

**GENERAL SYNOD**

**Report of the Simplification Task Group**

The attached report was commissioned by the Archbishops' Council and the Church Commissioners in November 2013. It was considered by both bodies at their meetings in November 2014 and by the House of Bishops at its meeting last month.

All three bodies welcomed the report, endorsed its recommendations and agreed that there should be a further phase of work for the Group. They also concluded that the report should be published and that the Bishop of Willesden, as Chair of the group, should move a motion at the February Synod seeking a mandate for preparing the various pieces of amending legislation that will be necessary to give effect to the recommendations.

William Fittall  
Secretary General

12 January 2015

## Executive Summary and Recommendations

- (i) The Simplification Group was charged with bringing forward options for simplification and deregulation in response to concerns about legislative constraints to mission and growth:

*“To consider concerns raised about the constraints caused to the mission and growth of the Church of England by existing canons, legislation, regulations and procedures and to bring forward options and proposals for simplification and deregulation, and to report back to Archbishops’ Council and the Board of Governors of the Church Commissioners by November 2014”.*

- (ii) In taking on this work, the Group was fully seized of the importance of the mission and growth agenda in the Church today. The first quinquennial goal is ‘to take forward the spiritual and numerical growth of the Church of England – including the growth of its capacity to serve the whole community of this country’,<sup>1</sup> and the importance of this goal has been emphasised by a number of reports since. The Group’s deliberations have been significantly shaped by this missionary agenda, and its recommendations tested against it.
- (iii) We are realistic that deregulation and simplification on its own will not bring about a renewal of mission of the Church of England or the re-evangelisation of our nation. Only prayerful missional engagement energised by the Spirit will do that. However, we are convinced that the work of simplification can make a vital difference and contribute to the wider missionary task. The culture of the Church of England in framing legislation over a number of years has been predicated on building in safeguards for all possible eventualities. This has led to the enactment of a plethora of legislative complexity which, we believe, acts as a barrier to experiment and innovation – and thus frustrates the Church’s missionary calling.
- (iv) It is not our purpose to remove important checks and balances, nor undermine rights and duties. But we do believe (and Diocesan consultation responses underline this) that the Church has been over-cautious when framing legislation, with the result that in some instances it is unhelpfully restrictive in facilitating changes in the way in which we staff our existing parishes or carry through pastoral reorganisation or new mission initiatives.
- (v) Our recommendations, summarised below, are intended to address three levels of concern:
- Immediate major hindrances to mission, including pastoral reorganisation and diocesan/parochial management.
  - Weighty and worthy bureaucracy and procedure that is of its time, but is no longer fit for purpose.
  - Matters which generate redundant paperwork which could easily be simplified.

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<sup>1</sup> GS 1815 Challenges for the New Quinquennium (2011).

- (vi) In the time constraints faced we have focussed largely on the Clergy (Terms of Service) Measure (and Regulations) 2009 and the Mission and Pastoral Measure 2011. We highlight proposals both for immediate action and for legislative change, while also identifying other areas for further work. We recognise that some of the proposed changes may seem minor or technical in nature. Nevertheless, we believe that, taken together, these proposals are an important (and indeed urgent) first step in enabling mission and growth to be served by the Church's legislation and not frustrated by it.
- (vii) If accepted, implementation of many of our proposals will require synodical time. Changes to Regulations can be achieved by a one stage procedure; changes to Measures and Canons will need several stages of work. We recommend that the proposed changes to the Clergy (Terms of Service) Regulations are brought to the Synod in the current Quinquennium. This will address major concerns raised by dioceses about flexibility and deployment.
- (viii) We believe, however, that the recommended changes are only a first step in the simplification which is necessary to give the Church the flexibility it needs for the urgent missionary task. We therefore propose that the work of the Simplification Group continues in the 2015-2020 Quinquennium, working through a substantial programme of change that is likely to be more complex and in some cases more controversial, but which will set in place a simpler and clearer legislative framework within which parishes, dioceses and the National Church can fulfil their missionary calling. In particular, we propose that the next stage should include wider consultations with parishes in order to develop further proposals addressing specific local needs identified locally by them, as well as proposals responding to diocesan concerns.

## **Summary of Key Recommendations**

### **Clergy (Terms of Service) Measure 2009 and Regulations**

#### ***Regulation 29 and short-term appointments***

1. Amend Regulation 29 to extend the circumstances in which offices under common tenure may be held for a fixed or limited term by allowing:
  - a. Extension (for no more than a year) of the short-term licence of a curate who has satisfactorily completed IME 4-7 but is still looking for a post of first responsibility.
  - b. Appointment of an assistant curate as a locally supported minister provided he or she is not priest-in-charge of the benefice.
  - c. Appointment to interim or turnaround posts for three years (renewable once only). Before designating a post as an interim appointment the Bishop must obtain the consent of the DMPC, office holder (if any) and PCC.
2. The Archbishops' Council to issue guidance on the designation of posts as interim posts.

*(Paragraphs 15 to 26)*

### ***Statements of Particulars***

3. Streamline Statements of Particulars (SoPS) for Self-Supporting Ministers, including by:
  - a. Simplifying arrangements for sickness reporting and time off.
  - b. Amending Regulation 27 so that the need to provide a medical certificate applies only to clergy in receipt of a stipend.

*(Paragraphs 27 to 29)*

### ***Capability Procedure***

4. We do not propose changes to the capability procedure, which rightly reflects best practice in the modern world. The accompanying guidance, however, needs to be revised to emphasise that:
  - The periods for improvement (as distinct from the expiry of warnings) do not have to be lengthy
  - Using the procedure should be a last resort
  - Full use needs to be made of other ways of helping clergy to be more effective such as MDR.

*(Paragraphs 30 to 34)*

## **Mission and Pastoral Measure 2011**

### **Pastoral Reorganisation**

#### ***New form of Bishop's Pastoral Order***

5. Introduce a new class of Bishop's Pastoral Order covering a range of "administrative" decisions which do not significantly impact on the legal rights of individuals or the status of churches (e.g. creation or alteration of archdeaconries or deaneries, dissolution of vacant archdeaconry, alteration of benefice or parish names, termination of group ministries). Remove the right of statutory interested parties to be consulted about such decisions and to make representations to the Church Commissioners.

*(Paragraphs 41 to 43)*

#### ***Streamlined consultation on draft Schemes and other Pastoral Orders***

6. Streamline consultation of statutory interested parties on substantive pastoral reorganisation, limiting this to two stages: initial consultation on the issues, followed by consultation on proposals in the form of a draft Scheme or Order.

*(Paragraphs 44 to 45)*

#### ***Proposals implementing a deanery plan***

7. A statutory presumption in favour of proposals to implement a Deanery Plan validated by the DMPC unless material considerations dictate otherwise. For such proposals consultation should be on the draft scheme only (initial consultation stage on the issues is not required).

*(Paragraphs 46 to 48)*

***Arrangements for drafting and publishing draft schemes***

8. Drafting, publishing and consulting on draft schemes to be undertaken either by the Diocese or the Church Commissioners, as the Bishop desires.

*(Paragraph 49)*

***Mode of consultation***

9. Provide for notices to be read out at services in affected parishes, and draft schemes publicised on the Church of England website (with links on diocesan websites), to improve consultation and engagement.

*(Paragraph 50 to 51)*

***Representations and Public Hearings***

10. Simplify arrangements for dealing with representations in respect of draft Schemes and Orders by:
  - a. Endorsing the Church Commissioners' emerging proposal to simplify its public hearing process through a pre-hearing sift to determine cases which can be dealt with on the paperwork.
  - b. Giving the Commissioners a power, exercisable with the Bishop's consent, to amend a Scheme or Order, having considered representations, and to determine whether a further second-stage consultation is required.

*(Paragraphs 52 to 53)*

***Teams and Groups***

11. Streamline the provisions for teams and groups, including removal of enabling provisions for matters more suitably dealt with by licence, and of administrative requirements, such as holding meetings, which do not really belong in legislation.
12. Conduct a wider review of the operation of teams and groups, particularly in the rural context, taking into account other emerging forms of collaborative ministry.

*(Paragraphs 54 to 57)*

**Church Buildings**

13. In respect of church buildings:
  - a. Amend Canon B14A to enable the Bishop to direct the use of a building for occasional services of worship only to support the concept of "festival churches".
  - b. Support the establishment of a group to review issues regarding church buildings and, in particular, the options for change on how closed church buildings are dealt with.
  - c. Streamlining the consultation arrangements for draft schemes providing for alternative uses for closed church buildings by removing the need for statutory

public consultation on such proposals (except where there are burials within the building or any surrounding churchyard).

- d. Simplify the provisions dealing with membership of the Churches Conservation Trust to enable the appointment of additional trustees.  
*(Paragraphs 58 to 64)*

### **Bishops' Mission Orders**

14. Simplify the arrangements for Bishops' Mission Orders by:

- a. Streamlining the recommended practice on initial exploration to address concerns regarding its complexity.
- b. Removing the requirement for an initial order to operate for no more than five years.
- c. Removing much of the prescriptive provision relating to the role of the Visitor.
- d. Providing additional guidance on matters such as charitable status and representation.
- e. Serving notice of BMOs on the Church Commissioners to facilitate sharing good practice and collation of statistics.

*(Paragraphs 65 to 74)*

### **Compensation for loss of Office (by pastoral reorganisation)**

15. Amend the existing provisions for compensation for loss of office as a result of pastoral reorganisation by:

- a. Replacing the existing compensation provisions calculated on future service and financial loss with compensation based on the length of past stipendiary ecclesiastical service in years.
- b. Providing a lump sum cash payment based on one month's stipend for every year of service, capped at twenty one months' stipend in total (but providing for a minimum cash payment of six months stipend regardless of length of service).
- c. Providing suitable housing for a period of six months.
- d. Compensating clergy for loss of pensionable service as part of the lump sum.
- e. Applying the compensation arrangements to all office holders regardless of when they took office including clergy on historic freehold.

*(Paragraphs 75 to 84)*

## **Other Measures/ Areas**

### **Endowments and Glebe Measure 1976**

16. Remove the requirement to consult incumbents and PCCs on glebe transactions.  
*(Paragraphs 85 to 86)*

### **Patronage (Benefices) Measure 1986**

17. In relation to the Patronage (Benefices) Measure 1986:
- a. Provide for the right of presentation to lapse to the Diocesan Bishop rather than the Archbishop of the Province after nine months.
  - b. Examine the scope for further streamlining of processes and paperwork. Other aspects of the Measure could also be simplified and brought up to date.
  - c. Consider whether a more fundamental review of the Measure should be undertaken.

*(Paragraphs 87 to 88)*

### **National Clergy Payroll**

18. The Church Commissioners to provide clarification and improved guidance on when a post is an office and thus eligible to be paid through the clergy payroll (in addition to further planned discussions with HMRC on the tax implications of HLC and provided housing where clergy are not full time office holders).  
*(Paragraphs 89 to 90)*

### **Availability of Guidance**

19. Encourage further consideration of how best to publicise the availability of guidance on legislation and encourage greater ease of access through the Church of England website.  
*(Paragraphs 91 to 92)*

## Background

1. The Simplification Group, established by the Archbishops' Council and the Church Commissioners in January 2014, is one of several task groups working in the context of the objectives identified by the Archbishops' Council and House of Bishops early in the life of the present General Synod, to promote the spiritual and numerical growth of the Church; to contribute to the common good; and to reimagine the Church's ministry.
2. The Group's particular focus is to develop proposals for simplification and deregulation, with the aim of facilitating the mission of the Church.

## Membership

3. The Group's membership was as follows:

The Right Reverend Pete Broadbent, Bishop of Willesden (Chair)  
The Venerable Ian Jagger, Archdeacon of Durham (RACSC)  
The Reverend Dr Philip Plyming, Vicar of Holy Trinity, Claygate (RACSC)  
The Reverend Canon Bob Baker, Team Rector, Thetford (Commissioners' Board of Governors)  
Mr Simon Picken QC (Commissioners' Board of Governors)  
Canon Michael Arlington (DBF Chairman, Southwell and Nottingham)  
Mrs Julie Jones (Diocesan Secretary, Lichfield).

