Department for Culture, Media and Sport
Architecture and Historic Environment Division

The Ecclesiastical Exemption: The Way Forward

July 2005

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1. Foreword

As Minister for Culture, I am delighted to be publishing this report on the future management of England's historic church buildings.

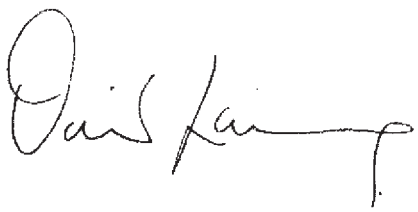
The Government's Heritage Protection Review will make important changes to the way in which we manage the historic environment around us. It will simplify what can be an opaque and bureaucratic system, it will give the public more say in the protection of historic buildings and sites, and it will encourage the partnerships that will be needed for the effective and sustainable long-term management of our historic assets.

Church buildings are a hugely important part of this heritage. From the glories of Canterbury cathedral to the less spectacular but equally beautiful Church of the Holy Trinity in my own Tottenham constituency, they are enduring examples of the finest of this country's architecture. As a former chorister at Peterborough Cathedral Choir School, I can speak first hand of the inspiration and perspective brought about by spending time in these magnificent spaces.

Given this rich heritage, it is vital that the reforms we are seeking to put in place for the management of the historic environment work for ecclesiastical buildings. At the same time, we need to recognise that churches are first and foremost places of worship. We must ensure that we have in place heritage protection systems that enable the role of the church to grow and develop rather than act as a brake on progress.

I am grateful for the views of the many organisations and individuals who contributed to the consultation exercise that has led to this report. I am particularly grateful for the contribution that the exempt denominations in England – the Church of England, the Roman Catholic Church, the Methodist Church, the United Reformed Church and the Baptist Union – have made to developing our recommendations. This consultative approach has resulted in a set of decisions that are both appropriate and workable.

This report represents only a first step in developing detailed plans for the long-term future management of our church buildings, but it is an important step that moves the debate forward. I look forward to working with English Heritage and our other partners over the next year as we test out the ideas in this document and develop our detailed plans for the Heritage Protection White Paper.



David Lammy MP
Minister for Culture

2. Summary of Decisions

Between February and May 2004 the Department for Culture, Media and Sport (DCMS) consulted on the future of the Ecclesiastical Exemption from listed building controls.

We are very grateful for the responses received from a wide range of interested and affected parties.

To summarise the Government's decisions:

i) We are content for denominations which currently operate their own systems of control over historic buildings under the Ecclesiastical Exemption to continue to do so.

ii) The new unified Register of historic sites and buildings in England and the heritage consent system that will bring together the separate listing, scheduling and registration regimes will apply to ecclesiastical sites and buildings.

iii) A key component of the new heritage protection system will be the introduction of a new voluntary management option, provisionally called Heritage Partnership Agreements (HPAs). These will be available for all historic sites, including, in consultation with the exempt denominations, ecclesiastical assets. They will be designed to allow strategic management of sites including defined categories of agreed change.

iv) HPAs will be negotiated between English Heritage, local authorities and the exempt denominations at a level considered appropriate by the relevant denomination. Consultation with other parties, including the National Amenity Societies, should be appropriate in formulating agreements

v) We consider that English Heritage is the appropriate national body to represent national heritage interests in the negotiation and operation of HPAs, given its position as statutory adviser to Government on heritage issues, its national coverage, and the level of knowledge and experience represented. But all HPAs will require the engagement of local authorities who would be partners to such agreements.

vi) Church of England Cathedrals will be encouraged to enter into HPAs specific to their own precincts.

vii) Where a HPA breaks down or any partner withdraws, there will be a staged process that would ultimately lead be a return to normal controls, with an avenue of appeal to the Secretary of State. The Exemption will continue to apply to the building as at present, while the remainder of a site will come under the dual control of the new heritage consent regime and existing denominational arrangements.

viii) Denominations and other faith groups which do not currently operate under the Exemption will have the option to develop HPAs. The Government has no plans to extend the scope of the Exemption.

ix) 'Peculiars' and other special cases will have the option to be managed under HPAs negotiated between English Heritage, local authorities and the relevant denomination in England. The 'Royal Peculiars' (including St George's Chapel, Windsor and Westminster Abbey) do not come under denominational authority or controls and are exempt from Listed Building Consent.

x) The operation of HPAs will be tested through a number of pilot projects throughout 2005-7 in preparation for a Heritage Protection White Paper in 2006 and subsequent legislation.

xi) We will investigate whether there is scope to change the name of the Ecclesiastical Exemption. This could be included in the proposed Heritage Protection Bill depending on the level of support for the change, and any other legislative implications.

xii) The operation of the Ecclesiastical Exemption will continue to be monitored periodically.

