areas, including resurfacing in the same materials and colour	
(3) The introduction of unwired lighting to mark the edge of a path	
(4) The maintenance of fences, walls and gates (including lychgates and stiles), not involving repair or replacement, carried out as part of the regular course of care and upkeep of the fence, wall or gate	Any new disturbance below ground level is kept to a minimum

Matter	Specified conditions
(5) Repairs to, and like for like replacement of, fences and gates other than lychgates, walls or historic railings (See matters B6(2) and (3) in List B for repairs to walls and lychgates)	Any new disturbance below ground level is kept to a minimum
(6) The repair, repainting or like for like replacement of a noticeboard	The wording on the board is not changed except for the purpose of updating existing information that is included on the board In the case of replacement: the Town and Country Planning (Control of Advertisement) Regulations 2007 are complied with, the replacement noticeboard is not illuminated, and any new disturbance below ground level is kept to a minimum
(7) The grant by the incumbent of a licence for grazing in the churchyard	The licence is in a form approved by the chancellor

Matter	Specified conditions
(8) The disposal or replacement of gas and oil tanks (and associated pipe work)	No works of excavation are involved The local planning authority is notified of the proposal Any work to a gas fitting is carried out by a person who is registered on the Gas Safe Register (or is a member of another class of persons approved by the Health and Safety Executive for the purposes of Regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998) Any work to an oil-fired heating system is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6)) In the case of replacement, the replacement tank is of similar dimensions and in substantially the same location
(9) The introduction, replacement or disposal of a flagpole not attached to the church building	The local planning authority is notified of the proposal Any new disturbance below ground level is kept to a minimum
(10) The introduction of a defibrillator where the church is not a listed building	

Matter	Specified conditions
A8. Trees	
(1) The felling, lopping or topping of a tree the diameter of any stem of which does not exceed 75 millimetres (measured over the bark at a height of 1.5 metres above ground level)	The works do not relate to any tree in respect of which a tree preservation order is in force or which is in a conservation area Regard is had to guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards
(2) The lopping or topping of any tree—that is dying or dead; or has become dangerous	Regard is had to guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards
(3) The removal of dead branches from a living tree	Regard is had to guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

List B – Matters which may be undertaken without a faculty subject to consultation

This table prescribes matters which may, subject to any specified conditions, be undertaken without a faculty if the archdeacon has been consulted and has given notice in writing that the matter may be undertaken without a faculty. The archdeacon may impose additional conditions in the written notice.

Note r 3.5 of the Faculty Jurisdiction Rules 2015 which specifically excludes a range of items

Matter	Specified conditions
B1. Church building etc.	
(1) Works of repair affecting the fabric or historic material	The repair does not introduce material of a type that does not already form part of the fabric or historic material that is to be repaired The repair does not involve the substantial replacement of a major part of the fabric or of historic material Details of any materials to be used are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter The works do not involve any new disturbance below ground level The parochial church council's insurers are notified if external scaffolding is to be erected
(2) The installation of a wall offertory box	The installation does not affect historic fabric

Matter	Specified conditions
(3) Works of external or internal redecoration (other than to areas of historic wall painting, even if already painted over)	Details of materials and colours are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter The overall appearance of the building is not changed The parochial church council's insurers are notified if external scaffolding is to be erected
(4) The treatment of timber against beetle or fungal activity where the church is a listed building	The works do not involve the replacement of timber
(5) The replacement of a boiler in the same location utilising a different fuel supply or pipe runs (See matter A1(7) in List A for replacement using existing fuel supply and pipe runs)	Any work to a gas fitting is carried out by a person who is registered on the Gas Safe Register (or is a member of another class of persons approved by the Health and Safety Executive for the purposes of Regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998 The parochial church council's insurers are notified of the proposals
(6) The like for like replacement of roof lead or other material covering the roof of a listed building	The original introduction of the material being replaced was authorised The parochial church council's insurers are notified of the proposals

Matter	Specified conditions
(7) The installation of lighting and safety equipment	The lighting or other equipment: is installed only in a part of the church (such as a tower or crypt) that is not normally visible to the public, or when installed will not be visible from ground level 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 installation will not affect any graves or vaults The parochial church council's insurers are notified of the proposals
(8) The extension of an existing lighting system	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 parochial church council's insurers are notified of the proposals
(9) The installation of a lightning conductor	The parochial church council's insurers are notified of the proposals The parochial church council is satisfied that the person who is to undertake the work has the necessary skill and experience