## Terms of Reference

4. Our adopted Terms of Reference were:

*"To consider concerns raised about the constraints caused to the mission and growth of the Church of England by existing canons, legislation, regulations and procedures and to bring forward options and proposals for simplification and deregulation, and to report back to Archbishops' Council and the Board of Governors of the Church Commissioners by November 2014".*

## Context of the Simplification Agenda

5. The Simplification Agenda is rooted in the missionary calling of the Church. This calling was restated in GS1815 *Challenges for the New Quinquennium* and in particular the first goal, 'to take forward the spiritual and numerical growth of the Church of England – including the growth of its capacity to serve the whole community of this country'. This goal has been widely owned across the Church, and has resulted in significant research being into the factors associated with church growth.<sup>2</sup> It has also contributed to the work of the Spending Plans Task Group (SPTG), working on behalf of the Archbishops' Council and Church Commissioners. In its discussions with nearly all the dioceses the SPTG had identified frustrations with particular legal and other processes, seen as real obstacles and constraints to the pursuit of growth, notably:

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<sup>2</sup> See *From Anecdote to Evidence, Findings from the Church Growth Research Programme 2011-2013*



- The changes made to the processes of **pastoral reorganisation/church closure** following the Toyne Committee report did not go far enough, and were seen as too slow and cumbersome.
  - The full potential of **bishops' mission orders** had yet to be realised partly because the legislation created excessively complicated processes surrounding them.
  - The **compensation provisions** in the Mission and Pastoral Measure in the case of pastoral reorganisation (and the Vacation of Benefices Measure 1977 for pastoral breakdown) were unusably generous in the case of displaced incumbents who did not obtain a subsequent office as well as out of line with what now applied to licensed clergy under common tenure, which were limited to no more than 12 months.
  - The ability to make **short term appointments** in turnaround situations was too constrained.
6. Recognising that addressing such obstacles were beyond its remit, the SPTG reported these concerns to the Archbishops' Council and recommended that a group be set up to examine what it regarded as an urgent need for the mission of the Church.
  7. It is thus important to note that the context for this Group's work has not been a desire to reallocate financial resources, nor to redress any distribution of power or responsibility within the Church, but rather to facilitate the mission and growth of the Church, a task which is in need of urgent attention at the current time.

### **The Group's Approach**

8. A Church governed by law as well as grace needs to take steps to ensure that its legal framework acts as an instrument of facilitation in promoting mission and growth. Our aim was to be bold and radical in ensuring legislation is fit for purpose, addressing as a matter of urgency and priority the key concerns identified, but also promoting other measures designed to streamline processes and remove unnecessary procedures. While we sought to hold in mind the various tensions that contributed to the legislation's original complexity, we have unashamedly sought to give priority in our decision making to the need for legislation that works for the mission and growth agenda and not against it.
9. In our recommendations we highlight proposals for changes to legislation but also to guidance and recommended good practice. Some of these can be implemented immediately, others will need Synodical approval; we also identify areas where further work is needed.

### **Diocesan Consultation**

10. At the outset we carried out a consultation (including Bishops, Archdeacons, Diocesan Secretaries, DBF Chairs, and Diocesan chairs of Houses of Clergy and Laity) deliberately couched in wide terms, inviting views on aspects of existing legislation which might be considered an impediment to the mission of the Church.

11. Some 50 replies were received, indicating significant frustration in relation to a wide area of legislation, demonstrating both a need and appetite for this task. In some cases the responses highlighted a misunderstanding of current processes and legislation, requiring an educational as well as a legislative response. A number of respondents also underlined concerns regarding a narrative of ‘managing decline’, rather than one promoting mission and growth, reinforcing the case for further training and development for senior leadership teams. A tabulated summary of the main issues raised and our proposed responses is in Annex 1.
12. The major areas identified for simplification reinforced the concerns previously reported by the SPTG, namely:
- The restricted ability to make short-term appointments in circumstances demanded by a mission agenda.
  - The length of the process for pastoral reorganisation and church closure and repeated consultation procedures.
  - The perceived complexity of Bishops’ Mission Orders.
  - The unusably generous compensation provisions for loss of office.
13. Where issues raised pertained to work being carried out by the other Task Groups, or elsewhere, we have directed the comments in the appropriate direction.

### **Ecclesiastical Offices (Terms of Service) Measure (and Regulations) 2009**

14. While still relatively early days for common tenure, one of the most pressing issues raised in our consultation (in 71% of responses) were the constraints on making short term appointments under common tenure to meet particular needs, such as to facilitate turnaround ministry. There were also requests to streamline Statements of Particulars, notably for SSMs, while several responses raised concerns regarding early experience of the Capability Procedure. We address each area in turn.

### **Regulation 29 and short-term appointments**

Recommendations

#### ***Regulation 29 and short-term appointments***

- 1. Amend Regulation 29 to extend the circumstances in which offices under common tenure may be held for a fixed or limited term by allowing:**
  - a. Extension (for no more than a year) of the short-term licence of a curate who has satisfactorily completed IME 4-7 but is still looking for a post of first responsibility.**
  - b. Appointment of an assistant curate as a locally supported minister provided he or she is not priest-in-charge of the benefice.**
  - c. Appointment to interim or turnaround posts for three years (renewable once only). Before designating a post as an interim appointment the Bishop must obtain the consent of the DMPC, office holder (if any) and PCC.**
- 2. The Archbishops’ Council to issue guidance on the designation of posts as interim posts.**

*A first draft of an amendment to Regulation 29 is provided at Annex 2.*

15. We recognise that the issue of short term appointments impacts on one of the underlying principles of the Terms of Service legislation, which was to provide a degree of certainty and legal protection for licensed clergy who previously had no security of tenure, thus ensuring that all clergy office holders, as far as possible, were on common terms and conditions. Removing all limitations on the circumstances in which short-term appointments could be made would seriously undermine such protection, but we have identified a small number of additional circumstances in which we propose there should be scope to make short-term appointments, where no such provision presently exists, in order to address specific needs.
16. We support the case for flexibility in extending the training post of a curate who has successfully completed IME 4-7 but has not yet secured a suitable post of first responsibility (Recommendation 1a). Such an extension should be up to a maximum of one year, at the Bishop's discretion, and is intended both to facilitate the retention of clergy who might be offered a post during this additional year and to offer them continuing nurture and support to help maintain confidence levels. This is very much a separate issue to the careful management of those situations where problems emerge during the training post and need to be addressed.
17. Several responses also suggested that the wording of regulation 29 for locally supported ministers (LSMs) where local funding is not necessarily guaranteed long term was not flexible enough, thereby significantly restricting the scope for such appointments. At present fixed term appointments are allowed for assistant curates who are not in sole or principal charge of the parish in which they serve, provided that the PCC has entered into a legally binding arrangement with the DBF that the parish will pay all the costs (including stipend, pension and housing). We propose a legislative amendment enabling the appointment of an assistant curate as an LSM provided he or she has not been appointed priest-in-charge of the relevant benefice (Recommendation 1b). We recognise that while a licence would technically assign the title of 'assistant curate', the role itself could operate more widely. While this would not affect incumbents, team vicars or others of incumbent status, it could apply to an LSM assistant curate given responsibility for, for example, a daughter church, or a single parish within a multi parish benefice, or exercising a specific sector ministry.

### **Interim or turnaround Posts**

18. We support the argument for introducing short-term appointments to provide interim or turnaround ministry in appropriate circumstances. This has been raised by many dioceses responding to the needs of places where there are problems to repair, or possibilities to explore, for which a short-term appointment would be helpful.
19. In wishing to facilitate such ministries we did not consider it feasible to define in legislation all the circumstances or types of parish, in which an interim appointment might be appropriate, without effectively removing the protections that Common Tenure was designed to give. We also consider it would be unhelpful to propose legislative provision that effectively defined a parish as "failing" or being given a last chance, or circumstances of "pastoral breakdown".
20. Instead our approach is to set a number of pre-conditions which need to be met before an office may be designated an interim post, namely:

- The bishop must obtain the consent of the Diocesan Mission and Pastoral Committee (the DMPC).
  - The designation must be in writing signed by the bishop, and must have the consent of the office holder (if any) and the PCC (or each PCC) in the benefice.
  - Any such appointment may not be made for more than three years (renewable only once unless someone has been appointed to the office on a permanent basis between interim appointments) (Recommendation 1c).
21. Provision is also made for the Archbishops' Council to issue guidance about the designation of posts as interim posts (Recommendation 2). Although we did not consider it feasible to define these posts with sufficient precision within the legislation itself, we propose that the Archbishops' Council should produce guidance indicating, at least in general terms, the type of case in which such an appointment might or might not be appropriate.
22. We discussed the practicalities of recruiting people to turnaround roles, which are distinctive and require particular skills, and the possibility of longer term appointments on the basis that the post-holder would serve in a succession of turnaround situations. However, many clergy have family constraints and may not be able to take on successive roles of interim ministry, even were it the case that this did not necessitate living in the parish concerned. Overall it is likely that the number of people taking on a turnaround position will be small enough so as not to pose a threat to the Common Tenure model.

#### *Other aspects*

23. We also explored the practice of project-based employment contracts in order to see if this would shed any light on the options available for fixed term office. We concluded, however, that it would be sensible to avoid trying to create an additional project-based category of office under Regulation 29, as it would be likely to lead to confusing a particular project, which is likely to be tied to employment legislation, with parochial office.
24. One diocese proposed a new category of short-term, time-limited post for Self Supporting Ministers (SSMs) but, given the nature of SSM, we were not persuaded that such legislative change was appropriate. SSMs were mentioned in several other responses, including a suggestion that some (though not all) should be outside the scope of Common Tenure. This can already happen: if an SSM is providing Sunday help on an occasional basis, it may be more appropriate to issue PTO rather a licence. If, however, an SSM is part of the ministry team in a parish it is important to ensure that the protections for the parish conferred by Common Tenure are available. An SSM undertaking a substantial ministry also needs the support of Ministerial Development Review and appropriate training). Guidance on the deployment of clergy on licences and permission to officiate has recently been issued and is provided at Annex 3.
25. The issue of sponsored posts was also raised. We noted that Regulation 29(4)(b) already carried some inherent flexibility, effectively requiring only part of the funding to be met from sponsorship sources to qualify under this criterion. Given the scope for creative use of sponsorship funding we propose no amendment to this provision.

26. Overall we believe that the changes to the Clergy (Terms of Service) Regulations identified above will increase the capacity of those in oversight of a parish or area to take, in consultation with others, radical and creative decisions for the future mission and growth of that community. In particular, providing a proper framework for interim ministry will enable creative and tailored leadership solutions for parishes in need of particular support. We recommend that these proposals should be taken forward immediately, within the lifetime of the present Synod.

### *Statements of Particulars*

#### Recommendations

##### ***Statements of Particulars***

- 3. Streamline Statements of Particulars for Self-Supporting Ministers, including by:**
  - a. Simplifying arrangements for sickness reporting and time off.**
  - b. Amending Regulation 27(2) so that the need to provide a medical certificate applies only to clergy in receipt of a stipend.**

27. Arising from our consultation was a proposal that SoPs for SSMs should be simplified. In practice the model SoPs provided by the Archbishops' Council Human Resources department are not prescriptive and are intended to be modified to fit particular circumstances: it is already possible to provide – for example – that the work and leave arrangements of an SSM will be agreed from time to time with the incumbent.
28. A revised streamlined draft SoP can be found at Annex 4 and has already been circulated to dioceses.
29. We have also reviewed the sickness reporting requirements for SSMs in Regulation 27(2). Although introduced with the best of intentions – to ensure that the diocese was alerted to pastoral needs arising from long-term sickness – we accept that the requirement for SSMs to report any period of illness of longer than seven days is unrealistic. The discrepancy between requirements to report sickness and provide medical certificates, and the reality in practice, risks damaging the overall credibility of the reporting system. We recommend a small legislative change to Regulation 27(2), so that the need to provide a medical certificate applies only to those clergy in receipt of a stipend. Regulation 27(3) requires notification of “a responsible person or authority” of the absence. Given the range of roles carried out by SSMs, flexibility is needed in determining who this should be, to enable more local designation: the SOP itself should specify who the “responsible person” is to be in each case. We believe a lighter-touch approach to SoPs for SSMs will encourage a culture where there is better balance between local and diocesan oversight.

## Capability

### Recommendation

#### Capability Procedure

4. **We do not propose changes to the capability procedure, which rightly reflects best practice in the modern world. The accompanying guidance, however, needs to be revised to emphasise that:**
  - **The periods for improvement (as distinct from the expiry of warnings) do not have to be lengthy**
  - **Using the procedure should be a last resort**
  - **Full use needs to be made of other ways of helping clergy to be more effective such as MDR.**

30. The capability procedure under the 2009 Measure has attracted criticism as being too long, complicated and expensive, but we have also received views that the Church is reluctant to address under-performance. Feedback from a survey of diocesan HR advisers highlights that to date there has been only limited use made of the capability procedure, with dioceses often wary of the procedure, but so far unfamiliar with how it might actually operate in practice. While such concerns need to be tackled at an organisational cultural level, we also affirm the importance of promoting good practice within the adopted framework of Common Tenure.
31. The capability procedure takes the form of a Code of Practice, approved by General Synod, which follows the ACAS Code of Practice for employees and, as such, it necessitates particular processes, including provision for Appeals. The Archbishops' Council has also produced supporting guidance and we have identified scope for the latter to be made clearer. This revised guidance will need to emphasise that measures such as informal chats and providing feedback, mentoring and training can - and should - be pursued before taking action under the procedure, even at the informal stages. It will also need to highlight the scope for setting relatively short time limits for the periods given for improvement and provides additional advice on how information-gathering, monitoring and setting appropriate time-frames before the procedure is instigated will, if done properly, facilitate the procedure, even if use has to be made of them again when the procedure is subsequently invoked.
32. As we reflected on the current arrangements and experience of them to date, we noted that the capability procedure reflects best practice in the modern world. We are not, therefore, minded to propose changes to the procedure beyond providing greater clarity in the accompanying guidance. This will need to emphasise that using the procedure, even in its informal stages, is a last resort and should only be undertaken when other attempts have failed. A diocese is unlikely to find the capability procedure helpful if it has not already committed itself to doing Ministerial Development Review thoroughly in a way that challenges and stimulates clergy as well as supporting them. If MDR is properly resourced, it is likely that, in at least some cases, potential issues will be identified, prevented and addressed without needing to activate the procedure.

