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Church Commissioners

Parsonages and Glebe

Diocesan Manual

- incorporating the impact of the Ecclesiastical Offices (Terms of Service) Measure 2009 in relation to clergy housing

JUNE 2018



Parsonages and Glebe Diocesan Manual

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Pastoral Division's Website

The following documents can be downloaded from our website at ccpastoral.org

- 1 Parsonages and Glebe Manual
- 2 Application Forms
- 3 Parsonages Measures (Amendment) Rules 2007 and Recommended Forms
- 4 Parsonages Design Guide (with accompanying leaflets)
- 5 Parsonages and Glebe: Planning Appeals and Court Judgments
- 6 Repair of Benefice Buildings Measure Code of Practice
- 7 Value Linked Loans (application forms and notes)
- 8 Legislation
 - (i) Parsonages Measure 1938
 - (ii) Endowments and Glebe Measure 1976
 - (iii) Repair of Benefice Buildings Measure 1972
 - (iv) Diocesan Stipends Funds Measure 1953
 - (v) Church Property (Miscellaneous Provisions) Measure 1960
 - (vi) New Parishes Measure 1943
 - (vii) Mission and Pastoral Measure 2011
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Pastoral Division's Family Tree is available at
ccpastoral.org/pastcontacts/

Parsonages and Glebe Diocesan Manual

Sections 12 to 18 and 21 and 22 of the Church of England (Miscellaneous Provisions) Measure 2000 came into effect on 1 September 2000. With one minor exception all the remaining provisions came into effect on 1 January 2001. Modest supplementary changes of a technical nature were made by the Church of England (Miscellaneous Provisions) Measure 2005 which came into effect on 1 June 2005. Further changes were made by the Church of England (Miscellaneous Provisions) Measure 2006 which came into effect on 1 October 2006 and a further section on 1 May 2007. The relevant provisions of the Church of England (Miscellaneous Provisions) Measure 2010 amending the New Parishes Measure 1943 came into effect on 1 September 2010. These Measures significantly reduced the Church Commissioners' administrative role in parsonages and glebe matters. The Ecclesiastical Offices (Terms of Service) Measure 2009 gave Diocesan Parsonages Boards a statutory role in the provision of housing for ecclesiastical office holders other than incumbents and a second tier role to the Church Commissioners. This Manual provides the necessary legal and procedural guidance which diocesan administrators and their professional advisers should follow when carrying out the range of transactions relating to clergy housing and glebe land provided for under the Parsonages Measures, the New Parishes Measure, the Endowments and Glebe Measure and the Ecclesiastical Offices (Terms of Service) Measure. It also deals with:

- ◆ the Commissioners' role in those matters where our approval continues to be needed (for example, in cases where "connected persons" are involved and/or where objections have been received);
- ◆ the release and variation of restrictive covenants

In addition the Manual offers advice on a variety of related matters. Where we have previously published such advice it has been updated and revised as necessary. For example, our free-standing leaflets on procedural and financial matters which accompanied the current Parsonages Design Guide when it was published in 1998 have been amended in order to reflect the legislative changes. All the Design Guide leaflets are included in the Manual for ease of reference. Under the various elements of the legislation covered by this manual, dioceses are obliged to "have regard to" the advice offered by the Commissioners. This advice is offered in general to ensure that there are no procedural flaws in processing diocesan proposals that might subsequently be capable of legal challenge.

The Manual is designed in such a way that, as a series of free-standing documents, its component parts can be reproduced and made available to individual members of diocesan boards/committees, the clergy, parochial church councils, churchwardens, sequestrators etc. as required. When it is necessary to amend the Manual or publish supplementary material we will send electronic notifications automatically to all Diocesan Secretaries; Parsonages Board/Committee Secretaries; Glebe Committee Secretaries and Diocesan Registrars. Any other person or body who would like to receive notification of such material is invited to send an email to that effect to pastoral@churchofengland.org. Alternatively, people can send us the attached slip but please note that we no longer send paper notifications.

Our website (ccpastoral.org) will always contain the latest version of the Manual together with the primary Measures relating to parsonages and glebe matters. The Parsonages Design Guide is also included. We have also included templates for all the application forms where the

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Commissioners' approval is needed – these may be completed, printed out and forwarded to us as and when necessary. All files are in Microsoft Word format apart from those for the Design Guide which are in .pdf (portable document format) and can be viewed using Adobe's Acrobat Reader (a free download from www.adobe.com/support/downloads/main.html).

