

Maintenance and Building Work for your Church - Some Practical Considerations.

When a voluntary body, such as a Church, plans “building” works, it is important to understand that there are additional legal and administrative matters to be considered. Such “building” works are actual work being done to your church, whether as part of a regular maintenance programme, building improvement or development. They can be minor, such as replacing an electrical socket, through actions like cleaning the gutters and downspouts, painting woodwork or walls, to major items such as re-slating part or all of the roof, building alterations and extensions.

An organisation, such as a church, that employs at least one person will usually be deemed an employer and subject to the Health and Safety at Work etc Act 1974. (1)

Under Civil Law, however, a voluntary body with no employees still has a “duty of care” requirement to protect the health, safety and wellbeing of anyone that deals with the organisation; including volunteers, customers, suppliers and the general public. (2) (3)

So, even for minor work, particularly that involving volunteers, the vestry should be aware of the need to comply with the regulations created under the Health and Safety at Work Act, such as the Work at Height Regulations 2005 (4) and the Provision and Use of Work Equipment Regulations 1998 (5).

It should be noted that The Scottish Episcopal Church lists “*Being aware of the statutory responsibilities placed upon Charges in relation to buildings and relevant Health and Safety matters*” as one of the responsibilities of the Property Convener. (6)

For more significant “building” work, and some examples of work that falls into this category can be found in (7), there are some specific legal requirements that must be met - encapsulated in the Construction (Design and Management) Regulations (CDM). Guidance on these regulations can be found at (8). In addition, churches must comply with the SEC Canon 35 conditions, the need for local authority planning permission, building warrants, contract law and insurance considerations. Ecclesiastical Insurance provides much useful information on their website (9) and the Health and Safety Executive have produced a very helpful leaflet “A short guide for clients on the Construction (Design and Management) Regulations 2015” (10). For “building” works by your church read “Vestry” instead of “Client” in this leaflet. The 10 points in the section in the short guide on “What do clients need to do?” are particularly helpful.

Depending on the complexity of the “building” work, but particularly if more than one contractor is involved, CDM advises that a *principal designer* (a Chartered Architect (11) or a conservation accredited Chartered Surveyor (12)) and a *principal contractor* should be appointed. A principal designer is required to plan, manage and coordinate the planning and design work while the principal contractor is required to plan, manage and coordinate the construction work. The principal designer should understand the types of risks involved in the work while the principal contractor or builder should manage the risks on site. This should safeguard the Vestry in any legal action if something were to go wrong and an accident occur.

Complying with CDM will help ensure that no-one is harmed during the work, and that your building is safe to use and maintain while giving you good value. Effective planning will also help ensure that your work is well managed with fewer unexpected costs and problems.

Provincial Buildings Committee
April 2022

- (1) **Brodies LLP** - One of Scotland's leading Law Firms:
<https://brodies.com/insights/health-and-safety/health-and-safety-duties-to-volunteers/>
- (2) **UK Health and Safety Executive** website: <https://www.hse.gov.uk/voluntary/when-it-applies.htm>
- (3) **People Safe** website: <https://peoplesafe.co.uk/resources/blogs/how-to-protect-the-safety-of-volunteers/>
- (4) **UK Health and Safety Executive website**: Working at height. A brief guide.
<https://www.hse.gov.uk/pubns/indg401.pdf>
- (5) **UK Health and Safety Executive website**: Provision and Use of Work Equipment Regulations 1998. <https://www.hse.gov.uk/work-equipment-machinery/puwer.htm>
- (6) **Scottish Episcopal Church website**: <https://www.scotland.anglican.org/vestry-resources/buildings/responsibilities-of-the-property-convener/>
- (7) **The Construction (Design and Management) Regulations 2015**
<https://www.legislation.gov.uk/ukxi/2015/51/regulation/2/made>
- (8) **Managing health and safety in construction. Construction (Design and Management) Regulations 2015. Guidance on Regulations.**
<https://www.hse.gov.uk/pubns/books/l153.htm>
- (9) **Ecclesiastical Insurance** website, "Your responsibility when planning building works", "A simple guide for PCC members" - The advice applies equally in Scotland substituting "Vestry" for "PCC" and "Canon 35 Conditions" for "Faculty".
<https://www.ecclesiastical.com/documents/building-works-made-simple.pdf>
- (10) **Need building work done? A short guide for clients on the Construction (Design and Management) Regulations 2015**
<https://www.hse.gov.uk/pubns/indg411.pdf>
- (11) **The Royal Incorporation of Architects in Scotland** website:
<https://www.rias.org.uk/for-the-public>
- (12) **The Royal Institution of Chartered Surveyors** website:
<https://www.rics.org/uk/>