33. Constructive ways of engaging with clergy in the performance of the duties of their office include developing a strong learning culture through use of MDR and access to training opportunities through use of MDR and access to training opportunities through Continuing Ministerial Development, as well as more creative and consistent use of role descriptions and agreed objectives. Dioceses need to encourage clergy to develop ways of reflecting on what they are there to do and how they can be more effective at carrying out their ministry. Access to a peer or 'cell' group and finding a spiritual director can be helpful here, as well as reducing the sense of isolation clergy feel.
34. We are aware of existing initiatives being undertaken in these areas within the Ministry Division and there is scope for Dioceses, RACS, HR and the Ministry Division to co-operate further in taking this forward so that dioceses can develop an integrated approach that makes full use of the range of resources available for helping clergy become more effective in performing the duties of their office and furthering the Church's mission.

### **Other issues**

35. Several consultation responses referred to the Incumbents (Vacation of Benefices) Measure 1977 and the difficulties more generally in dealing with intractable pastoral breakdown. The Group concluded that the Measure was a blunt instrument and is not fit for purpose, but we recognise the very real difficulties in legislating for such circumstances (especially where the reason for the breakdown is wholly or mainly the behaviour of lay people in the congregation, against whom no sanctions are available).
36. One diocese raised the prospects for appointing an archdeacon not related to a territorial area. The Group noted that the historic office of archdeacon was defined by place and decided not to pursue such a proposal.
37. Issues regarding deployment and clergy mobility were also raised, but we noted that any proposal that dioceses should be able to move stipendiary clergy to alternative posts (presumably against their will) would involve a fundamental shift in the way that clergy are deployed and would also be impractical to implement, given that parochial appointments are not in the bishop's gift. The possibility of clergy being "on the strength" of a diocese and subject to a mobility requirement within it was considered, and rejected, at the time when the Terms of Service legislation was debated by Synod. It is also noted that enforcing mobility clauses for employees is not straightforward, particularly where the employee is relatively low-paid or occupies a tied house.

### **Mission and Pastoral Measure 2011**

38. Consultation responses related to the 2011 Measure centred on four distinct areas:
  - Procedures for making a pastoral scheme or order;
  - Bishops' mission orders

- Church buildings (including closure);
- Compensation for loss of office.

39. We address each of these in turn, taking account of criticisms that the process of pastoral reorganisation is lengthy, difficult and expensive, and geared more towards protecting the status quo rather than focussing on mission and growth. We propose a fresh approach to the issue of consultation, taking a step back and asking which are issues on which there rightly and properly should be consultation of wider affected interests, and which are primarily decisions of an administrative nature. Our intention is to provide a new light touch category of bishop’s pastoral order to facilitate a range of “administrative” decisions, as well as a streamlined consultation process for proposals affecting individual interests. We have also sought to simplify the process for Bishops’ Mission Orders (BMOs) so that their full potential can be realised more widely, and have addressed criticisms regarding the over generous provisions for compensation for loss of office arising from pastoral reorganisation. We propose that church buildings issues need further, separate consideration.

40. Nevertheless, we also recognise that impediments to change lie not only in legal processes but also arise because the Church is not able to deal comfortably with conflict and often there is an understandable but overwhelming desire to try and achieve consensus, resulting in discussion and attempts at accommodation extending over protracted periods, not just during statutory consultation.

## Pastoral Reorganisation

### Recommendation

#### ***New form of Bishops’ Pastoral Order***

- 5. Introduce a new class of Bishop’s Pastoral Order covering a range of “administrative” decisions which do not significantly impact on the legal rights of individuals or the status of churches (e.g. creation or alteration of archdeaconries or deaneries, dissolution of vacant archdeaconry, alteration of benefice or parish names, termination of group ministries). Remove the right of statutory interested parties to be consulted about such decisions and make representations to the Church Commissioners.**

*A first draft of legal provision for Bishops’ Pastoral Orders is provided at Annex 5.*

41. We propose that a distinction is made between those issues on which there should rightly and properly be consultation with wider interests who may be affected, and matters which can be regarded as decisions of an “administrative” nature by the Bishop, for which a new, much simpler, lighter touch category of Bishops’ Pastoral Order (BPO) is proposed. (For the full range of proposed decisions covered by this recommendation see Annex 5).



42. This new procedure would remove the right of “statutory interested parties” to be consulted, providing instead for the bishop to decide who he thinks appropriate to consult and to consider any received views (there would be no right to make representations to the Church Commissioners). Such consultation provisions are broadly along similar lines as pertain to Bishops’ Mission Orders. We believe that these new provisions create greater scope for innovative and creative change which can be done in a timeframe that serves the mission of the Church.
43. In reaching our recommendation we had the benefit of legal advice confirming that, provided the bishop acts properly and reasonably in determining who should be consulted about such proposals, the arrangements for BPOs comply with common law principles of fairness. The potential availability of judicial review ensures compliance with the Human Rights Act 1998.

## Streamlined Consultation for other Pastoral orders and schemes

### Recommendations

#### ***Streamlined consultation on draft Schemes and other Pastoral Orders***

- 6. Streamline consultation of statutory interested parties on substantive pastoral reorganisation, limiting this to two stages: initial consultation on the issues, followed by consultation on proposals in the form of a draft Scheme or Order.**

#### ***Proposals implementing a deanery plan***

- 7. A statutory presumption in favour of proposals to implement a Deanery Plan validated by the DMPC unless material considerations dictate otherwise. For such proposals consultation should be on the draft scheme only (initial consultation stage on the issues is not required).**

44. One of the frustrations with the consultation process is that, as it is currently operated, dioceses tend to consult twice on much the same proposal and with much the same paperwork; the draft proposals consulted on in the first statutory stage look much the same in appearance and form as the draft Scheme or Order consulted upon during the second stage. This can be exacerbated where, as is often the case, prior, informal consultation has already taken place.
45. In order to address this we propose a streamlined procedure on the basis of a first stage statutory consultation on issues, and a second stage on the draft proposals in the form of a Scheme or Order. We recognise that proposals are developed in various ways within dioceses, but this is intended both to reduce and speed up the consultation process while also enabling formulation of proposals based on wider understanding of practical issues including the availability and prioritisation of resources.
46. We note that planning for parish reorganisation at deanery level is now a widely used practice across the Church, although there are equally wide variations in what might constitute a deanery plan and considerable challenges, resource and skills issues where deaneries are required to produce their own plans. Recognising the extensive time, discussion and consultation that can go into producing an agreed deanery plan, it seems unnecessary and wasteful of resources to undertake further extensive consultation rounds on proposals which implement such a plan.
47. We therefore propose a statutory presumption in favour of proposals which are in implementation of an agreed deanery plan (validated by the Diocesan Mission and Pastoral Committee) unless material considerations dictate otherwise. In practice this would mean that the initial consultation stage on issues would not be required for such proposals: the diocese or Commissioners (depending on the proposal) would proceed straight to consultation on the proposals in the form of the draft Scheme (proposed second statutory stage). This will need to include further consideration of suitable safeguards to satisfy the common law principles of fairness.

48. Guidance on possible approaches and contents of deanery plans should be provided in a modified Code of Practice.

## **Improving consultation and engagement**

### Recommendations

#### ***Arrangements for drafting and publishing draft schemes***

- 8. Drafting, publishing and consulting on draft schemes to be undertaken either by the Diocese or the Church Commissioners, as the Bishop desires.**

#### ***Mode of consultation***

- 9. Provide for notices to be read out at services in affected parishes, and draft schemes publicised on the Church of England website (with links on diocesan websites), to improve consultation and engagement.**

49. One of the changes recommended by the Toyne Review in 2004 was for the drafting and publication of pastoral schemes and orders (other than schemes affecting the future of a church building) to be done by dioceses. Previously all schemes and non-shortened procedure orders were drafted and published by the Church Commissioners' small specialist Pastoral Team; around half of dioceses at the time had indicated preference for retaining such arrangements. Some dioceses continue to avail themselves unofficially of the Commissioners' expertise in this area because they do not have the staff resources or relevant skills in house, particularly where pastoral reorganisation is rarely undertaken. We propose that there should be the flexibility for this work to be undertaken by dioceses or the Commissioners, as the bishop desires.
50. In the age of electronic communication, the mode of consultation is an issue. Newspapers do not circulate in a locality in the same way as they used to and the value of statutory newspaper notices as a means of engagement has lessened. We propose, in order to raise awareness of those most affected by reorganisation, for notice of the consultation to be given at all services held in an affected parish during the consultation period, simply drawing attention to the written notice available for wider inspection.
51. Draft Schemes are also now published on the Church of England website during the consultation period and, where representations are received, Committee reports identifying the issues and correspondence with the Bishop and with representors. This is intended to improve openness and engagement and we propose this arrangement is formalised, with dioceses also listing draft Schemes subject to consultation on their own websites, with links to the relevant page on the Commissioners' website.

## Representations and Public Hearings

### Recommendations

#### ***Representations and Public Hearings***

#### **10. Simplify arrangements for dealing with representations in respect of draft Schemes and Orders by:**

- a. Endorsing the Church Commissioners' emerging proposal to simplify its public hearing process through a pre-hearing sift to determine cases which can be dealt with on the paperwork.**
- b. Giving the Commissioners a power, exercisable with the Bishop's consent, to amend a Scheme or Order, having considered representations, and to determine whether a further second-stage consultation is required.**

52. Some of the consultation responses expressed concerns regarding the current handling of representations, in particular the ability of only one individual, however remote their connections with the life of a parish or congregation, to make representations about a scheme and trigger a public hearing. We welcome the Church Commissioners' own current review of their handling of representations and, having taken legal advice, their emerging intention to introduce a pre-hearing sift to identify cases which could be determined on the paperwork without a hearing. In terms of the Commissioners' exercise of the appellate function we recognise that there is some benefit in taking disputed cases out of the local area to be settled by an independent party. It also means that the Commissioners, rather than dioceses, have the responsibility to defend their decisions in the event of any challenges in the Privy Council and, where relevant, the High Court. We were advised of the legal difficulties, in view of the established status of the Church of England, in significantly restricting the ability to make representations, but consider that the relevant recommendations streamlining the consultation process will address some of the concerns identified in this area.
53. One current drawback of the representation process is that if the Commissioners having heard objections to a draft Scheme or Order consider that a revised proposal is worthy of consideration and the Bishop agrees, then the Diocese has to go back to the beginning of the statutory stages and re-consult completely afresh. We propose to address this by empowering the Commissioners to amend the draft Scheme or Order with the consent of the Bishop. Based on the facts and issues before them they would be able to determine whether or not the revised proposal should reasonably be subject to a proposed second stage consultation. While there might be practical limitations on the scope of such a power, such as insufficient information available to support a revised proposal, in suitable instances this would enable a revised Scheme or Order to progress without further delay.

## Teams and Groups

### Recommendation

#### ***Teams and Groups***

- 11. Streamline the provisions for teams and groups, including removal of enabling provisions for matters more suitably dealt with by licence, and of administrative requirements, such as holding meetings, which do not really belong in legislation.**
- 12. Conduct a wider review of the operation of teams and groups, particularly in the rural context, taking into account other emerging forms of collaborative ministry.**

*A first draft of amending provisions on teams and groups (under Recommendation 11) is provided at Annex 6.*

54. The provisions regarding teams and groups in the 2011 Measure include enabling provisions which provide for the scheme itself to make provision for certain matters (such as the relationship between the team rector and other members of the team, or the assignment of a special cure of souls to an identified team member). In practice such provisions are rarely used, not least because dealing with such matters within the scheme itself is very inflexible and can be altered only by an amending scheme, and we propose their removal.
55. Similarly we propose removing various administrative requirements imposed on the team rector, including the obligation to convene regular meetings of the team or the right for any team member to ask the team rector to convene a meeting. Such requirements impose an excessive level of detailed control on the team rector which we believe do not belong in legislation. In any case, as they do not attract any sanctions if they are disobeyed, they are therefore toothless.
56. A first draft of amending provisions dealing with these recommendations is attached as Annex 6. These also remove references to the diocesan board of patronage, since provision for patronage is always now made by the scheme itself.
57. Above we have identified and addressed specific aspects of legislation relating to teams and groups which are overly prescriptive. However, we consider there is also a case for a wider review of the operation of teams and groups, including their working practices and administration, which takes into account other emerging forms of collaborative ministry and provides a particular focus on the rural context.

