**Essential Legal and Professional Information**

**for Clergy in the Church of England (Diocese of Lichfield)**

This note contains links to web resources where you can find essential legal information which will help you undertake your ministry and role.

If you are in doubt about any matter please do not hesitate to contact your Archdeacon or the Diocesan Registrar – the contact details are on the Diocesan website.

**Lichfield Diocesan Website: Registry Guidance and Notes**

<https://www.lichfield.anglican.org/registry/>

This page has advice on legal matters relating to marriage, baptisms, churchyards, pastoral schemes, patronage etc.

***If in doubt check here first as these pages are always being added to and updated.***

*In the links to books below, CHP = Church House Publishing. Where possible an online link to the same information is also provided as a hyperlink. If this does not work simply copy and paste into your browser search window.*

**Guidelines for Professional Conduct**

The introduction to the Guidelines says:

The Guidelines are not intended to be a complete compendium covering every aspect of our life and ministry but contain pointers to wider knowledge of other subjects, spiritual, pastoral and legal with which we ought to engage.

<https://www.churchofengland.org/about-us/structure/general-synod/about-general-synod/convocations/guidelines-for-the-professional-conduct-of-the-clergy/guidelines.aspx>

[Guidelines for Professional Conduct pdf download](https://www.churchofengland.org/media/2287115/guidelines2ewebversion.pdf)

**Canon Law**

The Code of Canon Law covers matters to do with the roles and responsibilities of ministers, worship, churches, ecumenical relationships and many other aspects of church life.

*Canon Law of the Church of England* CHP London

<https://www.churchofengland.org/about-us/structure/churchlawlegis/canons.aspx>

David Parrott 2011 *Your Church and the Law* Canterbury Press Norwich

This is a really useful book which covers all kinds of legal aspects to church life and applies them to questions which are often asked.

Legal opinions and other guidance

<http://www.churchofengland.org/about-us/structure/churchlawlegis/guidance.aspx>

**Safeguarding**

The Diocese of Lichfield has a robust safeguarding policy and process which all ministers and parishes must comply with.

Contacts for safeguarding

<https://www.lichfield.anglican.org/safeguarding/>

Resources

<https://www.lichfield.anglican.org/safeguarding_resources/>

For current national guidance

<https://www.churchofengland.org/clergy-office-holders/safeguarding-children-vulnerable-adults/national-policy-practice-guidance.aspx>

**PCCs and Synods**

PCCs are charities with two governing documents.

The PCC Powers Measure 1956 (as amended) This defines the principal function, or purpose, of the PCC as "promoting in the parish the whole mission of the Church". You can find the full text of the PCC Powers Measure in its currently amended form here.

<http://www.legislation.gov.uk/ukcm/Eliz2/4-5/3/contents>

The Synodical Government Measure 1969

<http://www.legislation.gov.uk/ukcm/1969/2>

***Church Representation Rules***

The above Measure contains the original Church Representation Rules which are updated from time to time.

The Church Representation Rules deal with the membership, process of election and procedures for meetings for PCCs, Deanery, Diocesan and General Synods. Appendix 11 contains further important information about PCCs. It is essential that notices of meetings, agendas and election are carried out in a lawful manner.

*Church Representation Rules 2017* CHP London

These are the rules on-line

<https://www.churchofengland.org/about-us/structure/churchlawlegis/church-representation-rules/church-representation-rules-online.aspx>

The Guide to the Churchwardens Measure is a useful summary of the role and duties of churchwardens and addresses issue such as the number of wardens and how and for how long they are to be elected.