3. Proposals in more detail

We acknowledge that there have been real and heartfelt concerns about some of the elements of our original proposals for reforming the Ecclesiastical Exemption as outlined in the 2004 consultation paper. We hope that by demonstrating in this paper how our thinking has moved on, and by clarifying some of the concepts involved, we will be able to allay some of those concerns.

The questions in the 2004 consultation document reflected our proposals for the future of the Ecclesiastical Exemption as they stood at the time. While we outline in more detail at Annex A the responses received, it is important to note that our main proposals have changed significantly from those in the consultation paper. Meetings have taken place between DCMS and representatives of the exempt denominations, and other stakeholders, and we have taken on board many of their comments in formulating our revised proposals.

Motivation for change

Many respondents to the consultation questioned the need for change to the current system of Ecclesiastical Exemption. The Government is committed to retaining the Exemption. We acknowledge that the Exemption has played a valuable role over many years in protecting the country's ecclesiastical historic assets. We also acknowledge that, for the most part, the systems operated by the exempt denominations are equally, if not more, rigorous than secular controls. A great body of knowledge and experience has been built up within the exempt denominations and their partners, and much time and expertise is offered voluntarily. We are keen to build on this knowledge and experience and ensure that it is not lost.

It is important, however, that the future of the Ecclesiastical Exemption is considered within the wider context of the ongoing review of the entire heritage protection system in England. The Heritage Protection Review (HPR) will introduce important changes to the way in which historic sites, including ecclesiastical sites, are protected and managed.

A new designation system will be created that will introduce a single designation for every historic site, encompassing the current separate systems of listed buildings, scheduled ancient monuments, and registered parks, gardens and battlefields. For ecclesiastical sites this may mean, for example, that a parish church site currently incorporating an exempt church building, the archaeology of the churchyard and a listed lych-gate and table-tombs will be designated as a single site.

Linked to this new system of designation, the HPR will introduce a single heritage consent for designated sites, unifying the current systems of Listed Building Consent and Scheduled Monument Consent. For complex sites, or for the management of multiple similar sites in single ownership, there will be the option of statutory management agreements, provisionally called Heritage Partnership Agreements (HPAs). Under HPAs, owners and managers of sites, local authorities and English Heritage, with appropriate consultation, may agree a plan for the long-term management of the site or sites that will remove the need for individual consents for specific works.

The new single heritage consent and the development of HPAs will not remove the need to obtain planning permission where appropriate.

Our plans for reform of the Ecclesiastical Exemption are driven by the need to ensure that the Exemption can operate effectively within this changed context.

HPAs for ecclesiastical sites are the equivalent of the HPAs envisaged for secular sites. They are designed not to impose additional burdens on denominations, but to develop constructive and supportive relationships between the organisations involved in protecting and managing sites. HPAs have the potential to benefit all parties involved. They will provide an opportunity to agree a plan for the long-term management of sites. For denominations, they could provide an opportunity to remove the current burden of 'dual control' whereby historic assets within the curtilage of a church are subject both to secular and denominational controls. HPAs will also be able to remove the need for individual consents for similar works at different sites, where those sites have common characteristics, by laying out the way in which different sorts of works need to proceed.

Within any HPA, the Ecclesiastical Exemption will continue to operate in its present form. Final decisions on the form and content of HPAs have yet to be taken, but it is envisaged that an HPA might include:

- A comprehensive designation of the whole site;
- Summaries of importance, which will define those parts of sites which are of historical, architectural or archaeological importance. This will help to clarify which parts of a site could potentially be altered or developed;
- A future strategic management plan and vision for the whole site as a single entity. This would include repairs identified during quinquennial inspections, and any other planned changes, including those designed to facilitate greater community use of churches;
- A schedule of items that will not need consent;
- A schedule of works for which prior consent has been granted, as long as works are progressed under pre-agreed conditions; and
- A set of any pre-agreed conditions under which works can be progressed.

We acknowledge that HPAs on these terms are unlikely to be workable at denominational level. Instead, we propose that HPAs can be negotiated by denominations at a level they feel appropriate. For the Church of England, for example, HPAs could be made at diocesan level, or at a level that encompasses a group of particular parish churches. For the Roman Catholic Church, the agreements might be at the level of the current Historic Churches Committees, while for the Methodist Church agreements at circuit or district level may be appropriate.