## Church Buildings and Closure

### Recommendations

#### Church Buildings

##### 13. In respect of church buildings:

- a. **Amend Canon B14A to enable the Bishop to direct the use of a building for occasional services of worship only to support the concept of “festival churches”.**
- b. **Support the establishment of a group to review issues regarding church buildings and, in particular, the options for change on how closed church buildings are dealt with.**
- c. **Streamline the consultation arrangements for draft schemes providing for alternative uses for closed church buildings by removing the need for statutory public consultation on such proposals (except where there are burials within the building or any surrounding churchyard).**
- d. **Simplify the provisions dealing with membership of the Churches Conservation Trust to enable the appointment of additional trustees.**

#### *“Festival Churches”*

58. Concerns regarding church buildings were raised by many dioceses. The range of views expressed included a need for the Church to have freedom to adapt church buildings without heritage constraints, a halfway house between cessation of regular parish use and formal closure, the practicalities and risks where parishes simply walk away from buildings when they can no longer cope, and the lengthy processes of closure and settling the building’s future. Diocesan capacity to cope with the possibility of a significant increase in the number of closures was also raised, along with the diversion of energy and resources from mission.
59. Some dioceses are looking to promote a solution for particular buildings which would support lesser use, either while further consideration is given to the building’s future or longer term, described variously as “Breathing Space”, “Hibernation”, “mothballing” or “Festival Churches”. While this does not of itself address the fundamental issue of responsibility for the building, or funding for care and maintenance, we support facilitation, in legislative terms, of the so-called, lesser used “Festival Churches” by amending Canon B14A to enable the Bishop to direct the use of the building for occasional services of worship only. This change will increase the flexibility of local congregations to use their buildings in a way that promotes local mission.

### ***Church Buildings and the Closure Process***

60. Our earlier proposals for streamlining the consultation process for dealing with reorganisation should assist and hopefully reduce timescales for the formal closure of church buildings, although the emotions, difficulties and conflict often tied up with such decisions have to be acknowledged and faced. We did consider the possibility of replacing the need to obtain a report on the building from the Church Buildings Council before a DMPC could recommend closure, with an obligation instead simply to notify the Council, but decided on balance to retain the current requirement in order to facilitate careful informed consideration of such a decision.
61. Overall, recognising the scale and significance of the church buildings issue, and the capacity of parishes and dioceses to cope with the current situation, we support proposals for a review of the strategic issues affecting church buildings generally and, in particular, the options for change in dealing with closed church buildings, including the existing division of responsibilities for closed church buildings between dioceses and the Church Commissioners. This cannot be totally divorced from the issue of Government funding for parish church buildings in use and the declining Government funding for the Churches Conservation Trust who care for those highly listed closed church buildings for which no alternative use. Any such review group is also invited to consider the proposal to lift the restriction on the Churches Conservation Trust providing a management service for churches in use.

### ***Consultation on New Uses for Closed Church Buildings***

62. In the meantime we recommend streamlining the consultation arrangements for draft schemes providing for alternative uses for closed church buildings, by removing the need for statutory public consultation on such proposals (except where there are burials within the building or any surrounding churchyard). The current consultation arrangements predate wider public involvement in the planning system and to a significant extent now duplicate the statutory planning process, with matters raised often planning issues, such as overlooking or the impact of traffic and noise upon residential areas. This also responds to concerns raised regarding the sometimes lengthy process of dealing with such buildings.
63. We propose that public consultation should be retained for the proposed demolition of closed church buildings in order for the ecclesiastical exemption (from listed building consent) to continue to operate and to take into account the wider interest in the loss of heritage. Similarly it would be retained for proposals to vest such buildings in the Churches Conservation Trust in view of the commitment of public funds on their preservation.

### ***Membership of Churches Conservation Trust***

64. We were asked by the Churches Conservation Trust to amend provisions currently limiting their membership, enabling the appointment of up to two additional trustees to bring in additional skills as needed. While this is a relatively minor amendment, we believe it draws attention to a larger issue of the extent to which primary legislation is generally overly prescriptive for a wide variety of statutory bodies, in terms of specifying membership and other constitutional arrangements in some detail. This is

an area where we consider there is scope for further simplification. In the meantime we propose amending the provisions for the Churches Conservation Trust so that these provide for the process of appointments but not the size of its membership.

## **Bishops' Mission Orders**

### Recommendations

#### **Bishops' Mission Orders**

##### **14. Simplify the arrangements for Bishops' Mission Orders by:**

- a. Streamlining the recommended practice on initial exploration to address concerns regarding its complexity.**
- b. Removing the requirement for an initial order to operate for no more than five years.**
- c. Removing much of the prescriptive provision relating to the role of the Visitor.**
- d. Providing additional guidance on matters such as charitable status and representation.**
- e. Serving notice of BMOs on the Church Commissioners to facilitate sharing of good practice and collation of statistics.**

*A first draft of the proposed amendments to the BMO provisions is provided at Annex 7.*

65. Bishops' Mission Orders (BMOs) were introduced in 2008, as part of the "mixed economy" response to growing diversity in forms of church, providing mission initiatives with formal recognition, legal standing and protection, while also making them accountable to the Bishop. They were intended to operate as a 'light touch' enabling process, but to date their adoption by dioceses is rather variable, with some dioceses considering that the process of setting up a BMO is unduly complex.

66. Overall, while we believe BMOs are a welcome and valuable innovation and are generally fit for purpose, we have identified scope for further simplification which we hope will encourage their wider use. Our recommendations focus on initial exploration and consultation, the role of the Visitor, the presumption of provisionality and the process of renewal. A simplified Code of Practice should also offer more guidance on matters such as CRRs, charity frameworks and housing. We further encourage sharing of best practice, particularly the experience of those dioceses, such as London, who make significant use of BMOs for both existing and new church plants.

#### ***Initial exploration and consultation***

67. The legislation itself provides for only one stage of statutory consultation, giving the Bishop discretion to consult those he considers have a significant interest in, or are likely to be significantly affected by, the BMO. However, the perceived complexity



may arise from the additional process of initial exploration recommended in the Code. We consider this to be unduly complicated and it may discourage use of BMOs: the Code and accompanying flowchart should be simplified to remove this non-statutory stage.

### ***Provisionality of BMOs and their renewal***

68. While some BMOs are planned at the outset as short-term experiments, other mission initiatives are already mature Christian communities when the question of a BMO arises. The fact that all BMOs, regardless of their circumstances, can only be made initially for up to five years (and then renewable) seems unnecessarily over-cautious and bureaucratic. Moreover, before an indefinite BMO can be made, the Bishop has to consider whether there are no other suitable means by which the initiative's objectives can be continued.
69. While retaining the option and flexibility of experimental and renewable BMOs, we propose removing the mandatory initial, five-year time-limit, thereby allowing a BMO to operate indefinitely from the outset. Without a specified time-limit a BMO would continue unless and until it was revoked. (Any Statement of Particulars would identify the end of the BMO as the "specified event" in terms of Regulation 29). This change will, we believe, make the BMO a more attractive option for new initiatives which are planned from the outset to be a long-term solution to a missionary opportunity.

### ***Role of Visitor***

70. There is a mandatory requirement to designate a Visitor under each BMO who exercises oversight of the initiative and provides encouragement and advice, as well as carrying out a range of statutory duties. On balance we recognised the value of such a role but consider that differing oversight arrangements and models might apply, particularly for experimental or mature projects.
71. While, therefore, we propose retaining designation of a Visitor for BMOs, the Bishop should have greater flexibility in determining the functions of this role, duties undertaken and any other arrangements for oversight and support for each BMO. We recommend removal of much of the current prescriptive statutory provision relating to the role of the Visitor, with elements of appropriate oversight and support to be identified in the Code of Practice, rather than on the face of the legislation.

### ***Other Issues***

72. At present a BMO leader has the right to make representations to the DMPC regarding any order to vary or revoke a BMO, even though the DMPC is not directly responsible for the BMO. We recommend legislative change so that the BMO leader has the right to make representations to the Bishop or his delegated representative in such circumstances.
73. In order to facilitate identification and sharing of good practice, and collation of statistics, we also propose that a copy of any BMO made should be served on the Church Commissioners, and the revised Code of Practice should include up to date

guidance on specimen BMOs, Supplementary Instruments, charitable status and representation.

74. A draft of the proposed BMO amendments is provided in Annex 7 for illustrative purposes.

### **Compensation for loss of office (by pastoral reorganisation)**

#### Recommendations

#### **Compensation for loss of Office (by pastoral reorganisation)**

**15. Amend the existing provisions for compensation for loss of office as a result of pastoral reorganisation by:**

- a. **Replacing the existing compensation provisions calculated on future service and financial loss with compensation based on the length of past stipendiary ecclesiastical service in years.**
- b. **Providing a lump sum cash payment based on one month's stipend for every year of service, capped at twenty one months' stipend in total (but providing a minimum cash payment of six months stipend regardless of length of service).**
- c. **Providing suitable housing for a period of six months.**
- d. **Compensating clergy for loss of pensionable service as part of the lump sum.**
- e. **Applying the compensation arrangements to all office holders regardless of when they took office including clergy on historic freehold.**

*A first draft of amending provisions on the compensation proposals is provided at Annex 8.*

75. Clergy dispossessed of their office as a result of pastoral reorganisation have a statutory entitlement to compensation under Schedule 4 of the 2011 Measure (with similar provisions for loss of office under reorganisation schemes made by the Dioceses Commission). While compensation is only payable for up to a maximum of twelve months for a displaced priest in charge, for other office holders it is payable for financial loss until retirement age unless they obtain (or unreasonably reject) a suitable alternative role. Payment to compensate such financial loss is determined in the first instance by the DMPC and covers loss of stipend, housing, removal costs and pension, along with any other genuine pecuniary loss arising from abolition of the office; the displaced cleric has a right of appeal to a Provincial Tribunal regarding calculation of such loss.

76. These compensation provisions have hardly ever been used, suggesting they are not considered workable. Our consultation confirmed a widespread view among dioceses that the current arrangements are highly and unusably generous in a modern context and can be a major deterrent to pastoral reorganisation. As a result, in some cases incumbents may remain in non-viable parishes until retirement, where this is seen as a more cost effective and less time consuming solution than agreeing a compensation package.
77. In proposing revised arrangements we have sought to ensure that clergy receive the financial and housing support they need at a difficult time, but also to ensure that compensation is set at a realistic level that does not act as an insuperable financial obstacle to pastoral reorganisation. We also wish to make entitlements as clear and simple as possible, and avoid situations where the level of compensation is complex to calculate, ambiguous or open to dispute.
78. We recommend that the level of compensation is based on the length of past stipendiary ecclesiastical service (excluding the training period before ordination) rather than on loss and future service. This should provide a lump sum cash payment based on one month's stipend for every completed year of service, capped at twenty-one months' stipend<sup>3</sup> but, as a minimum, a cash payment of six months' stipend will be automatically payable to all clergy regardless of length of service. These arrangements should apply in future to all clergy office holders, including those on historic freehold, priests in charge and SSMs, although house for duty clergy would not receive compensation for stipend or pension. (As a point of external comparison, the maximum statutory redundancy pay is capped after twenty years' service (with a week's or week and a half's pay per year of service depending on age)). These arrangements will apply whether or not a person moves to another role following the loss of office (unless the individual is named as an office holder in the pastoral reorganisation scheme).
79. We recommend there should also be an entitlement to the provision of suitable housing for a period of six months following the loss of office. How this is provided will much depend on the circumstances of an individual case (including whether this might involve staying in the parsonage for this period, or moving to alternative accommodation.)
80. We have consulted the Pensions Board staff about whether compensation for loss of pension should be provided by including it in the lump sum or by making separate provision for pension contributions for clergy who were dispossessed by pastoral reorganisation. They were strongly of the view that it would be better simply to compensate clergy for loss of pensionable service as part of the lump sum payment, in proportion to the years served. If the individuals subsequently get another post, they will be able to make additional voluntary contributions to provide benefits at retirement.

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<sup>3</sup> In considering its proposed changes relating compensation to past rather than potential future service, the Group found it helpful to consider best practice in secular models, notably the comparatively generous Civil Service Compensation Scheme which provides for a lump sum based on one month's pay per year of service capped at 20 months' pay.

81. The liability for bearing the cost of compensation should rest with the displacing diocese. If someone were to be displaced twice, the second compensation payment should be calculated from the point at which stipendiary ministry was resumed.
82. Draft amending provisions reflecting these recommendations on compensation are attached as Annex 8.
83. We recognise that this is a significant change because existing legislation has meant that desirable pastoral reorganisation has not been undertaken because the compensation provisions were unusably generous. This has sometimes been a significant hindrance to the Church's mission, including the effective deployment of clergy and development of diocesan and deanery mission plans.
84. The proposed provision, therefore, opens up fresh opportunity for mission and honours the shared role of clergy and laity in effective missionary planning. While acknowledging the contribution of clergy in a way that is consistent with secular best practice, the proposed changes represent a significant step forwards in enabling mission and growth to be the key factors in considering the future of any particular benefice.

