

apply for an extension. Whether or not one would be granted would depend upon the prevailing circumstances, including the petitioner's personal circumstances; whether arrangements had been made to provide additional space for burials; the views of the incumbent; and any current policy of the PCC towards reservations.

In the present case a faculty was granted, but limited to a period of seven years with permission to apply to extend. Limiting the initial duration of the faculty to seven years would ensure no-one with a right of burial was prejudiced by the grant, notwithstanding the imminent capacity constraints.

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Re Holy Trinity and St Jude, Halifax

Leeds Consistory Court: Hill Ch, 30 November 2023

[2023] ECC Lee 3

Contractors' obligation – faculty jurisdiction

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Following the grant of a faculty for the felling of particular trees in the churchyard, the petitioners' contractor in error felled two trees not covered by the faculty. A petition was issued for a confirmatory faculty; the contractor was added as an additional party.

The contractor candidly acknowledged, in response to a question asked in directions, that it was not familiar with the faculty jurisdiction. The court said:

'12. It cannot be restated often enough that those whose business includes work on church buildings or in churchyards of the Church of England must be familiar with the process and procedures of the faculty jurisdiction and have a firm grasp of the principle that unless a faculty (or other authorisation) has been obtained, any work done will be unlawful. As I observed in *re All Saints, Buncton* [2018] ECC Chi 1, at paragraph 80:

"... contractors should always, invariably and without fail obtain a copy of the relevant faculty (or other authorisation) before they commence any works ..."

13. ... Those who embark upon works on church property without reading and digesting the content of the relevant faculty do so at their own peril, and must live with the consequences, sometimes draconian, that can follow.'

The court accepted the contractor's contrition, and that the breach of the faculty was an accidental rather than deliberate disregard of the jurisdiction; and so did not impose a condition that the contractor not be approved for work in the diocese for a period of time. Nevertheless, the confirmatory faculty would bear the condition that the contractor be liable for compensatory planting; it was also liable for the costs of the proceedings.

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Re Unnamed Burial Ground

Chichester Consistory Court: Hill Ch, 8 December 2023
[2023] ECC Chi 2

Exhumation—exceptional circumstances—medical grounds

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The petitioner sought a faculty for the exhumation of her mother's body from a consecrated burial ground, where she had recently been buried, in order to re-inter her in another consecrated burial ground, within the same diocese. The general rule enunciated by the Court of Arches in *Re Blagdon Cemetery* is that because of the theological principle that Christian burial is final, a faculty for exhumation will only be granted in exceptional circumstances. In this case, however, the petition was brought because of the proximity of the mother's grave to those of close family members of the petitioner's ex-husband, who had been violent and abusive towards her and her children over a period of some eight years. Neither the petitioner nor her children could visit her mother's grave because it caused them flashbacks, and the petitioner's GP confirmed that she was having nightmares and panic attacks and was suffering from anxiety and depression.

The court was satisfied on the evidence that the impact upon the petitioner's mental health and well-being and the distress to other family members were overwhelming. On the balance of probabilities, therefore, there were special