We acknowledge that these reforms represent a major change to the way in which ecclesiastical sites will be managed in future. We have therefore decided that HPAs should be voluntary. Denominations will have the option to develop agreements where they feel them to be advantageous. Alternatively, denominations may continue to operate the Exemption within their own systems in respect of the church building while coming under the proposed new secular heritage controls and any applicable internal controls in respect of the remainder of the site.

DCMS and English Heritage are currently running 15 pilots on secular sites designed to develop and test out the main components of the HPR reforms. All are currently working to develop HPAs. Initial results from these pilots are encouraging and it will now be timely to extend this testing to ecclesiastical sites.

There have been requests for consideration of a change in the name of the Exemption, as some feel it carries an unhelpful implication that denominational systems of control are less rigorous than secular

systems. We will give consideration as to whether this can be easily achieved in the proposed forthcoming legislation.

The role and position of English Heritage

Concerns about the scope for conflicts of interest among English Heritage staff acting as partners both in HPAs and in their current role in denominational systems of control were commonplace in responses to the consultation, particularly those from ecclesiastical respondents. While we are not convinced that the new proposed involvement of English Heritage in the new HPAs represents a conflict of interests, we recognise the need to address these concerns.

English Heritage nominees make an important contribution to denominational heritage bodies such as Diocesan Advisory Committees and Cathedral Fabric Advisory Committees. We intend the proposals in this Review to strengthen this contribution. English Heritage staff are experienced in undertaking a number of different roles in relation to their statutory and advisory responsibilities on secular sites, and this will need to continue under the new system as HPAs become more common.

It is, however, worth remembering that HPAs represent a significant shift in the culture of the management of the historic environment away from the traditional relationship between the regulator and regulated towards a concept of mutually engaged partnership. As the lead body in the sector English Heritage has, as much or even more so than the other partners in such agreements, a vested interest in demonstrating that it is willing and able to work as a partner to achieve mutually agreed objectives. We expect the pilot projects to showcase this new approach and show how any potential conflicts of interest can be resolved.

We acknowledge that there will be resource implications for English Heritage and local authorities both in contributing to the pilot schemes, and in the longer-term work to roll out HPAs. We are in discussion with English Heritage and local authority representatives to resolve how these resource implications can best be managed.

The time limit for reviewing HPAs may vary from partnership to partnership. As with HPAs for secular sites, we would envisage Agreements running for between five and ten years, depending on the needs of the site. This will ensure an appropriate return on the investment in setting up the agreement.

Archaeology

We acknowledge that many denominations have made real progress towards developing robust systems for handling archaeology on ecclesiastical sites.

HPAs will build on this good work. The linking of historic buildings and above and below ground archaeology under a single protection regime is a key element of the HPR, and HPAs will need to encompass both above-ground structures and below-ground archaeology. Where systems are robust and expert knowledge and experience in place, this will be taken account of when HPAs are drawn up. Where adequate provision is less apparent, agreements should include a strategy for enabling denominations to develop or access the right skills and knowledge.

Cathedrals

Church of England Cathedral precincts are, in many ways, similar to other complex historic sites and Cathedral authorities have substantial experience of managing and developing historic assets.

We consider that Anglican Cathedrals and their precincts would lend themselves well to HPAs. Many Cathedrals are already working along these lines through the development of conservation plans and, in some cases, World Heritage Site Management Plans. We will therefore encourage Church of England Cathedrals to develop individual HPAs.

Roman Catholic Cathedrals are, generally speaking, less likely to occupy complex and historic sites. Catholic Historic Churches Committees already have a role in the oversight of works to Cathedrals. We are content for the Roman Catholic Church to determine whether or to what extent the Catholic Cathedrals engage in a site-specific or larger-scale HPA.

Where Agreements break down

HPAs being developed under this review are intended to complement, rather than be an alternative to, denominational systems of heritage protection.

The reforms envisaged here will not impact upon the operation of the Ecclesiastical Exemption. Provided that the individual denominations involved can continue to demonstrate that they operate robust systems of control as described in The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 those parts of their historic sites currently covered under the Exemption will continue to be so.

HPAs are intended to provide a parallel mechanism for denominations to manage their sites and buildings under the new unified Registration system that will deliver more strategic management and include defined categories of agreed change.

There will always be an option to withdraw from an Agreement, but it is to be hoped that no party to an agreement will feel the need to do this, given that each partner will have agreed the contents at the formulation stage. Where any party to the Agreement withdraws, attempts should be made to address the relevant issues, but where it proves impossible to resolve disagreements, the HPA will cease to operate. Sites will revert to normal controls in that the Exemption will continue to apply to the building as at present, while the remainder of a site would come under the new heritage consent regime. Partners to Agreements will have an avenue of appeal to the Secretary of State in this event.