## **Other aspects/issues**

### **Endowments and Glebe Measure 1976**

#### Recommendation

#### **Endowments and Glebe Measure 1976**

- 16. Remove the requirement to consult incumbents and PCCs on glebe transactions.**

85. The Endowments and Glebe Measure 1976 transferred the endowments and glebe property of benefices to diocesan boards of finance. Under the consequent provisions, where a DBF proposes to dispose of glebe, the diocese currently has to consult the incumbent and parochial church council (or if vacant the priest-in-charge and, where none, the churchwardens) on the proposed disposals, with any objections determined by the Church Commissioners.
86. The original purpose of the consultation (it is presumed) was because the diocese would be disposing of what was previously held by the incumbent as benefice glebe. Nearly forty years on it can be argued that this should now be regarded as simply a decision for the diocese in the proper management of the funding of its diocesan stipends fund. One unfortunate effect of this requirement is that a DBF may have invested in land and property in another diocese but it would still have to serve notice on the incumbent and PCC in that diocese to dispose of such glebe. We therefore propose removing the requirement to consult incumbents and PCCs on glebe transactions.

## Patronage (Benefices) Measure 1986

### Recommendations

#### Patronage (Benefices) Measure 1986

##### 17. In relation to the Patronage (Benefices) Measure 1986:

- a. **Provide for the right of presentation to lapse to the Diocesan Bishop rather than the Archbishop of the Province after nine months.**
- b. **Examine the scope for further streamlining of processes and paperwork. Other aspects of the Measure could also be simplified and brought up to date.**
- c. **Consider whether a more fundamental review of the Measure should be undertaken.**

87. For non-Crown livings, where no Notice of Presentation has been received by the Bishop within 9 months of the date when the vacancy arose, the right to present lapses to the Archbishop of the Province. In practice the Diocese continues to take the leading role and we propose that presentation in such circumstances instead should lapse to the Diocesan Bishop.

88. We noted that a number of responses had raised particular issues relating to the Patronage (Benefices) Measure 1986, both the principles behind it and also issues of procedure, sequence and timescale. We did not have the opportunity to examine the case for a more fundamental review within the time-limits of our own work but this may merit further consideration. In any event the current processes and paperwork should be subject to further review.

## National Clergy Payroll

### Recommendation

#### National Clergy Payroll

**18. The Church Commissioners to provide clarification and improved guidance on when a post is an office and thus eligible to be paid through the clergy payroll (in addition to further planned discussions with HMRC on the tax implications of HLC and provided housing where clergy are not full time office holders).**

89. Our consultation highlighted the practical difficulties faced in determining which forms of ministry are able to be processed through the national clergy payroll

operated by the Church Commissioners, including the complexities of dealing with dual posts held by those who are not full time office holders. We noted that there are planned discussions with HMRC on the tax implications of HLC and provided housing where clergy are not full-time office holders. While we recognise that over a long period a number of agreements have been reached with HMRC, in terms of the administration of allowances, which it was important not to jeopardise, we support efforts to increase the scope of the clergy payroll.

90. In the meantime we recommend that the Church Commissioners should provide clarification and improved guidance to dioceses on how to identify posts eligible for the Commissioners' payroll, and on the handling of more complex posts. This should include worked-up examples of how particular types of more unusual posts might be treated, and also advice on the general sorts of issues arising on which they needed to be satisfied.

## **Availability of Guidance**

### Recommendation

<p><b>19. Encourage further consideration of how best to publicise the availability of guidance on legislation and encourage greater ease of access through the Church of England website.</b></p>
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91. In our discussions on a number of the areas we considered, we noted that often there is helpful guidance already available, but that this may not be widely known or easily found, particularly by those new in office. This raises questions as to how best to publicise the availability of guidance and encourage ease of access.
92. We recommend that those taking forward the work of the task group on optimising the role of the NCIs should give this further consideration in the context of the Church of England website.

## **Other Issues**

### **Canon C4 Faculties**

93. We considered the requirement under Canon C4 for an Archbishop's faculty, on an application made by a diocesan bishop, for the removal of an impediment to the admission of a person into holy orders. On balance we felt that this should be retained in order to ensure consistency of practice across the Church.

### **Confirmation of election ceremony for bishops**

94. We also considered a submission on behalf of Deans to abolish the confirmation of election ceremony for bishops, which would involve amending the Appointment of Bishops Act 1533, which remains in force. This had been raised previously in General Synod in the 1980s but rejected in view of attachment to the historical and ceremonial aspects of the occasion.

95. We noted that the 1533 Act required election “in due forme”. This need not necessarily entail a public ceremony, but the practical arrangements for determining such form would be a matter for the statutes of individual cathedrals. While we do not propose amending the primary legislation, consideration of the ceremonial aspects may be a matter for Cathedrals and their legal advisers to explore further in the context of their own statutes and procedures.

## **Conclusion**

96. We recognise that some of the proposed changes may seem minor or technical in nature. Nevertheless, we believe that, taken together, these proposals are an important first step in enabling mission and growth to be served by the Church’s legislation and not frustrated by it. Furthermore, we believe they set a trajectory for further simplification and deregulation within the life of the Church. We are clear that further research and proposals will be necessary, including those affecting the individual parish as well as the diocesan context. We therefore propose that the work of the Simplification Group continues in the 2015-2020 Quinquennium, working through a substantial programme of change that is likely to be more complex and in some cases more controversial. We recognise that this will require the Business Committee to allocate a substantial amount of time in the next Synod to achieve this and set in place a simpler and clearer legislative framework within which parishes, dioceses and the National Church can fulfil their missionary calling.

## List of Annexes

Annex 1	Table summarising proposed responses to consultation responses
Annex 2	Draft Amendments to Regulation 29.
Annex 3	RACS Guidance on deployment of clergy with licences and PTO
Annex 4	Self Supporting Minister Statement of Particulars.
Annex 5	Draft amendments providing for Bishops' Pastoral Orders.
Annex 6	Draft amendments to Teams and Groups provisions.
Annex 7	Draft amendments to Bishops' Mission Orders.
Annex 8	Draft amendments to compensation provisions.



## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
Ecclesiastical Offices Terms of Service Measure and Regulations	Extend title posts when necessary without creating permanent office	Blackburn Oxford	Agreed	Recommendation 1 (a)
	Fixed term appointments	Bath & Wells Birmingham Carlisle Chelmsford Chester Chichester Coventry Derby Exeter Gloucester Manchester Norwich Oxford Peterborough Rochester Salisbury Sheffield Southwark St Albans Worcester	Agreed - but not so as to undermine Common Tenure principle.	Recommendation 1 (b) & (c)
	Interim posts	Blackburn Bristol Coventry Chelmsford Derby Diocesan Lay Chairs Gloucester Guildford Oxford	Agreed.	Recommendations 2 & 1 (c)
	Designate Mission Development Funding as Sponsorship Funding	Bristol Chelmsford	Not yet considered	Differing views on how to widen definition of sponsorship funding without undermining Common Tenure

## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
Ecclesiastical Offices Terms of Service Measure and Regulations	Review Application of all Common Tenure Legislation to SSMS	Birmingham Guildford Oxford Southwark	Done	Simplified SOPs produced and issued to Dioceses Recommendation 3
	Lack of probationary period for clergy- suggest 2 year period	Bristol	Not accepted - would imply employed status	
	Cover for Military Forces personnel call-Up	Chelmsford	Already possible as authorised absence under Regulation 29 (1) (b)	
	Extend Office Holder definition to cover Chaplains	Chelmsford Oxford	Clarity about distinction between Office Holder and contract needs to be retained	
	Dual role ministries unnecessarily complex (Office Holder & Contract)	Chelmsford Chester	Clear guidance being issued by RACS	
	Provision for Generic Office Holder status for Stipendiary Lay Ministries	Chelmsford Worcester	Not yet considered	
	Capability Procedure too complex or not Used	Birmingham Carlisle Chelmsford Gloucester Guildford Manchester Southwark	Agreed	Recommendation 4
	CDM not fit for purpose	Lichfield	Noted.	CDM amendments already made
	Sharpe Case & potential implications	Birmingham	Awaiting outcome - not due till Spring 2015	
	Lack of ill-health retirement provision Apart from Incumbents (VB) Measure	Chichester	Noted. Group not minded to amend Incumbents (VB) Measure	

## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
<b>Compensation payments</b>	Compensation Provision for clergy loss of Office too expensive & too generous	Chelmsford Chester Chichester Coventry Derby Lichfield Manchester Salisbury Southwark	Agreed.	Recommendation 15
<b>Ministry Division Regulations</b>	IME 4-7 too complex restrictive & demanding	Carlisle Peterborough	Agreed.	Being addressed by RME review
	Training: change management, resilience	Peterborough	Noted. An issue for CMD.	
	Flexibility needed in training pathways	Carlisle	Agreed.	Being addressed by RME review
	Vote 1 Pooling needs reform	Carlisle	Agreed.	Being addressed by RME review
	Sponsorship paperwork for ordinands vastly over-complex	CMS	Agreed.	Being addressed by RME review
	Pioneer Ministry Category lacks identity & resourcing by dioceses	CMS	Noted.	
	Accreditation of lay ministry	CYM	Not yet addressed.	
<b>Mission &amp; Pastoral Measure</b>	Consultation too complex 2 stage process	Blackburn Carlisle Chelmsford Chester Chichester Coventry Derby Ely Exeter Lichfield London Manchester Norwich Oxford Peterborough Salisbury Sheffield St Eds & Ips Worcester	Agreed.	Recommendations 6, 7, 8, 9
<b>Mission &amp; Pastoral Measure</b>	Use-seeking Procedure & period too Long Procedures too complex	Blackburn Chelmsford Lichfield		Recommendation 12 Recommendation 5
	Small number of objectors	Blackburn	Agreed.	Recommendation 10

## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
Bishop's Mission Order	can block/delay Pastoral Reorganisation & can be vexatious	Carlisle Chelmsford Ely		
	Provision for temporary Pastoral Reorganisation	Bristol	Not yet considered.	
	Suggested amendments to S57 (CCT Constitution)	CCT	Future project to take membership requirements out of primary legislation	
	Removal of Church Commissioners' consent requirement in cases such as release of Covenants	Chelmsford	Noted. Historic issue - Commissioners' covenants no longer applied to new covenant sales?	
	Consultation on Glebe Leases too cumbersome	Chelmsford		
	Festival Churches	Derby Salisbury	Agreed.	Recommendation 12
	Suspension procedures complex	London		
	Procedure over-complex & bureaucratic - deter use of BMOs	Carlisle Chelmsford Chichester Coventry Derby Gloucester Leicester London Manchester Newcastle Salisbury St Albans	Agreed.	Recommendation 13
	Supplementary guidance on charitable status and Church Representation Rules	Chair of Simplification Group Chelmsford	Agreed.	Recommendation 13.

## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
<b>Patronage (Benefices) Measure</b>	Exercise of private Patronage problematic	Carlisle	Noted along with following concerns regarding 1986 Measure. Consider whether fundamental review needed.	Recommendation 17.
	Provision for multi-Patron collaboration or single Patronage	Chelmsford Newcastle Truro		
	Reduce paperwork & forms	Chelmsford Manchester St Albans		
	Role of Patrons outdated in Common Tenure era	Coventry Ely Salisbury		
	9 month lapse unnecessary	ABC London York	Agreed.	Recommendation 17a.
	Archbishop's role in lapse needs re-examination	ABC London		
	Update Code of Practice	Manchester St Albans York		
<b>PCC Powers Measure</b>	Power to Suspend PCC in cases of insolvency	Chelmsford		
	Power to run "reduced" membership PCCs	Oxford		
	Recognise benefice as legal entity	Salisbury		
<b>Appointment of Diocesan Bishops</b>	Too slow and cumbersome	Coventry		

## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
<b>Church Representation Rules</b>	Deanery Synods too frequent	Coventry		
	Flexibility for APCMs in multi parish benefices	Chelmsford Hereford		
	Anomalies between CRR and Charity Law	Chelmsford		
	Removal of 1 year notice period for change in composition of PCC	Hereford		
	Joint PCCs	Worcester		
<b>Churchwardens Measure</b>	Why admit c/ws annually? Provision if no c/ws can be found	Carlisle		
<b>Church Accounting Regulations 2006</b>	Repeal	Chester		
<b>Endowment and Glebe Measure 1976</b>	Outdated Consultation too cumbersome.	Coventry Worcester York Chelmsford Ely	Agreed. Possible further rationalisation of church property legislation already under review	Recommendation 16
<b>Vacation of Benefices Measure</b>	Revise and make fit for purpose		Noted. Group minded to propose revisions.	
<b>Parsonages Measure</b>	Rules over use of sale too inflexible	Carlisle Truro	Noted. Possible further rationalisation of church property legislation already under review	
<b>Team and Groups Measure</b>	Too much prescribed in legislation	Newcastle	Agreed	Recommendation 11
<b>Data Protection</b>	Data Protection and retention of confidential records	Birmingham		
<b>Ecumenical Canons</b>	Need reform to make them more permissive	Carlisle	Noted	Review of Canons possible in next quinquennium
<b>Diocesan Board of Patronage</b>	Abolish requirement	London	Noted	
<b>Sequestration Rules</b>	Outdated	Carlisle	Noted	
<b>Robes Canon</b>	Repeal/amend	Leicester	Noted - revision already in progress	

## Summary of proposed responses to proposals sent to the Simplification Group

Legislation: Measure, Canon or Regulation	Proposal or concern	Suggested by	Response from Simplification Group	Action taken
Clergy Blue Files	Electronic	Chelmsford	Noted House of Bishops 2013 Guidance already covers access arrangements	
Diocesan Boards of Education Measure	Too prescriptive	Chelmsford	Noted	
Faculty Jurisdiction	Too centralised and time consuming. Need to simplify. National <i>de minimis</i> list	Carlisle Ely Gloucester Leicester Manchester	Noted - revised rules now being proposed	
Other Issues	Should there be a review of effects of new major legislation after 5 years	Blackburn		
	Possibility of sharing a corporation sole	Chelmsford		
	Bring cathedrals under Charity Law	Chelmsford		
	Possibility of being ordained to a BMO or Mission Order without need for "title" Canon C5	Chair of Simplification Group CMS		
	Facilitate the appointment of a "lead bishop" with full powers during Vacancy in See	Newcastle		
	Clergy Payroll	Various	Noted. Further guidance needed.	Recommendation 18
	Canon C8 (4) Review understanding of cure of souls to be responsibility not a right	Winchester		Review of Canons possible in next quinquennium
	Canon C5 (2) (e) Expand definition of religious community	CMS	Noted	Review of Canons possible in next quinquennium
Confirmation of Election of Bishops: Abolish need for ceremony	Deans	Considered	Agreed to advise Deans that Confirmation required in primary legislation, but ceremony can be determined locally.	

