



THE DIOCESAN REGISTRY
Diocese of Bath and Wells

Diocesan Registry Update

Autumn 2023

Welcome to the first of our Registry Updates!

Reinforced Autoclaved Aerated Concrete (RAAC)

You will, no doubt, have seen RAAC dominating the news over the Summer. RAAC is a lightweight form of precast concrete, commonly used in public sector buildings in the UK from the 1950s to the 1990s.

In its recent meeting, the Church Buildings Council published [guidance](#) on churches who are uncertain whether their church, church hall or other parochial building may contain RAAC.

As each church building is inspected every five years during the quinquennial inspection, the presence of RAAC should have been highlighted as part of those inspections. However, any church or church building built between 1950 and 1990 would be advised to confirm with their inspector if there is any risk of RAAC being present.

Amendments to the Treasure Act 1996

Have you ever thought what to do if something valuable is unearthed in your churchyard? The government has introduced legislation, effective from 30 July this year, that re-defines what treasure is.

Under [The Treasure Act 1996](#) the general rule is that all newly-discovered artefacts defined as “treasure” are the property of the Crown and therefore, any discovery of such artefacts must be disclosed to the relevant authorities within 14 days of the discovery. Treasure in this context may for example include objects or a number of coins over 300 years old containing some gold or silver.

[The Treasure \(Designation\) \(Amendment\) Order 2023](#), which came into force on 30 July 2023, extends the criteria of what treasure might be to include exceptional finds over 200 years old regardless of the type of metal of which they are made, so long as they provide an important insight into the country’s heritage.

- Exceptional finds include rare objects, those which provide a special insight into a particular person or event, or those which can shed new light on important regional histories.

Any such treasure will undergo assessment by a coroner and be subject to a formal process which may result in their acquisition by a museum and being displayed to the public.

However, that’s not the end of the story in relation to finds on church and Diocesan land. The new 2023 Order additionally amends the designation of classes of objects which are **excluded** from the definition of treasure. This means that any objects that are subject to the faculty jurisdiction of the Church of England because of their particular historic, architectural, archaeological or artistic interest found in or on the following land or held in the following way:

- (i) subject to the faculty jurisdiction of the Church of England and
- (ii) held or controlled by an ecclesiastical corporation, Parochial Church Council or Diocesan Board of Finance

are excluded from the general rule.

Therefore, you may be relieved to know that under the new 2023 Order, treasures found on land subject to the faculty jurisdiction or held by an ecclesiastical corporation do not need to be disclosed to the relevant authorities. If you uncover treasure which falls within the ecclesiastical exemption and wish to dispose of it, there are three types of disposal available:

1. disposal by loan where the treasure is placed on long term loan to a museum, art gallery or diocesan treasury;
2. disposal by limited sale where the treasure is sold to a museum, art gallery or diocesan treasury; and
3. disposal by outright sale where the treasure is sold, regardless of who the purchaser is, to whoever will pay the highest price

When discussing the different options of disposal, the [Court of Arches](#) advocated for a sequential approach, with the disposal by loan being the favoured option and disposal by outright sale being used as a last resort.

Solar Panels

Successful applications this year to install solar panels on the roofs of King's College, Cambridge and York Minster offer encouragement to PCCs and all those seeking to implement the [Church of England's Route Map to Net Zero Carbon by 2030](#).

An [article written](#) by Stone King's Senior Associate Frances Godden explores the impact of such faculty decisions and the impact they may have on churches wishing to contribute towards the reversal of climate change.

The Protect Duty

You may have heard of the proposed Protect Duty (otherwise known as Martyn's Law) which seeks to place a requirement on those responsible for certain venues to consider the threat from terrorism and implement appropriate and proportionate mitigation measures.

The Government has now published the draft [Terrorism \(Protection of Premises\) Bill](#). As expected, the legislation treats places of worship as "standard duty" premises, regardless of their capacity, so that compliance obligations are much less onerous than for some other premises.

However, please note, it is proposed that the standard duty will not apply to places of worship that charge admission fees.

The draft bill will be subject to pre-legislative scrutiny by the Home Affairs Select Committee ahead of formal introduction.