The Planning (Listed Buildings and Conservation Areas) Act 1990 does allow the Secretary of State to make orders that would change the coverage of the Ecclesiastical Exemption. Indeed, this is what happened when The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 came into force. However, both the current proposals, and any return to normal controls upon the breakdown of an agreement, are unrelated to this specific Ministerial power.

The exact arrangements for the development and operation of HPAs will be tested out through the pilot projects in preparation for the 2006 Heritage Protection White Paper.

The future of the Ecclesiastical Exemption will remain under review by DCMS as recommended in the Newman Report[1].

[1] A Review of the Ecclesiastical Exemption from Listed Building Controls, John Newman. September 1997.

Other denominations

As with the statutory management agreements envisaged for secular sites, HPAs will be voluntary. Any denomination wishing to develop an HPA will be free to do so, provided they can secure agreement from English Heritage and the relevant local authorities.

The Government currently has no plans to extend the Ecclesiastical Exemption beyond the existing six denominations.

Peculiars

We intend that denominations should have the option to negotiate Heritage Partnership Agreements for 'Peculiars' and other special cases with English Heritage and the relevant local authorities. English Heritage will also determine which other secular organisations, including representatives of the National Amenity Societies, may need to be involved in the development of any agreements for 'Peculiars' on a case-by-case basis.

The Royal Peculiars were subject to a separate review by a review group set up by Her Majesty the Queen. The review, which reported in 2001[2], recommended that Westminster Abbey and St. George's Chapel should come under the Care of Cathedrals Measure 1990 (the Measure), but this recommendation was not accepted by the Government. These peculiars remain outside the Measure, but are also currently exempt from Listed Building Consent. Westminster Abbey and St. George's Chapel operate an approval system through Fabric Committees that conforms with the Code of Practice for the Ecclesiastical Exemption.

[2] Report of the Review Group on Royal Peculiars, a Lord Chancellor's Department Consultation Paper, July 2001.

4. The wider context

The consultation document *The Future of the Ecclesiastical Exemption – A Consultation Paper for England* was published by DCMS in February 2004. This Review is both a logical progression in the history of the exemption, and an integral part of the Government's wider Heritage Protection Review (HPR).

The Heritage Protection Review

The HPR is proposing radical changes to the way in which this country's historic assets are protected and managed, in order to better preserve them for this and future generations.

The HPR will introduce greater openness, transparency and accountability into the current arrangements for the recognition and protection of historic assets. The reforms will offer owners of historic sites and buildings greater clarity about the significance of the historic assets in their ownership, and their inter-relationship. They will also offer a new, more flexible approach to managing complex sites.

The key changes that will be introduced under the HPR will be:

- a new, unified Register of historic sites and buildings in England that will bring together the separate designations of listed buildings, scheduled ancient monuments and registered parks, gardens and battlefields;
- single Register entries for historic sites, supported by new 'summaries of importance' that will describe the important features of sites;
- the transfer of statutory responsibility for all designation from the Secretary of State for Culture, Media and Sport to English Heritage;
- a new statutory definition of historic assets to support the new Register;
- a new unified heritage consent that will bring together the separate systems of Listed Building Consent and Scheduled Monument Consent; and
- the option of new statutory management agreements, provisionally called HPAs, to govern the protection and management of complex sites and groups of buildings in single ownership.

Some of our finest historic assets are ecclesiastical sites and buildings. The Church of England has between 12,000 and 13,000 listed churches, and over 45% of Grade 1 listed buildings belong to the Church. The Roman Catholic, Methodist, United Reformed and Baptist denominations each have listed churches numbered in the hundreds. While significant parts of ecclesiastical historic sites operate under the current Ecclesiastical Exemption, others do not. The reforms being introduced as part of the HPR will have a significant impact on the way in which all ecclesiastical historic sites are designated, protected and managed.

The Ecclesiastical Exemption

Before 1994 all churches and chapels in England and Wales in ecclesiastical use were exempt from listed building and conservation area controls in respect of:

- any works of demolition, alteration or extension which would affect their character or appearance;

- the compulsory acquisition of buildings in need of repair, and urgent preservation works by a local authority, English Heritage or the Secretary of State; and
- offences in relation to intentional damage.

This situation was reformed through The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 (the Order). The Order confirmed that exemption from listed building and conservation area controls under the Planning (Listed Buildings and Conservation Areas) Act 1990 would only continue for six denominations in England and Wales that had their own approved systems of control. These internal control procedures had to ensure that a body independent of the local congregation or Minister considered proposals for exempted works, and that the decision-making body took advice from experts.