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 STATUTORY INSTRUMENTS
 

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2014 No. 0000

## ECCLESIASTICAL LAW, ENGLAND

 The Ecclesiastical Offices (Terms of Service) (Amendment)  
 Regulations 201-

<i>Made (sealed by the Archbishops' Council) -</i>	***
<i>Laid before Parliament</i>	***
<i>Coming into force - -</i>	***

In pursuance of section 2 of the Ecclesiastical Offices (Terms of Service) Measure 2009(a), the Archbishops' Council makes the following Regulations:

**Citation and coming into force**

1. These Regulations may be cited as the Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 201- and shall come into force on \*\*\*\* 201-.

**Interim posts**

2.—(1) In regulation 29 of the Ecclesiastical Offices (Terms of Service) Regulations 2009(b), in paragraph (1) (list of fixed term offices etc.)—

- (a) omit the “or” before paragraph (i), and
- (b) after that paragraph insert “, or  
“(j) the office is designated as an interim post,”.

(2) After paragraph (7A) of that regulation insert—

“(7B) An office may be designated as an interim post if the designation is in writing, signed by the bishop of the diocese in which the office is situated acting with the consent of—

- (a) the office holder,
- (b) the mission and pastoral committee of the diocese, and
- (c) the parochial church council of each parish within the benefice in question.

(7C) In deciding whether to designate an office as an interim post, the bishop shall have regard to any guidance issued by the Archbishops' Council.

(7D) The term of an office designated as an interim post may not exceed three years.

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(a) 2009 No. 1

(b) SI 2009/2108. The Regulations were amended by SI 2010/2407 and SI 2010/2848



(7E) An office designated as an interim post may be designated as such again for a further period of up to three years; but an appointment may not be made to an office designated as such if it was designated as such on the two immediately preceding appointments.”

**Other limited term appointments**

3.—(1) In regulation 29 of the Ecclesiastical Offices (Terms of Service) Regulations 2009, after paragraph (3) (training posts) insert—

“(3A) An office designated as a training post may continue to be designated as such for a period of no more than one year following the completion by the office holder of the initial ministerial education.”

(2) In paragraph (7A) of that regulation (Locally Supported Ministry Posts), for sub-paragraph (a) substitute—

“(a) the post is held by an assistant curate who is not the priest-in-charge of the benefice to which the parish in which he or she serves belongs,”.

(3) In paragraph (1)(f) of that regulation (bishop’s mission orders), for “section 47 or 50 of the Dioceses, Pastoral and Mission Measure 2007” substitute “section 80 or 83 of the Mission and Pastoral Measure 2011”.

(4) In regulation 20 of those Regulations (duty of bishop to ensure provision of suitable training), after paragraph (1) insert—

“(1A) During any period for which an office referred to in paragraph (1) above continues to be designated as a training post as a result of regulation 29(3A), the duty in paragraph (1) above does not apply in relation to the office but the duty in paragraph 19(1) does.”

The draft of these Regulations was approved by the General Synod of the Church of England on \*\*\*\* 201-.

Church House, London SW1P 3AZ

*Dr Jacqui Philips*  
Clerk to the Synod

THE COMMON SEAL of the Archbishops’ Council was hereunto affixed on \*\*\*\* 201-.



Church House, London SW1P 3AZ

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

# The Deployment of Clergy with licences and permission to officiate (PTO)

June 2014

*This advice, issued by the Remuneration and Conditions of Service Committee of the Archbishops' Council, explains the legal implications of giving clergy licences and permission to officiate in order to assist in determining what form of authorisation is appropriate for someone's particular ministry. When it uses must, this refers to a specific legal requirement. It uses should for items regarded as minimum good practice, which should be followed unless there is good reason not to.*

## Introduction

- 1.1 Ordination to the Priesthood, in the Church of England, is understood as a life-long vocation, as is presumed in the Bishop's Introduction, at the beginning of the Common Worship Ordination Service, which contains the following words: "Priests are ordained to lead God's people in the offering of praise and the proclamation of the gospel. They share with the Bishop in the oversight of the Church, delighting in its beauty and rejoicing in its well-being. They are to set the example of the Good Shepherd always before them as the pattern of their calling. With the Bishop and their fellow presbyters, they are to sustain the community of the faithful by the ministry of word and sacrament, that we all may grow into the fullness of Christ and be a living sacrifice acceptable to God."
- 1.2 Ordained ministers are called, without any limit of time, as long as they live, to proclaim the glory of God in every part of their lives, not just in the exercise of celebrating public services. However the precise expression of that vocation in authorized public ministry is likely vary during a cleric's ministry, as set out in this paper.
- 1.3 All clergy wishing to exercise a public ministry other than in senior appointments or as incumbent must be granted either permission to officiate or a licence by the diocesan bishop. Whether to give a self-supporting cleric permission to officiate or a licence as assistant curate will be, to some extent, a matter of judgement. In many cases, it will be fairly clear; for example, where a house is provided for the better performance of the duties, a licence is appropriate.
- 1.4 Another factor is where the ministry is focused. If the cleric's ministry is centred on one benefice and the cleric is to be regarded as an integral part of the ministry team, it may be appropriate for that cleric to be given a licence, even if he or she only

officiates once or twice a month. If, on the other hand, he or she helps out all over the deanery or diocese as needed, then a PTO may be more appropriate.

- 1.5 The important point is that the decision whether to grant a licence or permission to officiate is taken in full knowledge of what the legal implications are. They are summarised at Annex 1.
- 1.6 **Clergy with a licence (see section 2)** have all the entitlements and obligations conferred by the (Ecclesiastical Offices) Terms of Service Measure and Regulations: they must participate in MDR and CMD and (whether stipendiary or not) report all absence that lasts longer than 7 days resulting from sickness. They are subject to the capability procedure. They must be issued with a statement of particulars, and may only be removed from office in the circumstances set out in the statement. They are likely to have specific duties that their office requires them to carry out and should agree a role description.
- 1.7 By contrast, **permission to officiate (see section 3)** is granted and held at the will of the bishop and may be withdrawn at any time. Those who have it may only exercise their ministry at the invitation of the relevant incumbent or priest in charge. If they have a role in the parish where they live, it is unlikely to be of a kind that requires detailed description. Their role in the parish may be subject to review if there is a change in incumbent or priest in charge.
- 1.8 What is important to remember is that there will be a variety of engagement in ministry by clergy, whether on licence or with permission to officiate. Whatever arrangements are put in place need to reflect this and avoid being too top heavy.

## **2. Ministries requiring a licence**

- 2.1 Ministries where the grant of a licence is appropriate include:
  - a) house for duty appointments;
  - b) where a minister is in charge of a parish;
  - c) team ministries (whether as an assistant curate or a team vicar).
- 2.2 In other cases it may be more a matter of judgment. Someone taking a monthly service and attending a monthly meeting of ministry team would not necessarily require a licence, but probably would if there was a need to define the role in a precise way.
- 2.3 A statement of particulars must be issued for all licensed ministries.
- 2.4 Clergy under a licence must participate in the appropriate Diocesan Ministerial Development Review (MDR) Scheme and in Continuing Ministerial Development (unless they are holding their licence exclusively in conjunction with a contract of employment).
- 2.5 Clergy under a licence must supply the bishop's designated officer with a medical certificate for sickness absence of more than 7 days and when unable to carry out their duties because of sickness use all reasonable endeavours to make arrangements for the duties of the office to be performed by another person.



- 2.6 Ministries undertaken by clergy over 70 under licence must be held for a fixed term, or on the basis that the appointment may be terminated on the occurrence of a specified event -although the licence may be extended or renewed by agreement.

*Licences and contracts of employment*

- 2.7 In addition to these categories, part-time sector ministry (e.g. chaplain in a hospital, fire station, workplace, school, cadets etc.) whether on an employed or a volunteer basis will also require a licence under the Extra-Parochial Ministry Measure 1967. If the sector ministry is held exclusively under a contract of employment, it will not be necessary to provide a statement of particulars: See Reg 2(3) of the Ecclesiastical Offices (Terms of Service) Regulations 2009.
- 2.8 Where additional duties are performed outside the contract of employment, a separate licence or a PTO will be required. If the duties are sufficiently substantial to constitute an office held under licence, it will usually be appropriate for that office to be designated as held in conjunction with a contract of employment under regulation 29(1) (g) of the Ecclesiastical Offices (Terms of Service) Regulations 2009, and for the statement of particulars that the licence will be revoked on the termination of the contract of employment

### 3. Permission to Officiate

- 3.1 Clergy with permission to officiate are often, but not always, retired stipendiary clergy. Some may have retired from self supporting ministry or from other walks of life. Others may not be retired at all. For example, it may be appropriate to grant PTO to someone in good standing who has left parochial ministry in order to take employment outside the church, but who wishes to continue to offer help with occasional offices, or to a person who requires a period of staged return to stipendiary ministry following past difficulties.
- 3.2 Permission to officiate may be granted to a cleric in more than one diocese
- 3.3 Permission to officiate is not granted as of right, however senior or experienced the cleric may be.
- 3.4 Permission to officiate in a diocese should not be restricted (for example by attempting to exclude children or vulnerable adults from someone's ministry).
- 3.5 Permission to officiate enables a cleric to officiate **when invited to do so** by the minister having the cure of souls in any place (or the sequestrators in a vacancy) in the diocese in which the permission has been granted. Forms of ministry that usually require permission to officiate include:

- a) Casual duties and occasional offices; substituting) during a vacancy;

- b) covering a period of authorised absence<sup>1</sup> (such as sabbatical, maternity leave or sick leave);
- c) spiritual direction, mentoring or work consultation (e.g. a retired cleric with experience of church schools can be of considerable help to an incumbent coming new to this specialised area);
- d) conducting retreats or quiet days;
- e) acting as an outside consultant/teacher/facilitator for parishes (e.g. for PCC away days, stewardship campaigns, Lent groups and house groups);
- f) participating in missions, staffing CMD and ordination courses, assisting with ministerial review;
- g) representing the diocese or the Church of England on various bodies or visits (e.g. an overseas diocese linked with the diocese, a charity, or a secular organisation), and drafting papers.

3.6 Legally, permission to officiate is held at the bishop's pleasure and may be withdrawn at any time. It may be granted on condition that required training (for example, a refresher course in safeguarding) is completed.

3.7 The Clergy Discipline Measure applies to all clergy, however their ministry is authorised, and continues to apply when they are not longer active in their ministry.

3.8 Before permission to officiate is granted, the following steps are recommended as good practice.

- i. Where a cleric is retiring from ministry, it is desirable that he or she has an exit interview with a member of the Bishop's staff or the archdeacon.
- ii. The area/rural dean and the incumbent or priest in charge of the parish where the cleric is based should meet the cleric to welcome him or her to the deanery and to discuss how the cleric may be able to contribute to its ministry. If the cleric is interested in a diocesan ministry beyond the deanery, the relevant archdeacon(s) should be informed. If the cleric is willing to travel to parishes in neighbouring deaneries, and/or is willing to minister on a regular basis in another deanery, the relevant area/rural dean should be informed. A cleric should not minister in retirement in the parish where he or she has been the incumbent or priest in charge.
- iii. The area/rural dean or the incumbent/priest in charge should speak to at least two people who know the cleric and their past ministry, to get independent references.

