

## DIOCESE OF LICHFIELD

### Guidance on the movement of “Articles” (subject To Faculty Jurisdiction)

This note is intended to assist parishes in relation to the movement of moveable (free standing, unfixed) articles such as furniture or treasures both within churches and to places outside churches. The basic principle of the Faculty Jurisdiction is that the Chancellor's consent is required for any change within a church. This is to ensure that the church is protected for the benefit of future generations, but it also ensures that peoples' views are taken into account before changes are made. The Faculty Jurisdiction Rules 2015 are referred to in this Guidance as the 'FJR'. It may be possible to authorise movement of articles as part of a temporary experimental reordering scheme under FJR r8. There is separate Guidance on this subject on this web site.

1. The principle is that there is a presumption that the introduction, movement, removal or disposal of any article will require authorisation. However, whilst the principle is simply expressed, if the rule were absolute, then it would become inoperable. There is no absolute threshold as to what will require the authority of a Faculty. There is a much maligned principle of law, that it does not concern itself with 'trifles'; the problem is that what may be a trifle for one person, is a step too far for the next person. The answer is to apply common sense, but to err on the side of caution and to remember the presumption is not displaced lightly.
2. Introductions of new articles may be an issue of concern: for example if they represent a new form of liturgical sympathy; or if they are gifts of high value and will require special care.
3. Disposals are probably never acceptable without authority.
4. Movement within the building is often sensitive. It is indisputable that a treasure, such as a special painting or a piece of communion plate, should never be moved without consent. And strong feelings may be expressed if a long used lectern is suddenly consigned to a side aisle or a store cupboard. Introducing a wall hanging or the paraphernalia of a crèche may change the whole ambiance of a building.
5. Removal of items whether temporarily or permanently, and whether for sale or destruction is usually a significant step. A balance has to be struck between getting rid of things that have simply worn out where no-one would ever contemplate the item having any value, and recognising that a piece of old rubble might actually be of special archaeological importance (such as the Lichfield Angel). Where disposal is authorised the churchwardens will need guidance as to what method is acceptable, and sometimes as to the terms for marketing or sale.
6. The examples above are illustrative and are by no means exhaustive.
7. **Ownership and insurance:** Churchwardens should note that articles intended for church 'use' that are within a church become the property of the Churchwardens, who cannot part with them except in accordance with formal Faculty (or List A/B) approval; the law is that a purchaser who does not have a formal approval cannot acquire legal ownership of the article (and that the Churchwardens may be directed to reacquire any article unlawfully disposed of, and the party holding the item may be directed to return it to the church). For this reason, when a Faculty is issued authorising a disposal, the purchaser should be provided with a copy of the Faculty.

8. Churchwardens must ensure that the parish maintains appropriate insurance for any articles of value, and that such articles are kept in secure conditions.
9. **List A/B:** To avoid every minor matter having to be considered for formal approval, the FJR allow some changes to be made without the full procedures. The Lists are set out on other guidance on this website, and should be read carefully to ensure that conditions are fully complied with. Two lists of items are provided.
  - a. List A; "Church Contents" permits – as long as there is no change in the overall appearance of the church, and that no article of historic or artistic interest is removed or disposed of:
    - i. *The introduction, removal or disposal of kneelers, hassocks, pew runners and cushions*
    - ii. *The introduction, removal or disposal of : Moveable bookcases; Books; Free-standing noticeboards; Moveable display stands; Cruets; Vases and flower stands; Hymn boards; Altar linen (but not altar frontals or falls); 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); The Union flag or St George's flag (with or without the diocesan arms in the first quarter) for flying from the church*
    - iii. *The removal disposal or replacement of a flag pole*
    - iv. *The introduction or disposal of musical instruments (other than organs and grand pianos) and associated equipment*
    - v. *The introduction removal or disposal of fire extinguishers*
    - vi. *The introduction removal or disposal of furniture furnishings office equipment and minor fixtures (other than safes) in vestries and similar rooms*
  - b. List B; "Church Contents" permits:
    - i. *The introduction, maintenance or replacement of portable audio-visual equipment used in connection with church services; The replacement of carpets or other floor covering and underlay; The replacement of curtains (other than curtains and other hangings associated with an altar); The introduction of a book of remembrance and stand; The introduction of a fixed internal noticeboard.*
    - ii. *The introduction of a safe in a vestry or similar room*
    - iii. There are conditions which should be read carefully, and List B matters require written authorisation from the Archdeacon through the Online Faculty System.
10. Importantly, not every kind of article is covered within these Lists. If an article is not listed, then a Faculty will be required.
11. In view of FJR r3.5(1)(h) a key point for both lists is that a view has to be formed as to whether the item has historic or artistic interest before it can be removed or disposed of. Clergy should always err on the side of caution and seek advice from their Archdeacon or the DAC.
12. So a hassock might be removed under List A if it is 'just' a hassock; but if it is a very old item or an item with particular artistic quality, it would be outside List A, and could not be regarded as being within List B, so that a Faculty would be required. A grand piano might be a welcome gift from a generous benefactor, but a Faculty would be required to bring it into church. A serpent (in the sense of the ancient musical instrument) discovered at the back of a cupboard, would not fall within List A because

of its historical importance. A banner produced by the Sunday School might be displayed for a short while, but not permanently.