The Ecclesiastical Exemption exempts the following works from Listed Building Consent and Conservation Area Consent:

- works to an ecclesiastical building whose primary use is as a place of worship and which is currently being used for worship;
- works to an object or structure within such a building; and
- works to an object or structure fixed to the outside of such a building or within its curtilage, except where such an object or structure is itself listed.

Total demolition is not exempt, as the building could not be considered to be in use for ecclesiastical purposes. The exemption does not cover below-ground archaeology or works in churchyards.

The denominations which retained the Exemption under the Order are the Church of England, the Church in Wales, the Roman Catholic Church in England and Wales, the Methodist Church, the United Reformed Church, the Baptist Union of Great Britain and the Baptist Union of Wales (when acting in the capacity of trustee).

All other religious denominations and faith groups then became subject to the normal secular statutory controls administered by local planning authorities.

In 1997 the Government commissioned Mr John Newman to investigate and report upon the extent to which the internal systems which each exempt denomination operated were sufficiently robust and effective in their control over exempted works. The Newman Report[3] made several recommendations on how the exempt denominations might improve upon their practices. A follow-up report[4] in 1999 by DCMS and the Welsh Office summarised to what extent each denomination had acted on those recommendations. The report demonstrated differing levels of progress towards implementation of recommendations, with denominations for the most part having accepted, and having made significant moves towards implementing, both common and specific recommendations.

In 2001, DCMS circulated a draft new Ecclesiastical Exemption Order for England only, which was designed to make permanent provision for Church of England peculiars (i.e. buildings outside diocesan jurisdiction) and other special cases which had retained the exemption on an interim basis after the 1994 reform. Detailed discussions on this were not held, and the draft new Order has now been superseded by the HPR.

[3] A Review of the Ecclesiastical Exemption from Listed Building Controls. John Newman. September 1997.
[4] Follow Up to the Review of the Ecclesiastical Exemption (The Newman Report). DCMS and the Welsh Office. January 1999.

Between February and May 2004, DCMS consulted on the future development of the Ecclesiastical Exemption in the context of the HPR. 150 responses were received to the consultation. This publication summarises those responses and sets out the Government's decisions on the way forward.

Devolved Administrations

Historic Scotland and Cadw, the historic environment bodies within the Scottish Parliament and the Welsh Assembly Government, have both undertaken reviews of the operation of the Ecclesiastical Exemption within their respective countries.

In Wales, the Welsh Assembly Government commissioned an independent report into the operation of the system of Ecclesiastical Exemption and this was published on 11 March 2005[5]. Exempted denominations in Wales have been asked to submit their written observations on the report, following which further consideration will be given to future arrangements in Wales.

In Scotland, negotiations with the Scottish Churches Committee, representing the main Christian denominations, and the Convention of Scottish Local Authorities, led to the establishment of a 3-year Pilot Scheme which ran from January 2002 until December 2004. The purpose of the pilot scheme was to assess the effect of applying listed building controls to works proposed to the exterior of churches in ecclesiastical use. The scheme was voluntary and if either the planning authority or Scottish Ministers, through Historic Scotland, was minded to refuse listed building consent, the case was referred to a Decision Making Body belonging to the appropriate denomination. Changes to church interiors continued to be dealt with under self-regulation.

Following the end of the Pilot Scheme, Historic Scotland has written to the Scottish Churches Committee and all Local Planning Authorities seeking their comments on the scheme. Their responses are now being considered with a view to determining the future of the Ecclesiastical Exemption in Scotland.

[5] A Review of the system of Ecclesiastical Exemption in Wales- A report by Peter Howell for the Welsh Assembly Government (2004)

5. Next steps

We hope that this document has successfully highlighted the potential benefits of a partnership approach to managing ecclesiastical historic sites to all parties involved.

There are a number of practical issues relating to the operation of HPAs that will need to be developed and tested out on the ground, in order to provide detailed proposals for the 2006 Heritage Protection White Paper.

DCMS and English Heritage are already running a range of pilot projects at secular sites that are providing valuable information on how HPAs may operate in practice. Nevertheless, there are some issues unique to ecclesiastical sites that will need to be explored. We therefore intend to establish, in partnership with the exempt denominations and others, a small number of ecclesiastical pilot projects designed to develop the HPA approach.

We have begun discussions on potential pilots in a number of areas: Canterbury Cathedral, a World Heritage Site, has agreed to be a pilot, as has Rochester Cathedral. Discussions have taken place with the Anglican dioceses of Bath and Wells and Lincoln about the potential for further pilots. Discussion is also ongoing to identify possible pilots within the Roman Catholic and Methodist Churches. Details of pilots as they are agreed will be published on the DCMS and English Heritage websites.