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<sup>1</sup> If stipend and/or housing is provided for a cleric covering for a period of authorised absence, however, it may be better to issue the cleric with a licence and for him or her to be given a fixed term appointment under reg 29(1) (a) of the Ecclesiastical Offices (Terms of Service) Regulations 2009 and be issued with a statement of particulars.



- iv. If someone is moving into a new diocese, a Clergy Current Status Letter (CCSL) and episcopal reference should be obtained before permission to officiate is granted.
  - v. The personal file should move to the new diocese at the point of the cleric being granted a licence or permission to officiate in that diocese. If the cleric holds a licence or PTO concurrently in more than one diocese, the file should be held in the diocese where the greater part of his or her ministry is exercised<sup>2</sup>
  - vi. Whether the move is to a new diocese, or a change of role in the same diocese, the appropriate person in the diocese should ask the cleric to complete a Confidential Declaration and then **should<sup>3</sup> in all cases** conduct the appropriate criminal records check with the Disclosure and Barring Service (DBS) with reference to working with children and/or vulnerable adults.
- 3.10 If a cleric's ministry is centred on one benefice, and he or she is regarded as an integral part of the ministry team, a licence is likely to be the best way of authorising their ministry. Where someone with a PTO offers to help out regularly in a particular parish but not to the extent that would justify their being given a licence, it may be helpful for the incumbent and the priest to clarify (perhaps in an exchange of letters) expectations as to the extent and nature of that assistance. If it is felt that something more formal than that is required, this suggests that a licence (with a role description) would be more appropriate.
- 3.11 Clergy with permission to officiate, even if their duties are light and irregular, should have a regular discussion (say every two or three years) with the incumbent about their ministry and the arrangements for it. Sometimes, it might be appropriate to find a mutually agreed way to vary or reduce their workload or to discuss a transition to full retirement, for example if the cleric is in poor health. It may also be appropriate to explore whether they have any particular training needs.
- 3.12 When there is a change of incumbent or priest in charge in a parish, this procedure should be repeated, with sensitivity. Often the cleric with PTO will have worked hard in the parish during the vacancy, and the new incumbent/priest in charge and area dean should acknowledge this. However, it is important to remember that **those with permission to officiate may only do so at the invitation of the incumbent or priest in charge.**
- 3.13 Clergy with permission to officiate will not have a statement of particulars or a licence. The Archbishops' Council Guidance on parochial fees, reissued in February 2014, strongly recommends that bishops should issue clergy with permission to officiate with an information sheet along with their permission to officiate. The guidance suggests that it

“could cover:

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<sup>2</sup> See the House of Bishops' guidance on Personal Files relating to Clergy (April 2013) paras 74 and 76.

<sup>3</sup> See the relevant section of Protecting All God's Children which sets out the House of Bishops' policy in this area.

- a. Whether payment for pastoral services may be claimed;
- b. The processes for claiming such remuneration and the importance of HMRC declaration;
- c. the requirement to liaise with the incumbent or priest-in-charge of the benefice in question when exercising a ministry;
- d. Access to CMD relevant to the ministry being exercised
- e. Arrangements for review/renewal of PTO, relationships with rural/area dean and other matters as a diocese may think useful.”



## Main differences between clergy on licences and clergy with permission to officiate

	<b>Licence</b>	<b>PTO</b>
<b>Rights and responsibilities</b>	Rights and responsibilities are conferred by the Ecclesiastical Offices (Terms of Service) Measure and Regulations, unless the cleric carries out his or her duties entirely under a contract of employment, in which case the Regulations do not apply.	No rights and responsibilities under the Terms of Service legislation.
<b>Ministerial Development Review (MDR)</b>	The bishop is required to have in place a scheme that arranges for the bishop (or someone nominated by him) to carry out ministerial review at least once every two years on all licensed ministers (unless their ministry is carried out entirely under a contract of employment).	There is no legal requirement for MDR, although this does not prevent the cleric participating in MDR if this is agreed by the bishop and the cleric.
<b>Continuing Ministerial Development (CMD)</b>	There is a legal requirement to participate in arrangements approved by the diocesan bishop.	There is no specific legal requirement, but failure to participate in CMD on matters such as safeguarding when required by the bishop can be a disciplinary offence and could lead to the bishop withdrawing permission to officiate.
<b>Documentation</b>	<ul style="list-style-type: none"> <li>• Licence</li> <li>• Statement of Particulars</li> </ul>	<ul style="list-style-type: none"> <li>• A letter from the bishop giving permission to officiate</li> <li>• An information sheet stating <ul style="list-style-type: none"> <li>▪ Whether payment may be claimed for pastoral services;</li> <li>▪ The processes for claiming such remuneration and the importance of HMRC declaration;</li> <li>▪ the requirement to liaise with the incumbent or priest-in-charge of the benefice in question where occasional offices are concerned</li> <li>▪ Arrangements for review/renewal of PTO, relationships with rural/area dean and other matters as the</li> </ul> </li> </ul>

		diocese may think useful
<b>Specified time off/hours of work</b>	As set out in the statement of particulars, which may refer to the role description	Not specified
<b>Role description</b>	Not legally required but good practice	If a role description is required, it may be more appropriate for a licence to be issued.
<b>Entitlement to Housing</b>	Yes – unless stated otherwise in the Statement of Particulars	No entitlement to housing. If housing is provided, permission to officiate is not sufficient, and a licence should be issued.
<b>Does the Clergy Discipline Measure apply?</b>	Yes	Yes
<b>Membership of PCC and Deanery Synod?</b>	Membership of PCC and deanery synod is ex officio.	Clergy with PTO may be co-opted onto the PCC or deanery synod. In the absence of an incumbent or during a vacancy, the bishop may authorise a cleric with PTO to act as chair of the PCC, if the PCC (and incumbent if there is one) applies to the bishop. Clergy with PTO have the statutory right to elect one of their number (for every ten or less in a deanery) onto the House of Clergy of the deanery synod. Where a cleric with PTO has been elected to the deanery synod, it is appropriate for them to be co-opted onto the PCC.
<b>Sickness reporting</b>	Licensed clergy (whether stipendiary or SSM) are legally required <ul style="list-style-type: none"> <li>▪ to supply the bishop's designated officer with a medical certificate for sickness absence of more than 7 days</li> <li>▪ to use all endeavours to make arrangements for the duties of the office to be performed by another person.</li> </ul>	There is no legal requirement to report sickness, although clergy with PTO should keep their incumbent and/or area dean informed.
<b>Circumstances in which the licence or</b>	<ul style="list-style-type: none"> <li>• Resignation with three months' notice</li> <li>• Retirement</li> </ul>	On the decision of the bishop.  There is no legal requirement to provide

<p><b>permission to officiate may come to an end</b></p>	<ul style="list-style-type: none"> <li>• Pastoral reorganisation which results in loss of office</li> <li>• Following capability or disciplinary proceedings</li> <li>• On reaching 70</li> <li>• When the licence comes to an end and is not renewed. Where the licence is for a fixed or limited term, this must be stated in the SOP. (Clergy over 70 may only be licensed for a fixed or limited term, which may be extended or renewed.)</li> </ul>	<p>notice to terminate a PTO or an appeal process.</p>
<p><b>Capability procedure</b></p>	<p>In cases where the cleric is not performing to an acceptable standard, it is possible to invoke the formal capability procedure, which may lead to removal from office if the cleric fails to improve.</p>	<p>Not applicable</p>

**Model statement of particulars for  
self supporting minister where no housing is provided**

**Dated September 2014**

**Ecclesiastical Offices (Terms of Service) Regulations 2009**

Statement of Particulars of Office for the Revd \_\_\_\_\_

\_\_\_\_\_ as assistant curate/priest in charge<sup>1</sup> of

\_\_\_\_\_/cleric under general licence to officiate in this diocese (*delete as applicable*) with effect from DD. MM.20\*\*.

This Statement is issued under Regulation 3(1) of the Ecclesiastical Offices (Terms of Service) Regulations 2009 (“the Regulations”). All references to the particular numbered Regulations are to the relevant provision or provisions of the Regulations, and references to Sections of the Measure are to the relevant provision or provisions in the Ecclesiastical Offices (Terms of Service) Measure 2009.

Copies of the Ecclesiastical Offices (Terms of Service) Measure and Regulations 2009 are available at [www.common tenure.org](http://www.common tenure.org) or from your diocesan office.

### **1 Appointment and office**

This statement is issued by \_\_\_\_\_, the officer of the diocese nominated for this purpose under Regulation 3 by the Bishop of \_\_\_\_\_.

### **2 Termination of appointment**

Your term of office may be terminated only in accordance with the circumstances set out in Section 3 of the Measure.

You are required to give at least 3 months’ notice if you wish to resign your appointment. This period may be waived by agreement between you, your incumbent/area dean and the diocesan bishop.

### **3 Time to be spent discharging your duties**

*Either (1) Full time posts*

The office you hold is a full-time post.

<sup>1</sup> If the bishop has directed under section 99 of the Mission and Pastoral Measure 2011 that the office should be described by another title (e.g. associate priest), that title should be used here and in the licence issued to the office holder.



*Or (2) Part time posts*

The office you hold is a part time post. The amount of time you are expected to spend discharging the duties of your office is by agreement with your incumbent or area dean <sup>2</sup>

## **4 Entitlements**

You are entitled to

- the reimbursement of expenses reasonably incurred in connection with the exercise of your office<sup>3</sup>
- an uninterrupted rest period of 24 hours in each period of seven days
- annual leave *delete as applicable* <sup>4</sup>
  - of at least 36 days of annual leave in each leave year (full time posts)
  - of [ ] days per year (part time posts)
  - as recorded in your role description (part time posts)
  - by agreement with your incumbent (part time posts)
- special leave in particular circumstances as allowed by the bishop/ incumbent
- maternity, parental and adoption leave and time off to care for dependants as appropriate as set out in Regulation 23 and the Ecclesiastical Offices (Terms of Service) Directions 2010 and time off to receive ante natal care
- request time off or adjustments to the duties of the office to care for dependants in accordance with the Directions
- spend time on public duties as specified in regulations 24 and 26
- seek redress using the grievance procedure under regulation 32 at [www.commontenure.org](http://www.commontenure.org)

You have no entitlement to stipend, pension or housing.

## **5 Parochial fees**

You have no legal entitlement to parochial fees.

*[optional: But*

*Either (i)* the diocesan board of finance may offer you a payment for officiating at occasional offices in respect of which a fee is payable to the board. For further details, contact your diocesan office.

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<sup>2</sup> Other ways of defining the part-time nature of the role (e.g. as a percentage of a full-time post or the equivalent of [ ] days per week in discharging the duties of this office) may be appropriate, depending on the circumstances

<sup>3</sup> Reimbursement is the responsibility of the parochial church council(s) of the parish(es) in which you serve. For further details, see *The Parochial Expenses of the Clergy: a guide to their reimbursement*, published by the Central Stipends Authority, and your diocesan handbook.

<sup>4</sup> Where the office is part time, the amount of leave must either be stated in the SOP, which may do this by referring to a role description, unless it is by recorded in the SOP as by agreement with the incumbent

Or (ii): The DBF has directed that ministers not in receipt of a stipend may retain 2/3 of the fee (or some other proportion) for conducting any occasional office that would otherwise be payable to the DBF]

## 6 Requirements

You are required

- to co-operate in any ministerial development review undertaken under regulation 18 at least every two years
- to participate in arrangements approved by the bishop under regulation 19 for your continuing ministerial education and development
- to use all reasonable efforts to make arrangements for the duties of your office to be performed by another person when you are unable to perform them because you are absent through sickness – which may, where appropriate, consist of notifying \_\_\_\_\_<sup>5</sup> a responsible person or authority of your absence
- for any periods of sickness lasting more than seven days, where these periods of sickness result in your not being able to carry out your duties,<sup>6</sup> to inform the officer designated by the bishop for this purpose<sup>7</sup>
- to provide a medical certificate for such absence
- to undergo a medical examination by a medical practitioner if the bishop has reasonable grounds for concern about your physical or mental health

You are *not* required to live at a particular address for the better performance of your duties.

## 7 Discipline and Capability

The disciplinary rules and procedures applicable to your office are contained in the Clergy Discipline Measure 2003 and the Ecclesiastical Jurisdiction Measure 1963. The Archbishops' Council has issued a Code of Practice under Regulation 31. Diocesan Bishops are required to have regard to this Code if they have grounds for concern about the performance of an office holder and institute an inquiry into his or her capability. A copy of this Code – and the supporting advice issued alongside it - can be obtained from the diocesan office or from [www.common tenure.org](http://www.common tenure.org) .

## 8 Respondent in employment tribunal proceedings

The body to be treated for the purpose of the Regulations as the respondent in any proceedings you might bring before an Employment Tribunal is the Diocesan Board of Finance of the Diocese of \_\_\_\_\_.

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<sup>5</sup> The SOP may record a specific person (for example, the incumbent or the area dean) who would constitute a responsible person

<sup>6</sup> The purpose of this reporting requirement is primarily pastoral and practical to ensure that the office holder concerned and the parish are properly supported if the office holder is ill for any substantial period of time.