Church Representation Amendment Rules

In June this year, General Synod approved amendments to the [Church Representation Rules](#). These came into force on 1 August 2023 under the [Church Representation Rules \(Amendment\) Resolution 2023](#). There are three changes introduced by the Resolution you need to be aware of:

I. Uncontested election of parochial representatives of laity

- The [previous rule](#) was that where the number of candidates did not exceed the number of seats to be filled, each candidate is declared elected.
- However, the amendment provides that where, at an annual parochial church meeting, the number of candidates for the election of parochial representatives of the laity does not exceed the number of places to fill, anybody entitled to attend the meeting **may seek a vote to confirm the election of each candidate**. The candidate is elected if:
 - (i) The resolution to hold the vote is passed by more than 50% (simply majority); and

- (ii) a vote is held as to whether the candidate should, or should not, be elected.
- Therefore, candidates are no longer automatically elected where they are standing for an uncontested seat

2. Declarations of Disqualifications

- The amended rules require any person elected as a parochial representative of the laity to make a declaration that they are not disqualified under the Church Representation Rules either:
 - (i) By virtue of being an employee of the [National Church Institutions](#)
 - (ii) Being included in barred list under the [Safeguarding Vulnerable Groups Act 2006](#)
 - (iii) Being convicted of a violent offence against a child
 - (iv) Being disqualified as a charity trustee
- Failure to make such a declaration will result in the **candidate losing their seat**.

3. Annual Fabric Report

- There is a minor drafting amendment to Form M1 (the form giving notice of the annual parochial church meeting) which now refers to the “*annual fabric report under section 50 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018*” instead of “*the annual report on the fabric, goods and ornaments of the church or churches of the parish*”.
 - This amendment ensures consistency in the references to the fabric report under the [Ecclesiastical Jurisdiction and Care of Churches Measure](#)

Charity Commission Guidance on Social Media Policy

The Charity Commission has published its first-ever [guidance on charities’ use of social media](#). The guidance highlights that “*social media can be a powerful communication tool for charities*” and that “*it can help charities reach a much wider audience, much more quickly, than traditional methods of communication*”. However, the use of social media can also introduce risks such as:

- Increased risk of posting content that is inappropriate or harmful
- Difficulties in retrieving content once it has been posted
- The overlap of professional and personal lives, resulting in the line between professional and personal becoming blurred

The main takeaway from the guidance is that all charities (including PCCs) who use social media are now responsible for agreeing and putting in place a social media policy so that there are internal controls that are appropriate and proportionate for your PCC’s needs. This policy should regulate:

- Conduct of anyone using social media on behalf of the PCC
- How the PCC will engage with the public on social media
- Who is responsible for the day-to-day management of the PCC’s social media and who needs to be involved if things go wrong

Your policy should make it clear that the PCC should not post or share content which is harmful, not in the PCC’s best interests or in breach of the law. Therefore, PCCs need to ensure that their social media use complies with relevant laws such as:

- [UK GDPR rules](#) on publishing personal information or data
- Privacy
- [Copyright laws](#) (particularly relevant if you are using images or artwork on social media)
- Defamation law
- Whistleblower protection
- Equality and human rights including discrimination, victimisation, harassment and freedom of expression

Your social media policy should be reviewed regularly to ensure it is working effectively.

Stone King Partner Rosamund McCarthy Etherington has written a comprehensive article discussing the Charity Commission Guidance which can be accessed [here](#) for further information.

Public Notices for Faculties

Please ensure public notices and certificates of publication are submitted to us at the Registry at the end of the 28-day public notice period. If this is for a standard faculty application, this can be submitted via the online faculty system.

For private faculties, such as grave space reservations, the completed notice and certificate of publication can either be scanned and sent to the Registry via email or the hard copies can be posted to us at The Bath and Wells Diocesan Registry, Stone King, Upper Borough Walls, Bath, BA1 1RG. By ensuring the public notice and certificate of publication are submitted at the end of the 28-day period, the faculty can be issued without further delay – and it saves us having to chase you!

The law quoted in this update is as of September 2023. Please do get in touch if you have any queries at bathandwellsregistry@stoneking.co.uk

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