Matter	Specified conditions
(10) The installation of closed circuit television for security purposes	Details of cameras and other equipment, their proposed location and the location of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter Regard is had to any guidance issued by the Church Buildings Council relating to privacy and the protection of personal data Any work to an electrical installation is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))
(11) The installation of security and fire alarms	Details of equipment, its proposed location and the location of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter Any work to an electrical installation is carried out by a person whose work is subject to an accredited certification scheme (as defined in rule 3.1(6))
(12) The installation of locks (including timed and other electronic locking devices)	
(13) The installation of a sound reinforcement system or loop system (including a control desk) or the alteration of an existing system	
(14) The introduction of a defibrillator in a church which is a listed building	

Matter	Specified conditions
(15) The introduction of fixed audio-visual equipment in a church which is not a listed building	Details of equipment, its proposed location and the location of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter
(16) The removal of asbestos	Works, other than works of minor reinstatement and repair, will not be required following the removal of the asbestos
(17) The refurbishment of facilities for serving refreshments	The original introduction of the facilities being refurbished was authorised
(18) The removal of partitions or divisions that did not form part of the original construction of a church which is not a listed building	
(19) The introduction of bird boxes	
B2. Bells etc.	
(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

Matter	Specified conditions
(2) The like for like replacement of— (a) bearings and their housings (b) gudgeons (c) crown staple assembly (d) steel or cast iron headstocks (e) 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

Matter	Specified conditions
(6) 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
(7) The installation of louvres in a belfry as a sound control measure	Any fixings are made into mortar
(8) The introduction of peal boards in a location not normally visible to the public	
B3. Clocks	
(1) Alterations to striking trains to prevent striking at night	No part of the clock movement is affected
(2) The repair or replacement of electrical or electronic clocks manufactured after 1950	

Matter	Specified conditions
B4. Church contents	
(1) The repair and maintenance of church plate (including candlesticks and crosses) not of historic or artistic interest	
(2) The replacement of an electronic organ (but not of a pipe organ)	The original introduction of the electronic organ being replaced was authorised The replacement electronic organ is on a similar scale to the electronic organ being replaced
(3) Like for like repairs and works of conservation to a pipe organ	The archdeacon is satisfied, having regard to the advice of the diocesan advisory committee or a member or officer of the committee, that the person who is to carry out the work has the necessary skill and experience
(4) The installation of humidification equipment for a pipe organ	The archdeacon is satisfied, having regard to the advice of the diocesan advisory committee or a member of officer of the committee, that the person who is to carry out the work has the necessary skill and experience 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))
(5) The replacement of carpets or other floor covering and underlay (see List A for like of like replacement of carpets)	Only breathable material is used No article of historic or artistic interest is replaced

Matter	Specified conditions
(6) Treatment of fixtures and furniture against beetle or fungal activity (see List A for treatment of material not of historic or artistic interest)	
(7) The introduction of a book of remembrance and stand	
(8) The introduction of a stand for candles	
(9) The introduction of a fixed internal noticeboard (including in a porch) where the church is a listed building	
(10) The introduction of a heating appliance not forming part of a heating system	Details of the appliance, its proposed location and the location of any cable runs are submitted to the archdeacon when the archdeacon is consulted on the proposal to undertake the matter 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))
(11) Works of repair to altar frontals and falls	No work is carried to an article of historic or artistic interest
(12) Disposal of redundant altar frontals and falls	No article of historic or artistic interest is disposed of