<sup>7</sup> It is possible to designate different officers for different clergy. For example, for SSMS, it may be appropriate for it to be the archdeacon or the area dean.

(signed) \_\_\_\_\_

Officer of the diocese nominated for this purpose under Regulation 3 by the Bishop  
of \_\_\_\_\_.  
on \_\_\_\_\_XX. XX 20XX

I acknowledge receipt of this Statement of Particulars

(signed)-----  
Date

*Model dated September 2014*

**1 Bishop's pastoral order [j203]**

After Part 5 of the Mission and Pastoral Measure 2011 insert—

**“PART 5A****BISHOP'S PASTORAL ORDER****54A Bishop's pastoral order**

- (1) The bishop may by order provide for any of the following matters—
  - (a) the alteration or definition of the boundaries of an extra-parochial place;
  - (b) the alteration of the name of a benefice or parish;
  - (c) the holding in plurality of two or more benefices;
  - (d) the creation or alteration of an archdeaconry;
  - (e) the dissolution of a vacant archdeaconry;
  - (f) the creation, alteration or dissolution of a deanery;
  - (g) the alteration of the name of an archdeaconry or deanery;
  - (h) the termination of a group ministry by abolishing the rights and duties attaching to the benefices in the group under section 35;
  - (i) the alteration of a team ministry by abolishing an office of vicar which is vacant or increasing the number of the offices of vicar;
  - (j) the alteration of a team ministry by transferring a right of patronage held by the diocesan patronage board;
  - (k) the designation of the first incumbent of a new benefice or of two or more benefices to be held in plurality;
  - (l) the designation of a house as the place of residence of a vicar in a team ministry;
  - (m) the designation of a parsonage house as such.
- (2) An order under this section is referred to as a “bishop's pastoral order”.
- (3) A bishop's pastoral order must name every new archdeaconry or deanery created by the order.
- (4) Before making a bishop's pastoral order, the bishop must consult such persons, groups of persons or organisations as the bishop thinks fit.

**54B Supplementary provisions**

- (1) A bishop's pastoral order may contain such supplementary or consequential provisions as appear to the bishop to be necessary or expedient for giving effect to the purposes of the order.
- (2) A bishop's pastoral order must, where the bishop considers it appropriate, have a map or plan annexed showing the changes made by the order.
- (3) A bishop's pastoral order may provide that the order, or specified provisions of it, are to come into operation on a specified date or on the happening of a specified event or contingency; and different dates, events or contingencies may be specified for different provisions.
- (4) A bishop's pastoral order must be signed by the bishop or a person authorised by the bishop.



- (5) The bishop must send a copy of a bishop's pastoral order to the Commissioners.

**54C Amendment and revocation**

- (1) A bishop's pastoral order may be amended or revoked by a subsequent bishop's pastoral order.
- (2) An amending order may provide for any matters for which provision could have been made by the order to be amended.
- (3) A bishop's pastoral order, or a specified provision of it, may be amended or revoked under this section before it comes into operation.
- (4) Where a bishop's pastoral order has made provision for the holding in plurality of two or more benefices and the provision has been terminated, the bishop may, by instrument, make such consequential amendments to the order as the bishop thinks fit.
- (5) The bishop must send a copy of an instrument under subsection (4) to the Commissioners."

## 1 Team and group ministries [j202]

- (1) In section 34 of the Mission and Pastoral Measure 2011 (establishment of team ministries), in subsection (3) (authorisation to serve as team member), for “with the consent of a majority of the other members of the team and of” substitute “after consultation with the other members of the team and with”.
- (2) In subsection (6) of that section (responsibility of rector), omit from “; and the scheme” to the end.
- (3) In subsection (7) of that section (authority of vicar) –
  - (a) omit “the scheme or, subject to the scheme,”, and
  - (b) omit “(subject to the scheme)”.
- (4) In subsection (8) of that section (responsibility of certain team ministry members for pastoral care) –
  - (a) for the words from the beginning to “any member of the team” substitute “The bishop’s licence may assign to any member of a team ministry”, and
  - (b) omit “(subject to the scheme)”.
- (5) Omit the following provisions of that section –
  - (a) subsection (11) (duty of rector to convene meetings);
  - (b) subsection (12) (right of members to request meetings);
  - (c) subsection (15) (duty of rector to inform members of statutory notices);
  - (d) subsection (18) (definition of expressions used in subsection (15)).
- (6) In subsection (16) of that section (appointment of vicar to act as rector when vacancy arises), for “, (6) and (11)” substitute “and (6)”.
- (7) In paragraph 1 of Schedule 3 to the Mission and Pastoral Measure 2011 (supplementary provisions relating to pastoral schemes etc: team and group ministries), in sub-paragraph (1), for the words from “either” to the end substitute “by a patronage board constituted by the scheme”.
- (8) In sub-paragraph (3) of that paragraph, omit “or the diocesan board of patronage”.
- (9) Omit sub-paragraph (11) of that paragraph.
- (10) In paragraph 2 of that Schedule, omit sub-paragraphs (1) to (4).
- (11) For sub-paragraph (5) of that paragraph substitute –
 

“(5) The vicar or vicars in a team ministry, other than the first holder of the office in the team, if designated by the pastoral scheme establishing the ministry, shall be chosen by the bishop and the rector jointly.”
- (12) In sub-paragraph (6) of that paragraph, for the words from the beginning to “, they” substitute “Before choosing a person to be a vicar in a team ministry, the bishop and rector”.
- (13) In sub-paragraph (7) of that paragraph –
  - (a) in paragraph (a), for the words from the beginning to “as such” substitute “The bishop and rector shall not make any person an offer of appointment as vicar in a team ministry”, and

- (b) in paragraphs (b), (c) and (d), for “the body or other persons”, in each place it appears, substitute “the bishop and rector”.
- (14) In sub-paragraph (10), omit “(2), (3), (4) and”.

**1 Bishop's mission order [j201]**

- (1) In section 81 of the Mission and Pastoral Measure 2011 (the Visitor), in subsection (1) (functions) –
  - (a) omit “, on behalf of the bishop or bishops”,
  - (b) in paragraph (a), at the beginning insert “on behalf of the bishop or bishops”, and
  - (c) omit paragraphs (b) and (d) to (f).
- (2) After that subsection insert –
 

“(1A) The Visitor may take such other steps as the Visitor thinks fit for ensuring the proper governance of the mission initiative.”
- (3) Omit subsection (3) of that section.
- (4) In section 82 of that Measure (supplementary provisions), in subsection (6) (right of leader to make representations), for “the mission and pastoral committee or committees” substitute “the bishop or bishops”.
- (5) In subsection (7) of that section (duration of order) –
  - (a) after “shall specify its duration” insert “(which may be defined or indefinite)”, and
  - (b) omit the words from “, but” to the end.
- (6) After subsection (8) of that section –
 

“(8A) The bishop or bishops shall send a copy of each of the following to the Commissioners –

  - (a) any bishop's mission order;
  - (b) any order varying or revoking a bishop's mission order;
  - (c) any supplementary instrument;
  - (d) any instrument varying or revoking a supplementary instrument.”
- (7) In section 83 of that Measure (review of duration of mission initiatives), in subsection (1), for the words from the beginning to “under section 82(7),” substitute “In the case of a bishop's mission order of defined duration, the Visitor shall conduct a review of the mission initiative not less than six months before the expiry of the order,”.
- (8) In subsection (2) of that section (Visitor's recommendations), for “the period (not exceeding five years) of the renewal” substitute “the duration of the renewal (which may be defined or indefinite)”.
- (9) In subsection (5) of that section (duration of further order etc.), for the words from “and the order shall continue” to the end substitute “(which may be defined or indefinite) and the order shall continue in force accordingly.”
- (10) In subsection (6) of that section (duty to report on further orders), after “a further order under subsection (4)” insert “that is of defined duration,”.
- (11) In subsection (8) of that section (orders containing provision for participation in local ecumenical project), after “Where a bishop's mission order” insert “of defined duration”.
- (12) In subsection (11) of that section (orders and supplementary instruments: procedural requirements etc.), for “and (6)” substitute “, (6) and (8A)”.

## 1 Compensation of clergy [j101]

- (1) For section 40 of the Mission and Pastoral Measure 2011 substitute –

### “40 Compensation of clergy

Schedule 4 (which confers rights to compensation on holders of ecclesiastical office who are subject to Common Tenure and incumbents and archdeacons who are not) has effect.”

- (2) For Schedule 4 to that Measure substitute –

#### “SCHEDULE 4

#### COMPENSATION OF CLERGY

##### *Persons entitled to compensation*

- 1 (1) Each of the following is entitled to compensation under this Schedule –
- (a) the holder of an ecclesiastical office who is subject to Common Tenure whose office is abolished by or as the result of a pastoral scheme or order;
  - (b) the incumbent of a benefice dissolved by a pastoral scheme, or deemed to be vacated by virtue of section 39, who is not subject to Common Tenure;
  - (c) the archdeacon of an archdeaconry dissolved by a pastoral scheme who is not subject to Common Tenure.
- (2) But a person who comes within sub-paragraph (1) is not entitled to compensation under this Schedule if the pastoral scheme or order also provides for the person’s appointment to an ecclesiastical office.
- 2 (1) This paragraph applies if the holder of an ecclesiastical office who is subject to Common Tenure, or the incumbent of a benefice or an archdeacon who is not so subject, agrees with the mission and pastoral committee that compensation will be payable if he or she resigns from the office in question to enable a pastoral scheme or order to come into operation or to facilitate its coming into operation.
- (2) The person is entitled, on resignation following the making of the scheme or order, to compensation under this Schedule.
- (3) But an agreement to the effect mentioned in sub-paragraph (1) is of no effect, and sub-paragraph (2) accordingly does not apply, in a case where the pastoral scheme or order also provides for the person’s appointment to an ecclesiastical office.

##### *Amount of compensation*

- 3 (1) The amount of compensation payable to a person under this Schedule is –
- (a) one half of the person’s final pay,
  - (b) [the amount that would be required by way of contribution under section 4(1) of the Pensions Act 1997 for six months’ service by the person in the office in question at his or her final pay,] and

- (c) if the number of whole years for which the person has been in stipendiary ecclesiastical service is seven or more, the amount calculated by multiplying that number of whole years by one twelfth of the person's final pay.
- (2) In sub-paragraph (1), a person's "final pay" is the amount that the person was receiving by way of stipend and other emoluments immediately before ceasing to hold the office in question.
- (3) Where the number of whole years for which a person has been in stipendiary ecclesiastical service exceeds 21, the number of whole years for the purposes of the calculation in sub-paragraph (1)(c) is 21.
- (4) In determining the length of a person's stipendiary ecclesiastical service, no account is to be taken of any period of service which was included in the calculation of a previous entitlement to compensation under this Schedule.
- (5) "Stipendiary ecclesiastical service" has the same meaning as it has in regulations for the time being in force under section 6 of the Clergy Pensions (Amendment) Measure 1972.

#### *Payments of compensation*

- 4 (1) A payment of compensation under this Schedule is to be made as a lump sum by the diocesan board of finance.
- (2) The payment is to be charged on the capital account or the income account of the diocesan stipends fund; the board has the function of deciding on a case by case basis which account to charge.

#### *Housing*

- 5 (1) This paragraph applies where a person entitled to compensation under this Schedule was, immediately before ceasing to hold the office in question, occupying a parsonage house or other official residence provided for the purposes of the office.
- (2) The diocesan board of finance must provide the person with accommodation which is suitable for him or her, and the family members with whom he or she lives, for a period of six months beginning with the date on which the person ceases to hold the office in question.
- (3) In sub-paragraph (2), the reference to providing accommodation includes a reference to making arrangements with another person for that other person to provide accommodation.

#### *Power to amend*

- 6 (1) The Archbishops' Council may by order amend the preceding provisions of this Schedule (and section 40 in consequence).
- (2) An order under this paragraph may not be made unless –
  - (a) a draft of the order has been laid before the General Synod and approved by it with or without amendment, and

- 
- (b) the draft so approved has been referred to the Archbishops' Council.
- (3) On referral of the draft, the Council must—
- (a) if the draft was approved without amendment, make the order by applying its seal, or
  - (b) if the draft was approved with amendment—
    - (i) make the order by applying its seal, or
    - (ii) withdraw the draft for further consideration.
- (4) An order under this paragraph comes into force when it is sealed by the Council.
- (5) If the Business Committee of the General Synod determines that a draft of an order under this paragraph does not need to be debated by the General Synod, the draft is to be treated as approved for the purposes of this paragraph unless a member of the General Synod gives notice in accordance with its standing orders that he or she—
- (a) wishes the draft order to be debated, or
  - (b) wishes to move an amendment to it.
- (6) The power to make an order under this paragraph is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies—
- (a) as if the order had been made by a Minister of the Crown, and
  - (b) as if this Measure were an Act of Parliament providing for the instrument containing the order to be subject to annulment in pursuance of a resolution of either House of Parliament.”