We appreciate that pilots may take some time to set up. It is clearly important that they are fit for purpose in exploring the practical issues that they will need to examine. We hope that all pilots will commence during the second half of 2005 and run into 2007. This will enable the findings of the pilots to be reflected in the forthcoming Heritage Protection White Paper, due in 2006, and in the subsequent preparation of draft legislation.

The pilot projects are not the only avenue for developing policy on the ecclesiastical heritage in preparation for the White Paper. Throughout 2005-6, DCMS and English Heritage will be engaging in further consultation with stakeholders to refine the proposals in this discussion document further.

Annex A

Responses to the Consultation

The 2004 consultation put forward seven questions on the future operation of the Ecclesiastical Exemption.

We received a total of 150 responses to the consultation. A full list of respondents is provided at Annex B.

This Annex summarises responses to each individual question and sets out the Government's response.

Question 1	***Do you agree that high-level management agreements, entered into separately by each denomination, would be an appropriate vehicle for continuing the operation of the exemption in England? Do you agree that such a step-change would enable denominations to deal more holistically with their own assets where there is a multiplicity of designations on one site and a complexity of various sets of procedures?***

Of 150 respondents, 9 offered no comment on this question.

32 respondents agreed outright, and a further 37 agreed while making further comment, giving 45% of all respondents, or 48% of those who commented, as in favour.

50 respondents disagreed outright, and a further 12 disagreed while offering further comments, giving 41% of all respondents or 44% of those that commented, as against the proposal.

8 respondents made comments which we could not discern as signalling support for or opposition to the proposals.

Key themes in consultation responses to this question were:

- The consultation document did not provide sufficient evidence to support a convincing case for changes to the current system. It did not acknowledge the strengths of the current system nor identify any specific weaknesses.
- The consultation document did not make it clear exactly what is envisaged by the term 'management agreement'.
- Management agreements run the risk of introducing heavy-handed controls that will simply add another layer of bureaucracy to the current heritage protection system rather than improve the protection and management of ecclesiastical historic sites.
- Management agreements should not be introduced as a response to the failings of the Ecclesiastical Exemption. If the exemption is not working, it should be abolished altogether.
- Management agreements would undermine the current role of the Anglican diocesan Chancellors. It is not appropriate that the heritage protection system should impact upon ecclesiastical legislation in this way.
- Any proposals for management agreements must enable denominations to reflect the needs of the living church as well as the heritage.

Question 2	***Do you agree that English Heritage should be the body appointed by the Government both to validate and monitor the operation of the exemption under management agreements entered into with each denomination in England? How should English Heritage fulfil its monitoring role? Should this be by a combination of selected inspection of works carried out and the requesting of stewardship reports on the operation of the exemption throughout each denomination's estate?***

Of the 150 respondents, 13 offered no comment on this question, and 11 offered comment that could not be taken as in favour or against the proposal.

45 respondents either agreed outright or agreed and offered further comment, giving 30% of all respondents, or 33% of those who commented, in favour.

82 respondents either disagreed outright or disagreed while providing further remarks, giving 54% of all respondents, or 59% of those who commented, against.

Key themes in consultation responses to this question were:

- A role for English Heritage in overseeing the operation of management agreements would create a conflict of interests in relation to their representation on denominational bodies (such as Diocesan Advisory Committees) and their role in funding and inspecting some works.
- It is vital that English Heritage remain appropriately resourced in order that this new strand of work does not hinder their efforts in other areas.
- As a heritage organisation, English Heritage's viewpoint would be too secular to enable them to maintain the right balance between heritage and mission in any management agreements.
- Five-year reviews of management agreements would place an unmanageable burden on denominations, local authorities and English Heritage.

Question 3	***Do you agree that all management agreements should include a separate strand on the best practice which should apply to considering the impact of proposed works on the archaeology of the site, not only in relation to the building used primarily as a place of worship, but also in relation to its curtilage?***

124 respondents commented on this question.

61 either agreed outright or agreed with further comment or suggestions, giving 40% of all respondents, or 49 % of those who commented as in favour.

14 (9% of all respondents, 11% of those who commented) disagreed. The remainder of those who commented were not explicitly in favour or against the proposal.

Key themes in consultation responses to this question were:

- Following the findings of the Newman Report, many denominations have already addressed the need for robust systems for the appropriate handling of archaeology on ecclesiastical sites. The consultation report did not provide convincing evidence of further weaknesses in this area.
- Archaeological issues are too expensive for many hard-pressed congregations to have adequate regard to.