Matter	Specified conditions
B5. Church halls and similar buildings subject to the faculty jurisdiction	
(1) The introduction of a defibrillator in a building which is a listed building	
B6. Churchyard	
(1) The introduction and removal of benches in a churchyard	No bench proposed to be introduced has an inscription on it which would not be permitted on a monument in the churchyard under the applicable churchyard regulations made or approved by the chancellor
(2) The repair or rebuilding of walls	The works do not relate to any wall which is included in the Schedule maintained for the purposes of the Ancient Monuments and Archaeological Areas Act 1979 or is separately listed as a building of special architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) Act 1990 Any new disturbance below ground level is kept to a minimum
(3) The repair of lychgates	The lychgate is not separately listed as a building of special architectural or historic interest under the Planning (Listed Buildings and Conservation Areas) Act 1990
(4) The introduction, replacement or alteration of a notice board	A new notice board is not illuminated The Town and Country Planning (Control of Advertisement) Regulations 2007 are complied with
(5) The introduction of a defibrillator where the church is a listed building	Any new disturbance below ground level is kept to a minimum

Matter	Specified conditions
(6) The introduction of stands for bicycles	
(7) The resurfacing of paths and other hard-surfaced areas using different materials or colour where the church is not a listed building	
(8) The introduction of hand rails to steps or paths	
B7. Trees	
(1) The planting of trees	Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards
(2) The felling of a tree— (a) that is dying or dead; or (b) has become dangerous	In the case of any tree in respect of which a tree preservation order is in force or which is in a conservation area, section 206 of the Town and Country Planning Act 1990 (which provides for the planting of replacement trees) is complied with Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards
(3) All other works to trees (whether or not prescribed in List A) except felling	If applicable, the law relating to the preservation of trees in respect of which a tree preservation order is in force or which are in a conservation area is complied with Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards”

APPENDIX II

CHURCHYARD REGULATIONS

THIS INSTRUMENT OF DELEGATION PRESCRIBES CATEGORIES OF HEADSTONE,
THE INTRODUCTION OF WHICH MAY BE AUTHORISED BY PAROCHIAL CLERGY

Introduction

1. Incumbents and priests-in-charge are temporary custodians not merely of the church building but also, where there is one, of its burial ground. Responsibility for its care and maintenance rests with the PCC. Churchyards are an important feature of both rural and urban communities: an historic record of successive generations, a home for funerary monuments of architectural and aesthetic excellence, a setting for the church itself (many of which are listed buildings), and a place for reflection and prayer. Churchyards are consecrated and set apart for sacred use, and therefore different in their nature from municipal cemeteries.

The nature and legal consequences of Christian burial

2. Parishioners, those named on the electoral roll, and those dying within the parish all have a legal right of burial in the parochial burial ground. This right is not restricted to the baptised nor to members of the worshipping community. Thus the clergy are brought into direct contact with relatives of deceased parishioners in circumstances of extreme distress and often in a highly charged environment. Whilst this provides a valuable opportunity for ministry and outreach it can also create pastoral challenges.
3. It is essential that the bereaved understand the meaning and consequences of burial in consecrated ground. The nature of the rite of burial is to say 'farewell' to the deceased and to commend them to the mercy and love of God in Christ and to await the transformation of resurrection. There is accordingly a theological finality to all interments, including those of cremated remains, in ground consecrated according to the rites of the Church of England. This is inconsistent with the concept of portability of remains and the future prospect of exhumation.
4. The bereaved must understand that by seeking a burial in consecrated ground, they are submitting to the jurisdiction of the consistory court which regulates the type of headstone or other marker which may be erected. This jurisdiction exists for reasons which are in part theological and in part aesthetic, since what may be unobjectionable in a municipal cemetery might be considered inappropriate (or even offensive) in an historic churchyard. It is the responsibility of the clergy to bring these matters to the attention of the bereaved at the earliest opportunity, and to inform them of these Regulations, so that their decision to seek an

interment in consecrated ground is fully informed. A failure to do so, however traumatic the pastoral situation, is a dereliction of duty and may prove more damaging in the long term. Many parishes find it helpful to provide a handout containing this information which can be taken away and read by the bereaved, and the chancellor commends this practice.

The extent of the delegated authority of parish clergy

5. It is unlawful for a headstone to be introduced into a churchyard without permission. For administrative convenience and to minimise expense, the chancellor by this written Instrument delegates to parochial clergy the authority to permit the introduction of a monument provided it is of a type which complies with the detailed provisions which follow. During a vacancy, or in the absence of a priest-in-charge, this delegated authority is exercised by the area dean.