Whilst we hope that the Manual is as comprehensive as possible and takes account of diocesan suggestions at an earlier stage, it may not answer all questions which arise in the course of dealing with parsonages and glebe matters. The Commissioners' staff will of course be happy to assist in this respect and up to date contact details are available from our website at ccpastoral.org/pastcontacts/.

Paul Lewis
Pastoral and Closed Churches Secretary

July 2012

Church Commissioners

Parsonages and Glebe Diocesan Manual

From time to time amendments and supplements will be issued. These will be sent in electronic format as a matter of course to all Diocesan Secretaries, Parsonages Board/Committee Secretaries, Glebe Committee Secretaries and Diocesan Registrars. Non-electronic copies of the Manual will only be of use if it is kept up to date by the insertion of these and, in order to receive notification of publication, you are invited to complete the tear-off slip below and send it to:

Pastoral Division
Church Commissioners
Great Smith Street
London
SW1P 3AZ

Alternatively you can email your request to: pastoral@churchofengland.org.

Church Commissioners

Parsonages and Glebe Diocesan Manual

I should like to receive notification of the publication of amendments and supplements to the Manual:

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Organisation

Address

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Section 1

Parsonages

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Parsonages

The term "parsonage house" means the property vested in the incumbent of a benefice which is his or her official residence, and includes any outbuildings or land included within such property and any related rights. The following sections summarise the procedures to be followed when it is proposed to sell, demolish, exchange, build, purchase, divide or improve a parsonage house under the Parsonages Measures 1938 & 1947 (as revised), including the application of any sale proceeds. They also summarise the procedures for additions and alterations under the Repair of Benefice Buildings Measure 1972; financial and various other administrative matters. Where appropriate, a note is included detailing the amendments to the relevant legislation arising from the Church of England (Miscellaneous Provisions) Measure 2000, under which the Commissioners' role in parsonage matters has been devolved where practicable to dioceses.

Consents and Notices

Changes since 2000

1. *Principal amendments arising from the Church of England (Miscellaneous Provisions) Measure 2000:*
 - Provided certain criteria are met and there are no objections to the proposal from either the patron(s) or the PCC(s), the Commissioners' consent to Parsonages Measures transactions is no longer required.

The legal position

2. Sections 1, 1(1A), 2 and 2A of the 1938 Measure authorises the incumbent as freeholder (or the Bishop in a vacancy of the benefice) to sell, demolish, exchange, build, purchase, divide or improve a parsonage. However, the incumbent cannot act independently. Under the Measure, the consents of the Bishop, Diocesan Parsonages Board and, in certain circumstances, the Commissioners are also required. Any non-incumbent member of a team ministry occupying the parsonage house also has to consent in most cases. The PCC(s) of the parish(es) and the patron(s) of the benefice have a right of representation to the Commissioners. In addition, where a parsonage house is that of a benefice for which a team ministry has been established, all the members of the team have a right to be consulted by the team rector (or the Bishop in a vacancy) and for their views to be taken into account before the rector or the Bishop takes action under the Measure. Although not statutory, we recommend that the patron(s) and PCC(s) of all the benefices held in a plurality should be consulted informally over any proposal under the above sections of the Measure . [See the table annexed to this Note for a summary of the legal position.](#)
3. Notice of any proposals under the Parsonages Measures should be given on a recommended form (Form 1 or Form 2) which should be served on the patron(s) and all of the PCCs within the benefice by the Diocesan Parsonages Board on behalf of the incumbent (or

Bishop). The Notice does not need to provide details of the specific terms of the proposed transaction(s) but the address/location of the property to be acquired, disposed of etc. must be given. Where a parish has no PCC, the notice must be served on the churchwardens. The period within which any written objections to the proposals may be made to the Diocesan Parsonages Board (for onward transmission to the Commissioners) is 21 days, commencing on the day after the date on which the notice has been given. Alternatively, if the patron(s) and PCC(s) are willing to forgo their right to receive a formal notice in this way, they may agree to this "shortened procedure" in writing on a recommended form (Form 5). A [covering letter](#) using the model in the last page of section 1.10 should make it clear that letters received after the notice period has expired will not be considered unless there are exceptional circumstances for doing so (e.g. postal strike, fax or email breakdown). Representors must be asked to indicate whether they wish to see the Commissioners' correspondence with the diocesan authorities and are then offered the opportunity to comment further if they so wish. We have been advised by our Official Solicitor that the Human Rights Act 1998 requires the ability of the interested parties to see such an exchange of correspondence so their right to do so must be explicit. The model letter incorporates all these points.