13. **Faculty:** A Faculty will thus always be required if:
  - a. the article is not plainly within List A/B
  - b. the article has *any* historic or artistic 'interest'
  - c. the step proposed would be in any way controversial.
14. The Petition is presented in the usual way, through the OnLine Faculty System. The advice of the DAC is sought as for any other proposal.
15. The Faculty procedures will allow the Chancellor to consider not only the rationale for any removal or disposal, but, additionally, the nature and terms of any proposed arrangement. The Chancellor may wish to set out terms allowing the Archdeacon to approve any marketing or sale price; but of course the parish may include particular terms as part of a Petition if it has negotiated the terms.
16. If an article is of *special* interest, then consultation with the CBC will be required before any Faculty is granted; the DAC will be able to guide parishes as to whether an article is of any interest or indeed is of special interest.
17. If the item is of very significant value, it would be likely that an Archdeacon would be directed to intervene in any Faculty Petition, even if it is unopposed and supported by the DAC, in order to 'put the Petitioners to proof'. The object of such an intervention is to ensure that all the arguments are challenged and tested before the Chancellor rules of them. In this diocese, in the case of Little Ness, and after a hearing in which the Archdeacon had intervened, valuable paintings were sold in order to realise funds which were then used to benefit the church and the local community. Intervention is thus a neutral and useful stage in the process.
18. **Loans:** It may be that sale is not appropriate, but that, equally it is not desirable to retain the article within the church for security reasons. In such situations one approach open to the Churchwardens is to seek a Faculty to authorise the Churchwardens to lodge the item more or less permanently with a museum or similar institution. A loan of an article to a museum etc. for a particular event is a 'removal' of that article, albeit (legally) temporary in nature. The DAC will need to advise particularly on the terms of the loan and will especially consider points such as : confirmation as to who is responsible for the safe keeping of the items; how/where they will be kept and displayed; the insurance cover required; the obligation to return.
19. Lichfield Diocese has a particular arrangement in place for loans of articles to the Guild of St Mary's Lichfield (a limited company), which operates a 'Treasury' at St Mary, Lichfield. This arrangement is under a Faculty issued by the Consistory Court in 1983 (Routledge Ch). The Faculty was issued before the current FJR were promulgated, but it is considered that the Registry can continue to operate the system which has worked well for over 30 years. The Registry does not normally require a parish to petition through the OnLine Faculty System for a fresh Faculty: all that is required is for the parish to display a Public Notice (in the form that can be found on the "Faculty Jurisdiction" page of the website). If the Chancellor is satisfied with the circumstances, a specific Faculty will be issued authorising the loan of the article under a standard form of agreement between the Incumbent and Churchwardens and the Guild, which will require insurance to be maintained during the period of the loan, to a value which the Archdeacon and DAC are comfortable with. It will provide for the article to be returned to the parish when requested.

20. **Removal to place of safety or restoration:** If it appears to an Archdeacon that an article of architectural, artistic, historical or archaeological value appertaining to a church (which is at the time in a church) is at risk of being lost or damaged, s/he may make an Order for its removal to a place of safety (in accordance with s21 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 and FJR r8).
21. If the Archdeacon deems the risk of damage or loss *not* to be immediate, s/he shall consult and give notice (by completing and serving Form 14 of the FJR), to the Churchwardens, the PCC and the Diocesan Advisory Committee and any other person having custody of the article. The Archdeacon must consider any representations made by these persons. An order following these representations would be given in Form 15 of the FJR.
22. If the risk of damage or loss *is* deemed immediate, an order can be made without prior consultation or notice but the Archdeacon must inform the Diocesan Advisory Committee of the removal of the article, as soon after it is removed to a place of safety. The Archdeacon simply serves an Order in Form 13 FJR, on the Churchwardens, PCC and any other person having custody of the article.
23. If an article has been unlawfully removed, then the Archdeacon may apply for a Restoration Order, under FJR r16.
24. Proceedings under FJR r8 and r16 are inevitably costly and for that reason alone compliance with the appropriate and relatively simple procedures for authorisation should be regarded as essential.

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