Guidance on the operation of these Regulations

6. Applications for memorials should generally not be made until six months have passed since the interment. Not merely does this allow the ground to settle, but the passage of time permits a more reflective decision to be made than is often the case in the naturally emotional state of the early stages of grief. All close family members need to be consulted and a consensus achieved. Parochial clergy can offer help at this time in making suggestions to the bereaved of the types of memorial which might be introduced by reference to photographs or by pointing out examples in the churchyard itself. If this conversation precedes a visit to the stonemason it should avoid the difficulty and disappointment engendered by the selection of an inappropriate design from a catalogue. The archdeacon can provide templates of leaflets which some parishes have found helpful to provide to the bereaved. Although the grave itself is the property of the incumbent, any memorial will belong to the person who paid for its erection (during his or her lifetime) and thereafter the heir-at-law of the person commemorated and that person carries the duty to maintain it and the legal liability for its safety.
7. A headstone is a public statement about the person who is being commemorated. Making the right choice of stone, design and inscription is important not only to the relatives or friends who are going to provide the memorial, but also to the wider community because of the effect which the headstone may have upon the appearance of the churchyard. Attractive, well-conceived designs by skilled and imaginative craftsmen should be encouraged. In the search for a wider range of designs than those usually seen, reference should be made to the *Churchyards Handbook*, the booklet *Memorials by Artists* and other resources which can be made available by the DAC. Sculpture or other statuary is not discouraged but must be authorised by faculty.

8. Also to be encouraged are inscriptions which give a flavour of the life of the person commemorated rather than blandly recording a name and dates. Epitaphs should honour the dead, comfort the living and inform posterity. They will be read long after the bereaved have themselves passed away. A memorial stone is not the right place for a statement about how members of the family feel about the deceased nor how they would address him or her were they still alive. Passages of scripture, which have a timeless quality, are to be preferred.

9. For further guidance, reference should be made to the *Chancellor's General Directions Concerning Churches and Churchyards* (Issue 2, 2018) and, in particular the following sections:

Churchyards	6.2	Graves	6.10
Exhumation	6.7	Inscriptions	6.14
Gardens of Remembrance	6.9	Reservation of grave spaces	6.18

Types of headstones which may be permitted by parish clergy

10. The incumbent has authority to permit the introduction of a headstone which complies with the following requirements.

10.1 Size

Memorial plate

Height (from base)	2ft 3 ins (min) to 4ft (max)
Width	1ft 8 ins (min) to 3ft (max)
Thickness	3 ins (min)* to 6 ins (max)

*except when slate is used, in which case 1.5 ins (min) is permitted

Memorial base (if included)

Height (from ground)	3 ins (min) to 6 ins (max)
Width	2ft (min) to 3ft (max)
Depth	10 ins (min) to 1ft (max)

The base may incorporate up to 2 integral sockets for flower vases.

10.2 Foundation slab

The foundation slab must be fixed flush with the ground such that a mower may freely pass over it.

10.3 **Materials**

The following stone is permitted for a headstone, but combinations of two or more types of stone are not allowed:

Limestone

Sandstone

Slate

Granite – honed light to dark grey but NOT black, red, blue, green, white or multi-coloured

10.4 **Appearance**

Polished stone or mirror finish is not permitted.

10.5 **Inscriptions**

Photographs or representations of objects or motifs such as a child's toy are not permitted nor is the use of 'pet names'. Bronze or ceramic inserts are not to be used. Badges, crests or emblems may be used provided they are seemly and appropriate for the deceased. Any representation will need to be designed so that it may be accurately cut by a skilled craftsman. Masons' or carpenters' names, signs or marks may be inscribed on any monument provided their position and appearance are unobtrusive having regard to the monument as a whole. Incised lettering may be painted in gold, silver, matt white, matt black or matt grey. Plastic inserted lettering is not permitted.

10.6 **Position**

No memorial may be erected within 3 metres of the outer wall of the church building save by authority of a faculty.

10.7 **Fixture**

Regard must be had to health and safety concerns, and to current industry standards for the fixing of monuments safely and securely.

10.8 **Crosses**

An incumbent may NOT consent to the introduction of a cross. Such monuments require a high standard of design. However, the incumbent may authorise the temporary introduction of a simple wooden cross no more than 12 inches in height to mark a recent burial. Such cross must be removed upon the erection of a stone memorial or after a period of 18 months, whichever be the sooner.