4. Form 1 must be served for any proposal involving the sale, demolition, acquisition, exchange, building or improvement of a parsonage under the Parsonages Measures. Form 2 must be used for (a) the application of parsonage proceeds in connection with the provision of a new parsonage or the improvement of a parsonage and (b) the transfer to the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund of parsonage proceeds now held by the diocese and not required for parsonage purposes for the benefice. Form 5 ('Shortened Procedure') may be used to obtain the written consent of the patron(s) and PCC(s) to waive their rights to receive Forms 1 and/or 2 under the Parsonages Measures if all the interested parties consent and the matter is urgent. When serving notice under Forms 1 and/or 2 or where Form 5 is used, dioceses may wish to take the opportunity to explain their proposal(s) in the covering letter.
5. Where the diocese has decided on the proposed disposition of any parsonage proceeds in advance of the transaction, then Forms 1 and 2 may be served **at the same time** so as to avoid the need to serve Form 2 separately at a later date. However, if it is known in advance that the proposed disposition of proceeds is likely to result in an objection, the diocese may decide to serve Forms 1 and 2 separately in order to deal with the primary transaction first. This is because an objection to the proposed disposition of proceeds may in certain circumstances be interpreted as an objection to the primary transaction. Alternatively, Form 5 may be used in this respect if all the interested parties are known to consent and the matter is urgent.

N.B. The patron(s) and PCC(s) must be consulted over the application of all parsonage sale proceeds, whether it is proposed to use such proceeds for parsonage purposes or for the transfer of any proceeds not so required to the DPA or the Capital Account of the DSF.

[See Section 1.10 'Parsonages Measure Rules 2000 and Recommended Forms' concerning the service of notices etc.](#)

Section 1.1 Parsonages – Consents & Notices

	PARSONAGES MEASURES 1938 AND 1947 SUMMARY OF LEGAL POSITION						REPAIR OF BENEFICE BUILDINGS MEASURE 1972
PROPOSAL	SALE, DEMOLITION	EXCHANGE	BUILD, PURCHASE, IMPROVEMENT	DIVISION, ENLARGEMENT, IMPROVEMENT (IN A VACANCY)	USE OF PROCEEDS FOR PARSONAGE PURPOSES	TRANSFER OF PROCEEDS TO DPA/DSF CAPITAL	ADDITION, ALTERATION
SECTION OF MEASURE	1	1(1A)	2	2A	7	7	21
A. <u>Person who acts:</u> a) Benefice Full b) Benefice Vacant	Incumbent Bishop	Incumbent Bishop	Incumbent Bishop	- Bishop authorises Sequestrators	Diocesan Parsonages Board	Diocesan Parsonages Board	Incumbent Sequestrators
B. <u>Consents required:</u> a) Church Commissioners b) Diocesan Parsonages Board c) Bishop d) Team Ministry member living in the house	See note 3 Y Y Y	See note 3 Y Y Y	See note 3 Y Y N	See note 4 Y N Y	See note 4 N N N	See note 4 N N N	N Y N N
C. <u>Notices to be served on:</u> a) Patron (s) b) PCC(s) [or Churchwardens where no PCC]	Y Y	Y Y	Y Y	Y Y	Y Y	Y Y	N N
D. <u>Additional consultations required:</u> a) Every member of a Team Ministry b) Team ministry member living in the house c) Patron(s) <i>See also note 6</i>	Y N N	Y N N	Y N N	Y N N	N N N	N N N	See note 5 Y Y
Notes:							
<ol style="list-style-type: none"> 1. Team Ministry members are (a) team rector; (b) team vicars; and (c) other people licensed by the Bishop to serve as members of the team (e.g. curates and lay readers). However, not all assistant staff licensed to a particular area will necessarily be additionally licensed as members of the team. 2. The consultative procedures carried out under D above are the responsibility of the incumbent (or Bishop or sequestrators in a vacancy). The party acting under A above has to have regard to the views of those consulted before taking any action on the proposal. 3. The Commissioners' consent is only required when the proposal does not meet certain criteria or where representations are received from the patron(s) and/or PCC(s)/Churchwardens of the benefice concerned. 4. The Commissioners' consent is only required where representations are received from the patron(s) and/or PCC(s)/Churchwardens of the benefice concerned. 5. This is recommended but not statutory. 6. Although not statutory, we recommend that the patron(s) and PCC(s) of all the benefices held in a plurality should be consulted informally over any proposal affecting the parsonage under the above sections of the Measure. 							

Parsonage Acquisition

Part A: Parsonages Measures' Purchases and Exchanges

Changes since 2000

A.1 *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*

- The Commissioners' consent to the purchase or exchange of parsonages is no longer required provided standard criteria are met and there are no objections following statutory notices;
- Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts were transferred to dioceses.

