**Applying for a Heating Faculty**

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**GUIDANCE NOTE**

March 2024

**Introduction**

In creating guidance notes the DAC is aware of the need to avoid simply adding to the confusing plethora of information already available. It is therefore important that every guidance note adds something useful to what is already available. That might be helping you go to the right guidance, explaining what is needed in a faculty application, or making clear the faculty rules.

Since the introduction of the Church of England’s target to reach Net-Zero by 2030 everyone has an increased responsibility to consider environmental issues when undertaking works to churches. The biggest difference are changes to the faculty rules. We are all in new territory and learning all the time, which is why this guidance note has and will be periodically updated. Always speak to the Church Buildings Team for to check for the latest information.

This guidance note will start by explaining what the main changes to the faculty rules were, together with what that means to you, the DAC, and the Chancellor. It will then set out the approach to take and how you can meet the changes that have occurred to secure a faculty for heating systems.

A large part of this document has been compiled in conjunction with the heating guidance on the [Churchcare website](https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/heating) published by the Church Buildings Council. It is imperative that you work through this prior to submitting a faculty.

The steps in this and the CBC guidance are designed to be done anytime. PCCs are encouraged to read this BEFORE your heating system fails so you can plan appropriately and present a fully considered faculty application. **A broken fossil fuel boiler will not be considered adequate justification for like-for-like replacement.**

**Due regard and the Faculty Rules**

In July 2022 the Faculty Jurisdiction Rules were amended to reflect the efforts to reduce the carbon footprint of the church estate. Elements were introduced to make it easier to install greener heating methods together with making it harder to install harmful carbon emitters.

The rule changes impacted not just what permission was needed by how faculty applications were considered. Principally this placed the requirement that applicants must demonstrate:

‘***In the case of matters to which net zero guidance applies, an explanation of how the intending applicants, in formulating the proposals, have had due regard to that guidance[[1]](#footnote-1)’ (FJR 4.2(2a))***

The DAC in giving their advice to the you and the chancellor, therefore must consider whether due regard has been achieved. If the DAC feel this has not been satisfied, then they cannot recommend an application. But what is due regard?

Due regard is familiar legal term and is proven in the planning law. (Remember that faculties are a legal process). To explain ‘due regard’ the following has been taken from an article from David Pocklington in [Law & Religion UK](https://lawandreligionuk.com/2023/08/23/due-regard-and-statutory-guidance-ii/):

‘*The legal duty to have due regard means that the person to whom the guidance is directed is not free to follow the guidance or not as he or she chooses. […] As a matter of law, the guidance should be given great weight and must be followed unless there are ‘cogent reasons’ for not doing so’.*

*‘Cogent reasons’ are reasons that are clear, logical, and convincing. […] Cogent reasons are likely to arise only where the guidance does not contemplate a particular, unusual situation arising so that it becomes necessary to take a different approach from that set out in the guidance in order to meet the particular circumstances of the case’.* (Pocklington (2023)[[2]](#footnote-2).

**Due regard and applications**

Taking the above explanation into account how does the applicant, DAC, and Chancellor put this into practice? This is not easy in relation to net zero as this is new territory. What due regard looks like in an application is not simple or clear but there are test cases that can be considered to help inform us.

The PCCs perspective

Firstly, whenever ‘net zero guidance’ is mentioned it *‘means guidance issued by the Church Buildings Council under section 55 of the Dioceses, Pastoral and Mission Measure 2007 on reducing carbon emissions.’ (FJR, 2022, p9).* This can be found on the [Churchcare website](https://www.churchofengland.org/resources/churchcare) and refers primarily to that related to net zero, heating, and lighting, etc. The guidance has been produced by experts to help YOU as applicants navigate this complex subject. This document refers to that guidance throughout to help distil what is available and make sense of it.

So, what does all this mean when you are making an application? An online faculty is the only means of making an application, with the ‘supporting documents and images’ section the primary way of showing you have had due regard to the guidance. If it isn’t in writing and uploaded to the application, it cannot be considered.

*Remember, to have ‘due regard’ means you must show that you have followed the guidance unless you can prove your situation is one that is not covered.*

This means that the decisions and conversations PCCs make must be evidenced. You cannot show due regard by simply stating it with a single sentence. For example, if 3 phase electricity is not possible or too expensive how have you come to that outcome. Similarly, if a heating system is not viable in your scenario what has informed that decision.

Recent examples of applications often show a disregard to the guidance. When it has been referred to it has been treated as a ‘tick box’ exercise and has not been engaged with. You can show due regard and engagement by doing the following:

1. Demonstrating that you have read and understood the CBC guidance.
2. Demonstrating how you have applied that guidance to your situation.
3. Demonstrate how the guidance and application has influenced your decision making.

If you are proposing a non-fossil fuel/low carbon solution to your problem, you are already demonstrating you are having due regard to the guidance.