Prohibitions

11. For the avoidance of doubt, the following are not permitted:
 - i. kerbs, railings, fencing, chippings, pebbles and similar materials, and free-standing vases. These create difficulty or danger when mowing;
 - ii. memorials in the shape of vases, hearts, open books;
 - iii. memorials incorporating photographs or portraits;
 - iv. mementoes, windmills, toys or little animals, solar lamps or similar;
 - v. the use of 'pet names'
 - vi. artificial flowers.

Commonwealth War Graves

12. Graves of the Commonwealth War Graves Commission are marked by memorial headstones of a distinctive design and size, indicating their particular significance. The incumbent may authorise the erection of these headstones where applicable.
13. The incumbent is authorised to permit the installation of discreet signage provided by the Commonwealth War Graves Commission denoting the presence in the churchyard or burial ground of one or more Commission graves. The following conditions however must first be met:
 - i. The installation of the sign has been the subject of an affirmative PCC resolution;
 - ii. The sign is of a standard design previously recommended by the DAC or adapted to the requirements of a particular location on the advice of the DAC;
 - iii. The dimensions and location of the sign have the consent of the archdeacon who may seek the advice of the DAC as the circumstances require.

Important Notes

14. **The incumbent has no authority to permit the erection of a memorial which does not comply with these Regulations. Any non-compliant memorial (whether or not the incumbent has purported to give his or her authority) may be removed by order of the consistory court.**
15. **A faculty may be sought for the erection of a memorial which does not comply with these Regulations. Such petitions are actively encouraged. Each case will be considered on its individual merits and the views and policies of the Incumbent and PCC will be taken into account. The opinion of the DAC will also be sought.**

16. Parishes may seek a faculty for bespoke Regulations for use in a particular churchyard. Such Regulations should take into account local practice, tradition and custom and the particular environmental, architectural and aesthetic considerations of the church and its setting. They are likely to be more readily enforceable if the parish has a sense of 'ownership'. The provisions of these Regulations should be incorporated unless the parish can satisfy that chancellor that it is appropriate for a faculty to be granted which sanctions a specific variation.
17. Where there is ambiguity as to whether a proposal comes within the incumbent's delegated authority, or where the incumbent is favourably disposed to the introduction of a headstone which may be just outside its scope, an application may be made by the incumbent to the chancellor for the delegated authority to be extended so as to permit the proposal. Such applications will be considered on their merits on a case by case basis.

THE WORSHIPFUL MARK HILL QC
Chancellor of the Diocese of Leeds

January 2018

APPENDIX III

APPLICATION FOR INTRODUCTION OF A HEADSTONE INTO CHURCHYARD

This form is to be completed in duplicate.

To the Reverend.....
Rector/Vicar/Priest in Charge of the Parish of

1. I/We apply to you for permission to introduce into the churchyard known as
.....the monument described overleaf.
2. I/We have read the Churchyard Regulations issued by the Diocesan Chancellor and believe that you have power under those Regulations to permit the introduction of the proposed monument into the churchyard.
3. I/We undertake that if you grant permission the proposed monument, when erected, will conform with the description overleaf and also to indemnify you or your successors against all costs and expenses to which you or they may be put if the monument is not so erected.
4. I/We undertake for myself/ourselves and our successors to be responsible for the maintenance and stability of the monument.

Name(s) of applicant(s).....
Relationship to deceased.....
Address.....
Email.....Phone.....

Date..... Signed.....

I/We repeat paragraph 2 above and give you and your successors the same undertaking as is given by the applicant(s) in paragraph 3 above.

Date..... Signed

Monumental Mason

of (address)

For use by the Incumbent or Priest in Charge

I consent / I do not consent to the introduction of the monument described overleaf into the churchyard named above.

Date..... Signature

The Incumbent should keep one copy of the form and return the other to the Applicant.

Full sketch of memorial showing ground level and height above ground level, width, depth and all other material dimensions. The sketch should also show the method of stabilising, whether by a ground anchor or otherwise.

Type of stone or other material to be used

.....

Surface finish

.....

Description of any carving or decoration

.....

Wording of inscription

.....
.....
.....
.....

Style, size and colour of lettering

.....