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Parsonages Measures were amended so that all moneys arising from any sale or exchange etc. under the Measures shall be paid to the Diocesan Board of Finance be held in trust for the benefice in the same way that it was previously held by the Commissioners.
- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2010:

- The Commissioners' role as the acquiring party in New Parishes Measure transactions was devolved to Diocesan Boards of Finance and their consent is only required where standard criteria are not met.

The legal position

- A.2 Under Sections 2 and 1(1A) of the Parsonages Measures an incumbent (or the Bishop in a vacancy) can purchase a house for a parsonage (or a site for it) or exchange the parsonage for another house. The Bishop, the Diocesan Parsonages Board and, in certain circumstances (*see* A.5), the Church Commissioners must consent. All members of a team ministry must be consulted by the Diocesan Parsonages Board and, if an exchange is proposed, any team ministry member occupying the parsonage must also consent. PCCs and patrons have a right to object to the Commissioners. ([See the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position.](#))

Special situation

A.3 Where a property is being acquired from a non-exempt charity, the vendor will be subject to the Charity Commissioners' regime and their express consent will be required if the transfer is for less than market value, or it is from a 'connected person' as defined in the Charities Act 2011 or if professional advice is not being followed. In such circumstances it may be preferable for the benefice solicitor to proceed by way of the Parsonages Act 1865 ([see B.2 below](#)). It is also occasionally appropriate to use the New Parishes Measure 1943 ([see B.1 below](#)); e.g. for some gifts or where an incumbent vacates a benefice just before completion of a transaction originally approved under the Parsonages Measures. It is not possible for the benefice to accept a free gift under the Parsonages Measures - the Parsonages Act 1865 or the New Parishes Measure must be used instead.

Practical and pastoral considerations

A.4 Before the purchase or exchange of a parsonage proceeds some of the more important factors for the Diocesan Parsonages Board to consider are:-

- (i) Is the proposed house broadly suitable, perhaps after alteration, for a parsonage house having regard to the Parsonages Design Guide?
- (ii) In the case of the purchase of a site for building, has planning permission been obtained and are any easements for access or services required?
- (iii) Is the house or site conveniently situated for the existing churches and local population and/or is pastoral reorganisation planned which would affect future clergy housing in the benefice? Where there are any proposals under the Mission and Pastoral Measure 2011 which may materially affect the proposed purchase or exchange, the Diocesan Parsonages Committee should consult the Diocesan Mission and Pastoral Committee to ensure that their respective proposals are consistent with each other and that the views of the patron(s) and parochial church council(s) of other affected benefices are sought and taken into account.

[See also Section 1.3 'Building of Parsonages'.](#)

The need or otherwise for the Commissioners' consent

A.5 The Commissioners' consent to a purchase or exchange is *not* required unless:

- (a) the owner of the property to be acquired or exchanged is a connected person ⁽¹⁾ or a trustee for, or nominee of, a connected person; or
- (b) the requirements of A.6 below have not been complied with; or
- (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

- A.6 Before the benefice enters into an agreement for the purchase or exchange of a parsonage or a site for a parsonage, the Diocesan Parsonages Board must:
- (a) obtain a written report from a qualified surveyor ⁽²⁾ acting exclusively for the benefice;
 - (b) satisfy itself, having considered the surveyor's report, that the terms negotiated are the best that can be reasonably obtained for the benefice.

If these criteria cannot be met but the Diocesan Parsonages Board still wishes to proceed, it must obtain the Commissioners' consent.

The surveyor's report

- A.7 The surveyor's report on the property to be purchased or properties to be exchanged should include the following:
- (i) a description of the property(ies) and grounds, detailing the size and layout of the accommodation, actual or projected running costs and potential maintenance liabilities, and the estimated cost of any ingoing works (including fees);
 - (ii) whether the building is in good order and whether it would be in the best interests of the Church for repairs to be carried out;
 - (iii) a site plan (prepared in accordance with the Land Registry requirements – see [Annex H](#)) showing the location of the property(ies) in relation to the churches and local population;
 - (iv) confirmation that the property to be acquired is freehold or, if leasehold, that it has a marketable unexpired term, or that the freehold can be acquired at a later date;
 - (v) development potential of the property(ies);
 - (vi) details of any easements or rights of way to be reserved and restrictive covenants imposed in respect of the existing parsonage;
 - (vii) a valuation of the property(ies). This should be an open-market valuation and not a 'special-purchaser' valuation. Any inequality of exchange should be addressed in the report and appropriate provision made for dealing with it.