As with every application, show your workings, provide relevant evidence, and never assume that whoever is considering your application knows your church or situation.

Further guidance on how to approach heating applications can be found below and in the CBC guidance.

The DAC perspective

The DAC has a dual role. They have to assess the application and advise both the PCC and the Chancellor. In heating applications, they advise on the three principal matters below.

1. Does the application demonstrate due regard to net zero guidance.
2. Is the proposed system the most appropriate to the situation.
3. Is the proposed system technically satisfactory.

If you have followed the guidance and provided the rationale and evidence of your thinking and outcome, then a recommendation can be made to the Chancellor for a decision. If any of the above is missing or not detailed enough then the DAC will, in the first instance, request more information. It is important to remember that the DAC is not a decision-making body, that is role of the Chancellor.

Frustration can arise through a difference of expectation in the application process. From experience most applications simply do not have enough information required satisfy one or more of the three points above.

It is understood that many PCCs feel that to follow the guidance and provide what is required is too onerous. If that is the case the PCC must provide ‘*cogent reasons’* as to why their situation does not apply and they must deviate from following the guidance.

*Remember the DAC has a legal duty to consider if the application has had ‘due regard’ to the guidance.*

The Chancellor’s perspective

When determining applications, the Chancellor must consider all advice received through the faculty process including the advice from the DAC. This is alongside the legal duty of giving great weight to the guidance and whether the PCC has had due regard to that guidance. And if not, have cogent reasons been made. They are also guided by previous judgements made by Chancellors across the country, this is known as case law.

Faculty law is no different to UK case law. What that means is that past decisions influence future outcomes until a new precedent is made. This allows decisions to remain flexible to change but also that collective learning and approach can be made. It also means that all involved can learn from past cases and have a reasonable idea of the decision-making process and act accordingly.

We can look at the recent judgement of All Saints’ Church Scotby: [2023] ECC Car 2[[3]](#footnote-3), for the installation of a gas boiler. In that judgement the chancellor singled out the following for consideration:

* *churches* need to be properly heated\*[[4]](#footnote-4) [41];
* in assessing whether a church building is properly heated, it is necessary to consider the proposed and likely uses for the building [42];
* any proposed heating system must be affordable [43];
* the list of types of heating system available for churches is finite [44];
* once there has been a determination as to the appropriate type of heating system or, more specifically, whether the proposed system is appropriate, it is necessary to consider whether any conditions should be imposed when granting the faculty.

The first thing to state is that heating a church and/or congregation is an accepted principle. That may sound obvious, but it is important to note as it is often levied at the DAC and Diocese when a PCC is frustrated at the process. No-one is denying anyone the right to be comfortable in church.

However, considering the above judgement we can glean that the first thing that informs a heating application and judgement is the use of the building. This is reinforced again in stating that the system must be appropriate for that use. This is explored in the CBC guidance and below. Any application must show how the building is used and why the proposed heating system is appropriate.

Taking the second point, funding is important, and any system must be affordable. Therefore, it is important to explore and evidence how much each appropriate system is likely to cost. This is not to say you must obtain a quotation for everything, but it is not enough to say, ‘it’s too expensive’. Secondary evidence is a good way of getting an idea of rough costings. The CBC has real life examples of [net zero installations on their website](https://www.churchofengland.org/about/environment-and-climate-change/towards-net-zero-carbon-case-studies) which includes rough costs. If you use this method, you must show where you have got your information. Fundraising is an important consideration in the ‘cost’ equation. You may find people are more willing to give for an installation that helps reduce the impact on the planet. Do not simply quote PCC funds.

Many contentious applications could be avoided if costings and feasibility was evidenced. For example, if 3-phase electricity is too expensive and cannot be installed for several years, an email/quotation from the electricity company stating this instantly disproves many options as either too expensive or impractical in the short-medium term.

Taking the final point, the Chancellor is likely to include conditions to any faculty. Those could be offsetting, converting to a green tariff, or a time limit on any installation to transition to a greener solution. The key is to have a plan for the future. If you get a faculty for a gas/oil boiler, it is not job done. When that needs replacing it is increasingly unlikely you will not be granted permission for another if you have done nothing to prepare.

Conclusion

Let’s recap the main outcomes from this.

* Every application must demonstrate that the PCC has followed the CBC net zero guidance. In other words, had ‘due regard’. You do that by showing that you understand it and have applied it to your situation.
* If this is not possible, the PCC must state why they cannot follow the guidance or that their situation is not covered by it. In other words, provides a ‘cogent reason’ to the fact.
* Every application must provide **EVIDENCE**. Whatever you choose it is easy to say you have done something, it is quite another to prove it. Show your workings and never assume anything!
* The DAC is legally bound to advise the PCC and Chancellor if they feel ‘due regard’ has been met and if the system is technically feasible.
* The DAC is not a decision-making body, that is the chancellor’s job.
* Every church and/or congregation needs to be properly heated. You are not arguing the need to heat the church, only that the proposals are the most appropriate and affordable.
* HAVE A PLAN. If you have been caught off guard by a failure, start planning ASAP. The options you explore now will help you in the future so don’t dismiss the process. Remember that you can apply for an AMO for a temporary heating solution whilst you develop your plans.

