

New Guidance on Costs in the Consistory Court

With effect from 1 July 2024, new guidance will come into force in this diocese concerning the award of court fees and of legal costs in faculty proceedings. The Guidance comes from the Ecclesiastical Judges Association. It has been adopted by a number of dioceses already. There is no substantive change in the law, but the Guidance seeks to make clear the circumstances in which costs may be awarded. It replaces earlier Guidance from 2011 which was thought to have a chilling effect that discouraged parishioners and amenity societies from participating as parties in faculty proceedings. The document deserves reading in full but in short it clarifies:

- (i) that a petitioner (whether a parish or a private individual) will be expected to pay all the statutory court fees incurred in seeking a faculty, whether it is opposed or unopposed, and whether it is granted or refused.
- (ii) that parties to faculty proceedings will be expected to pay their own costs of legal advice or representation.
- (iii) that adverse costs orders (where a party other than the petitioner is ordered to pay some or all of the court fees, or to contribute to the legal costs of another party) will generally only be made against a party that has behaved unreasonably in the conduct of the proceedings.

The Guidance includes some non-exhaustive examples of unreasonable behaviour, and includes a 'frequently asked questions' section.

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