[Churchwardens Measure Guide](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiqh_mU65HSAhUmI8AKHbx2D10QFggaMAA&url=https%3A%2F%2Fwww.churchofengland.org%2Fmedia%2F51419%2Fcwguide.rtf&usg=AFQjCNHaddWeCItDxH_M9bZE6hXbu4HemQ&bvm=bv.147134024,bs.2,d.d24)

The Charity Commission offer guidance about all that is involved in running a charity and being a charitable trustee – which includes all PCCs and many other church trusts. <https://www.gov.uk/running-charity>

Church House Publishing 2017 *PCC Accountability: The Charities Act 2011 and the PCC*

*5th edition* CHP London

<https://www.churchofengland.org/clergy-office-holders/pcc-information/pcc-accountability.aspx>

**Fees**

This page sets out the statutory fees that may be charged by PCCs. Neither the incumbent nor the PCC have the power to require fees over and above those that are set. Any “extras” that may be charged eg. for an organist, must be genuinely optional. Reasonable expenses for travel to a crematorium or cemetery may be included.

This page also contains further links to tables of fees and FAQs

[Wedding, Funeral and Baptism Fees](https://www.churchofengland.org/weddings-baptisms-funerals/fees.aspx)

[A Guide to Church of England Fees](https://www.churchofengland.org/media/1562401/2014%2012%209%20%20guide%20to%20church%20of%20england%20parochial%20fees%20(2015).pdf)

**Church Buildings, Church yards etc**

Church buildings (with rare exceptions) come under the Faculty Rules for any works from minor repairs to significant changes and additions. Most work should be undertaken in consultation with the individual church’s architect who will carry out the quinquennial inspection. This inspection is a statutory requirement. The Diocesan Advisory Committee (DAC) makes recommendations to the Chancellor of the Diocese who issues the faculty which gives permission for work to be done. This is a complex area and the first point of contact should be the DAC Secretary who can advise on process and also give information about quinquennial architects and advisers in various aspects of church buildings, organs, bells etc. The Diocesan Website contains contact details under DAC as well as links to the faculty rules and advice notes from the Chancellor or Registry.

<https://www.lichfield.anglican.org/dac/>

The Faculty Jurisdiction Rules 2015 came into force on 1st January 2016

<http://www.churchcare.co.uk/churches/faculty-rules-2015>

The rules set out three areas of works to buildings or property under Faculty Jurisdiction. List A where no permission is needed, list B where the Archdeacon can give permission, and Faculty for everything else.

[www.churchcare.co.uk](http://www.churchcare.co.uk) is the website of the Church Buildings Council and has extensive advice, access to documents, guides and legal measures.

Churchyards also come under Faculty Jurisdiction and in addition to the faculty rules there are Chancellors Regulations for each diocese which cover the nature and form of monuments and memorials and the kinds of approval that an incumbent may give. Outside the regulations a faculty must be sought from the Chancellor.

<https://www.lichfield.anglican.org/documents/churchyard-regulations/>

**Unsafe Memorials in Consecrated Burial Grounds**

*In these notes the term “burial ground” is used for civic cemeteries and for parochial churchyards. Churchyards are consecrated for the interment of human remains as are large areas of most civic cemeteries. By consecration they come under the jurisdiction of the Chancellor of the diocese and any significant work in them requires the authority of a faculty. The “burial authority” will be a department of the local authority in the case of cemeteries and the parochial church council (PCC) in the case of churchyards.*

1. Memorials in burial grounds are the property in the first place of the persons responsible for introducing them into the burial ground and then of the family of the persons commemorated. In practice this often means that no one can be identified as the “owner” of the memorial. However, the burial authority has a duty of care in respect of persons visiting the burial ground and therefore may be liable if a person is injured by an unstable memorial. In a churchyard closed by Order in Council, the duty of care previously exercised by the PCC will have devolved on the local authority.
2. The authority should establish a routine of regular safety inspection. Although the use of standardised testing equipment (“Topple-tester”) is sometimes recommended, the Ecclesiastical Insurance Group, which insures most Anglican churchyards, does not require its use. A reasonable manual pressure applied to the top of the memorial by an adult in good health is in their opinion sufficient test.
3. The guidance which follows will assist in the presentation of a petition for faculty. It is essential that the authority is able to demonstrate to the Chancellor that all reasonable steps have been taken to identity owners and to advertise the intention to carry out safety procedures. Apart from anything else, the faculty provides legal protection to the authority in the event that an individual subsequently complains about work done to a particular memorial.
4. The authority should resolve on a policy for dealing with any memorials found to be unstable: this policy will include:

* Marking off the memorial with tape and placing a warning sign on it
* Placing an invitation to the owner of the memorial to contact the authority within a certain time.
* Advertising as widely as possible (local newspaper, parish magazine, local shops etc) the intention to take steps to make safe memorials and inviting anyone with memorials in the burial ground to contact the authority.
* Taking reasonable steps to ensure that the memorials are made safe. There is no requirement to go to great expense (though some historic memorials may be thought to add character to the burial ground and therefore might be worth restoring): laying flat on the grave is the least costly though it has to be said that a burial ground with dozens of prostrate memorials does not look attractive.

*Correct as of 01.03.16 These notes are intended only for general guidance and more detailed advice should be sought from the Diocesan Registry, FBC Manby Bowdler LLP, Routh House, Hall Court, Hall Park Way, Telford, Shropshire TF3 4NJ*

Church Buildings Council 2012 *The Churchyards Handbook* CHP London

Charles Mynors 2016 *Changing Churches – a Practical Guide to the Faculty System*

Bloomsbury, London

**Insurance**

Ecclesiastical Insurance provide a wide range of advice related to church buildings and activities. You will find information about good practice and practical risk assessment. The advice embraces activities and matters inside the church and also outside such as foodbanks and outings. Many of the initial links signpost to more detailed advice notes.

<http://www.ecclesiastical.com/churchmatters/index.aspx>

**Holding Office under Common Tenure**

If you hold your office under Common Tenure (most parochial clergy) the essential conditions will be set out your Statement of Particulars. Queries should be addressed to the HR adviser in the Diocese (Contact the Diocesan Office). The full Measure and Regulations are to be found through these links.

Ecclesiastical Offices (Terms of Service) Measure 2009

[Terms of Service Measure](https://www.churchofengland.org/media/56729/eotos%20measure2009.pdf)

Ecclesiastical Offices (Terms of Service) Regulations 2010 (composite)

[Terms of Service Regulations 2017](https://www.churchofengland.org/media/4031179/terms-of-service-regulations-updated-to-july-2017.pdf)

The procedures for clergy discipline apply to all clergy. The procedures for capability and grievance apply primarily to clergy on Common Tenure but there is no reason why the processes contained in the relevant codes of practice should not be used as good practice in all cases where this is agreed upon.

<http://www.commontenure.org/>

Clergy Discipline Measure 2003

<https://www.churchofengland.org/media/3783490/cdm-2003-as-amended-by-scdm-jan-2017-as-published.pdf>

Clergy Discipline Measure 2003 Code of Practice

<https://www.churchofengland.org/media/3783516/code-of-practice-as-published-jan-2017.pdf>

Clergy Discipline Measure 2003 Rules

<https://www.churchofengland.org/media/3783503/cdrules-as-amended-published-jan-2017.pdf>

Capability Procedure Code of Practice

<http://www.churchofengland.org/media/56741/10%204%2027%20Capability%20Code%20of%20Practice%20-%20FINAL.pdf>

Grievance Procedure Code of Practice

<http://www.churchofengland.org/media/56747/grievanceprocedure%20cop.pdf>

**Marriage**

The law regarding marriage and who may marry is complex and the Diocesan Registry keep up to date advice available here.

<https://www.lichfield.anglican.org/guidance_on_marriage_and_baptism/>

*Anglican Marriage in England and Wales* The Faculty Office of the Archbishop of Canterbury 2010

This is an essential booklet which can be obtained by contacting the Registry.

Marriage Measure 2008 – guidance from the House of Bishops

<http://www.churchofengland.org/media/1286660/cemmguidance.pdf>