**Key faculty documents**

There are some key documents that will help you in the process of making a faculty. These have been listed below. Please note that the list below is the minimum required, and each faculty will differ depending on the situation. Much also depends on the level of information provided in each. It is not simply a checklist to be completed.

The DAC reserves the right to request additional information if it feels that more is required.

* Statement of need.
* Statement of significance.
* DAC Heating proforma 1 and 2.
* [CBC heating checklist](https://www.churchofengland.org/sites/default/files/2023-05/Heating_checklist.pdf).
* [Heating options appraisal](https://www.churchofengland.org/sites/default/files/2023-05/heating_options-appraisal.pdf).
* Layout of church showing existing system and uses.
* Images of church as appropriate.
* Quotation/specification of proposed heating system.
* Any other evidence as dictated by the situation.
* PCC Minutes
* Correspondence with Inspecting Architect. (see separate template form)

Please see below for general guidance and links for approaching and completing a heating faculty.

**Principles and approach**

**The Need**

Before submitting a faculty for the changing or replacement of a heating system it is important to properly assess the situation holistically before settling on a preferred solution.

What you need is going to be the overriding factor. It is best to have the template [Statement of Need ready](https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/statements-significance-and-needs). This is a key document in the faculty process, it is your chance to make the case for what you are proposing and will be the document the DAC turn to first.

When discussing heating, the need may seem obvious but is not always straight forward. For instance, is heating people the most important consideration? Does the church have historic or fragile paintings or furnishings? Are you only using certain areas of the church? All these factors will inform what heating methods will be most suited to meeting the need. These are known as **heating principles** and further guidance can be [found here](https://www.churchofengland.org/sites/default/files/2021-03/Heating_principles.pdf).

Exploring and understanding the **perspectives** of the different stakeholders will be useful when you consider the heating and the need. But this doesn’t stop at people, issues such as the environment, theology, and the application process are also important. More information about different perspectives can be [found here](https://www.churchofengland.org/sites/default/files/2021-03/Heating%20perspectives.pdf).

So, the first things to consider are how you are using the building. Specifically:

* What activities happen throughout the week?
  + Is the church used regularly or once a week? How many people attend?
* How long do these activities go on for?
  + Try to build up a diary of activity and total hours use.
* What parts of the church are used and for how long?
  + Annotating a layout will help visualize this.
* Are there any important features in the church?
  + Fragile paintings or textiles for example.

Once you have mapped this out it should become clearer what your needs are. To help there is a handy [checklist here](https://www.churchofengland.org/sites/default/files/2021-09/Heating_checklist.pdf). For most churches it is making people feel comfortable. This can be done in several ways that does not rely on traditional space heating. Alternatives approaches can work out much cheaper over the life of a heating system. There may be other non-conventional methods that are worth exploring such as heated seat cushions. Remember that it is unlikely that one system will fulfil all your needs so a hybrid one may be needed.

**Current Heating System**

The next step is to understand and document your current heating system. The DAC have produced a handy proforma (1 and 2) of the key things to be thinking about. If your heating has broken down, why is that, and why can’t it be repaired? You may need a contractor to complete some of the information, but this is vital for the DAC, and yourself, to understand the situation. There is also a list available from the [Church Buildings Council](https://www.churchofengland.org/sites/default/files/2021-09/Heating_checklist.pdf).

Key considerations are:

* What type of heating is it?
  + Electric, gas, oil, mixed?
* How old is the heating system?
* What is the estimated lifespan?
* Estimated total heat output.
* What are the current controls?
* Does the heating system fulfill current requirements?
* How long on average is the heating on?
* How long does it take to reach optimum temperature?
* What is that temperature?
* How long does it take to cool down?
* What is the current cost of the heating system?
* Have you filled out the [Energy Footprint Tool](https://www.churchofengland.org/about/policy-and-thinking/our-views/environment-and-climate-change/about-our-environment/energy-footprint-tool)?

**Heating Options**

With a thorough knowledge of the use of the building and the current heating system, now is the time to consider the options. These options should be based on the need not on the easiest or cheapest.

It is important to be aware of all the options and to have fully considered them. Without this consideration the DAC will be reluctant to give a recommendation and will likely defer giving advice until more information is given.