Question 4	***Do you agree that it would be sensible to treat Anglican cathedrals as a special group within the framework of the management agreement entered into with the Church of England?***

109 respondents commented on this question.

80 (53% of all respondents, 73% of those who commented) agreed.

7 (5% of all respondents, 6% of those who commented) disagreed.

22 made comments that could not be taken as agreement or disagreement.

Key themes in consultation responses to this question were:

- There is no strong case for treating cathedrals differently from other ecclesiastical or secular buildings.
- If Anglican cathedrals are to be considered separately, Catholic Cathedrals should also be treated as a special group.

Question 5	***Do you agree that it would be an appropriate step to have a mechanism by which denominations whose listed places of worship persistently breach the management agreements would default, through agreed stages, to the secular system of controls? How best could such a process be made fair and reasonable, including having a structured appeal process?***

126 respondents commented on this question.

51 (34% of all respondents, 40% of those that commented on this question) agreed.

27 (18% of all respondents, 21% of those that commented) disagreed

48 (32% of all respondents, 38% of those that commented on this question) made other types of comment

Key themes in consultation responses to this question were:

- Secular systems are less rigorous than internal denominational controls. Given this, some dioceses or denominations might actively seek to breach management agreements in order to default to these less rigorous controls.

Question 6	***Do you agree that it would be appropriate to allow those denominations and faith groups which lost the right to exemption following the 1994 Order to become entitled again to operate the exemption under management agreements entered into with the designated body?***

106 respondents commented on this question. There were no responses from denominations or faith groups that do not currently operate an exemption.

74 respondents agreed with this proposal (70% of those that commented, 49% of all respondents).

14 disagreed (13% of those that commented, 9% of all respondents)

19 made other comments (18% of those that commented, 13% of all respondents).

Key themes in consultation responses to this question were:

- Respondents who were not in favour of retaining the exemption were also not in favour of increasing its coverage to any extent.

Question 7	***Do you agree that 'peculiars' and other special cases could continue to be subject to the exemption in England by means of a management agreement with the appropriate denomination? Do you agree that, in the case of the Church of England, such an agreement should be made centrally with the Council for the Care of Churches, which presently has responsibility for compiling and maintaining the list of 'peculiars' and special cases which have opted to come under the Church of England's Faculty Jurisdiction system? Do you think it would be appropriate for relevant secular umbrella bodies, e.g. the Prison Service, the National Health Service and the Independent Schools Council, to have any input into such management agreements where they affect, for example, chapel buildings in prisons, hospitals and schools which are used as places of worship according to the rites and ceremonies of the relevant denomination?***

98 respondents commented on this question.

60 (61% of those who commented, 40% of all respondents) agreed either outright or with supplementary comments or suggestions.

15 disagreed (15% of those who commented, 10% of all respondents).

28 made other comment.

Key themes in consultation responses to this question were:

- The status of peculiars is already being dealt with. Under the DCA Review, all will have appropriate review and accountability mechanisms within ecclesiastical or secular systems.
- Separate proposals for peculiars will simply add to the complexity of the system being envisaged.
- There is no justification for peculiars to be exempt from listed building controls.

Annex B. Consultation Respondents

Overview of respondents

There were a total of 150 responses received. Not all respondents commented on every question.

Source of response	No of Responses
Amenity Societies The Joint Committee of the National Amenity Societies responded on behalf of all the Amenity Societies, while 2 societies also submitted separate comments. Amenity Societies are secular societies specialising in specific aspects of the architectural landscape or buildings dating from specific periods of history.	3
Church of England Of the 66 Church of England responses, 26 were from Diocesan Advisory Committees (DACs) and 9 were from Cathedral Fabric Advisory Committees (FACs). The Church Heritage Forum responded on behalf of the Church of England as a whole.	66
Other Exempt Denominations (Includes the Church of Scotland who retain the exemption in respect of a small number of listed churches in England)	6
Interest groups other than Amenity Societies	29
Government Departments	1
Local Authorities	27
Personal responses Of which confidential	16 1
Other confidential	1
Other (The Churches Main Committee)	1