Below are some basic steps to take in exploring the options:

1: Contact a reputable heating consultant

* A heating consultant will be able to assess the building, your needs and produce a detailed options appraisal.
* Get an Energy Audit. The most basic energy audits can cost around £500. Further information can be [found here](https://www.parishbuying.org.uk/categories/energy/energy-basket/audit?highlight=WyJlbmVyZ3kiLCJlbmVyZ2llcyIsImF1ZGl0IiwiYXVkaXRlZCIsImF1ZGl0aW5nIiwiYXVkaXRzIiwiZW5lcmd5IGF1ZGl0Il0=).
* In the process a relevant specialist will audit the building and make recommendations as the most appropriate heating systems available.
* Avoid using heating companies and contractors. They rarely give impartial advice as they will want to sell you their products.

2: Consider the all the options

* Take time to consider all the heating options available. Don’t be tempted to automatically rule things out because of preconceived ideas around cost and practicalities.

3: Appraise each option

* How well does each system fit your needs, now, and in the future.
* Can the system adapt to changing uses?
* Is the option physically feasible?
* Can the building and services physically accommodate the system. For example, if you don’t have pews then under-pew heaters aren’t feasible. Do you have wall paintings or memorials that restrict fixings?
* Is one option more efficient than the current one?
* Do the options reduce the carbon footprint of the church?
* How easy can the option be maintained?
* How much will it cost?
  + This should encompass not only initial installation but the cost over the lifetime of the system. You may find that more efficient systems will pay themselves off in savings.

**Seek professional advice!**

Appraising each of the options may require specialist advice from a heating consultant. How to go about appraising the different options is [explained more fully here](https://www.churchofengland.org/sites/default/files/2021-09/Heating_options_appraisal.pdf).

Once you have narrowed the options it is then best to get professional advice from a heating specialist. Any advice you seek should ideally be done in conjunction with your inspecting architect. It is often best to undertake a site visit with the heating specialist and the inspecting architect at the same time to discuss installation methods and locations.

At this stage it should be clear what your needs are. You should also have started the statement of significance and understand the importance of the building and its different areas. It would be advantageous to give a copy of these to the inspecting architect and heating specialist, so they are aware of the building constraints and what you wish to achieve.

**Permissions and Regulations**

Many adaptions to the church heating system will most likely require faculty permission. This includes the like-for-like replacement of a fossil fuel boiler.

With every faculty application the DAC will need to see that the PCC has followed the guidance laid out in the Church Buildings Council Guidance, as briefly detailed above. Most importantly this includes demonstrating the Churches’ needs and that all the options have been considered. The preferred format for demonstrating this is found in the CBC guidance and is linked above. Simply stating ‘all options have been explored’ will not be accepted and does not show due regard.

With the climate crisis and the Church of England target of reaching carbon net-zero by 2030, applicants should, by default, explore reducing their carbon emissions. The DAC will expect this to be taken into consideration in the application paperwork. This does not mean that every fossil fuel heating system will not be recommended by the DAC, each case is taken on its own merits. The emphasis is on the need and the best option to meet that need.

The statements of significance and need are vital documents in any application, and this includes heating proposals. They help to document the PCC’s thoughts and processes for the DAC, and others. Guidance from the CBC can be [found here](https://www.churchofengland.org/resources/churchcare/advice-and-guidance-church-buildings/statements-significance-and-needs).

Details of any proposed system should be included for the DAC and statutory amenity societies to be able to give their advice. This should be suitably detailed including equipment specifications and locations.

The DAC and Church Buildings Team welcomes proposals at an early stage after preliminary investigations. Early advice on heating systems and application paperwork can be beneficial to help steer applications in the right directions and avoid common pitfalls.

For more information, please contact the Church Buildings Team at: [DAC@salisbury.anglican.org](mailto:DAC@salisbury.anglican.org)

1. “net zero guidance” means guidance issued by the Church Buildings Council under section 55 of the Dioceses, Pastoral and Mission Measure 2007 on reducing carbon emissions; [↑](#footnote-ref-1)
2. David Pocklington, "“Due regard” to safeguarding guidance" in Law & Religion UK, 27 February 2020, <https://lawandreligionuk.com/2020/02/27/due-regard-to-safeguarding-guidance/> [↑](#footnote-ref-2)
3. Deputy Chancellor R. Lander (2023) IN THE CONSISTORY COURT OF THE DIOCESE OF CARLISLE IN THE MATTER OF ALL SAINTS’ CHURCH SCOTBY. Available at: [Re-All-Saints-Scotby-2023-ECC-Car-2.pdf (lawandreligionuk.com)](https://lawandreligionuk.com/wp-content/uploads/2023/08/Re-All-Saints-Scotby-2023-ECC-Car-2.pdf) [↑](#footnote-ref-3)
4. **Please note that *‘church’* relates to the congregation as well and not just the building. It is important to consider what is the best way of meeting the needs of the people and/or the fabric.** [↑](#footnote-ref-4)