Complete list of respondents

The Victorian Society
The Society for the Protection of Ancient Buildings
Chancellor, Southwark Diocese
Dean, Winchester Cathedral
Chapter of Slaisbury Cathedral
Peterborough Cathedral
Archdeacon of Northampton
Chapter Clerk, Durham Cathedral
Chapter Steward, Gloucester
Bradford Diocese
Sheffield Cathedral Chapter
Chapter, St Paul's Cathedral
Dean & Chapter, Canterbury
St Albans Cathedral
Architect and Churchwarden
Truro Diocese (Bodmin and Cornwall)
Assistant Secretary Gloucester Diocese
Chair, Cathedrals Administration and Finance Association
Vicar of Bourne
Ecclesiastical Judges Association
Winchester Diocese
Secretary, Worcester Diocese
St. Wilfrid's Church Egginton
Registrar, Diocese of York/Province of York
Association of English Cathedrals
Diocese of Sheffield
Administrator, Lichfield Cathedral
Archdeacon of Newcastle
Dean of Ely
Bishop & Archdeacon Ludlow
Manchester Diocese
Norwich Cathedral Chapter
Dean, St Edmundsbury Cathedral
DAC Secretary, Salisbury
Secretary Peterborough DAC
Chairman, Rochester DAC
Secretary, Canterbury DAC
Secretary, Sheffield DAC
DAC Secretary, Diocese of Norwich
St. Edmundsbury & Ipswich DAC
Exeter DAC
Newcastle DAC
Guildford DAC
Hereford DAC
Newcastle DAC
Chelmsford DAC
Bristol DAC
Oxford DAC
York DAC
DAC Secretary, Carlisle
Sec Coventry & Leicester DACs
DAC Secretary, Diocese of Derby
Lichfield DAC
Hereford DAC
Birmingham DAC
Lincoln DAC
London DAC
Ely DAC
Chester DAC
Solicitor, Church of Scotland
Methodist Church
United Reformed Church Listed Buildings Advisory Committee
Church Heritage Forum, Church of England
Moderator, Baptist Union of Great Britain
Roman Catholic Church Patrimony Sub-Committee
FAC Secretary, Newcastle Cathedral
FAC Secretary, Norwich Cathedral
Secretary, Rochester Cathedral FAC
Chair, Leicester Cathedral FAC
Secretary, Gloucester Cathedral FAC
Secretary, Worcester Cathedral FAC
Truro Cathedral FAC
Secretary, York Minster FAC
Chair, Sheffield Cathedral FAC
Director, Historic Chapels Trust
The Law Society
Council for British Archaeology
Countryside Agency
Kent Conservation Officers Group
The Chapels Society
Ecclesiastical Architects & Surveyors Association
British Institute of Organ Studies
Institute of Historic Building Conservation, South West Region

The Worcestershire and Districts Change Ringing Association
Campaign for the Protection of Rural England
English Heritage
Institute of Field Archaeologists
Association of Diocesan and Cathedral Archaeologists
Norfolk Museums & Archaeology
Cathedral Architects Association
Central Council of Bell Ringers
Secretary, Royal Archaeological Institute
Historic Churches Preservation Trust
Royal Institute of British Architects
Beds & Herts Historic Churches
Nottinghamshire Historic Churches Trust
Ecclesiastical Law Association
Association of Church Accountants
Chair, Ecclesiastical Law Society
Secretary, Churches Main Committee
Institute of Historic Building Conservation
Friends of Somerset Churches
Dorset Historic Churches Trust
Standing Committee on London Archaeology
Chair, Association of Local Government Archaeological Officers
Joint Committee of the National Amenity Societies
Barnet Council
Rugby Borough Council
Runnymede Borough Council
Southwark Council
Bolton Metro Borough Council
Brighton & Hove City Council
Stoke on Trent City Council
Wokingham District Council
New Forest District Council
Havant Borough Council
Winchester City Council
South Kesteven District Council Conservation Officer
Hinckley & Bosworth Borough Council
Preston City Council
Conservation Officer, Winchester City Council
Cambridgeshire County Council Archaeology Service
Hertfordshire County Council
Gateshead Council
Carlisle City Council
Conservation Officer, Merton
Harborough District Council
Chief Planning Harrow Council
Leicestershire County Council
Essex County Council
Conservation Officer, Babergh
City of Westminster
Doncaster Metropolitan Borough Council
Personal responses 14
Confidential responses 2

Annex C

Code of Practice on Consultations

This consultation has been carried out in accordance with the Government's Code of Practice for written consultation that was applicable at the time the consultation was launched. A revised Code of Practice and updated criteria were introduced with effect from April 2004, but for consultations launched prior to the publication of the new code, the criteria in the previous version remain applicable. Both the current and previous Codes and criteria are available on the Cabinet Office website at http://www.cabinetoffice.gov.uk/regulation/consultation/code.asp

The criteria applicable to this exercise were as follows:

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.

4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.

7. Departments should monitor and evaluate consultations, designating a consultation coordinator who will ensure the lessons are disseminated.

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