N.B. Dioceses should additionally ask the surveyor to report to them on any other matters which may be relevant in the circumstances, or on which it is felt that advice is needed.

The Commissioners' consent should be sought in any case where a diocese is proposing to pay more than the open-market valuation of a property.

Application for the Commissioners' consent

A.8 Where the Commissioners' consent to a purchase or exchange is required the diocese should complete and submit an application form ([Form H](#)), provide full details of the proposal and enclose copies of any objections. The application should not normally be submitted until the expiry date for representations has passed or confirmation received that none of those on whom notice has been served has an objection. Please also send the Commissioners a copy of the notice sent to the patron(s) and PCC(s). On no account should the purchase or exchange be agreed to until such time as the Commissioners have informed the diocese of their decision on the proposal, having considered the background to the proposal and any objections. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

[See Section 1.1 'Parsonages - Consents and Notices'; and Section 5 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'.](#)

Connected person

A.9 In order to establish that the owner of a property to be purchased or exchanged is *not* a 'connected person' ('connected person' transactions have to be referred to the Commissioners⁽¹⁾), the Commissioners recommend that the diocese obtain a written declaration to that effect. [A specimen of such a declaration and detailed advice is attached as Annex A.](#)

Part B: Other Means of Acquiring Parsonages

New Parishes Measure 1943

B.1 Under Section 13(1)(d) the Diocesan Board of Finance can take a conveyance (by gift or purchase) of land or property for parsonage purposes. Local funding for the acquisition (e.g. the Diocesan Pastoral Account) would be required. The property vests in the incumbent by virtue of Section 16(2) of the Measure. Where a charity is the vendor/donor, the Charity Commissioners' consent will be needed unless the requirements of Section 119 of the Charities Act 2011⁽³⁾ are met or the vendor/donor is an exempt charity under the Act in which case Section 14 of the Measure permits the charity to give land (or sell it at less than full value) for parsonage purposes without their consent. Dioceses are partially exempt in this respect by virtue of Section 92 of the Mission and Pastoral Measure 2011 and Section 23 of the Endowments and Glebe Measure 1976. DBF corporate property is therefore subject to the Charity Commissioners' regime unless transferring land for the ecclesiastical purposes set out in Section 13 of the New Parishes Measure. The Commissioners' consent is only required where the proposed transaction is with a connected person and/or the 'report' requirements have not been met.

[The procedures involved are set out in Section 8.2 ‘New Parishes Measure 1943’.](#)

Parsonages Act 1865

- B.2 Under Section 4 public and charitable bodies, as well as private individuals can sell or give land or property to the Commissioners for parsonage purposes. Local funding for the acquisition (e.g. the Diocesan Pastoral Account) would be required. Unless sold for its market value, the property must not exceed one acre. The Charity Commissioners have agreed that the restrictions on dealings with land by charity trustees (contained in Section 119 of the Charities Act 2011) do not apply to transactions under this Act⁽³⁾. This is significant because it means that charities do not need to obtain the full value if disposing of land or property for parsonages purposes.

Where a benefice is full, the property transfers direct under this Act to the incumbent. Where a benefice is vacant, the property transfers direct to the Commissioners, but a special clause is added to the deed stating that the property shall be “annexed to the benefice” (i.e. it vests in the incumbent) in accordance with the power contained in Section 21 of the Queen Anne’s Bounty Act 1714. The Commissioners need to give their consent and the Church of England Legal Office is instructed to act on their behalf. [Form H/NPM/ACQ](#) should be submitted together with a surveyor’s report and plan (prepared in accordance with the Land Registry requirements – see [Annex H](#)).

Either the New Parishes Measure or the Parsonages Act 1865 can be used to transfer property held by a charitable body to the benefice. A diocese could, for example, transfer back into benefice ownership a house which had earlier been transferred to it for parochial purposes in a Pastoral Scheme. Under Section 92 of the Mission and Pastoral Measure 2011, a diocese does not need to obtain the Charity Commissioners’ consent for the transfer of land to the benefice under the New Parishes Measure for parsonage purposes. Transfers under the Parsonages Act are similarly exempt from the need to obtain the consent of the Charity Commissioners⁽³⁾.

N.B. A New Parishes Measure or Parsonages Act transfer must never be used as a device to avoid the need for the consent of the incumbent (or Bishop) or consultation with the other interested parties as would be required under the Parsonages Measures.

Churchyard site

- B.3 A new parsonage can be built on part of a churchyard. The ownership and status of the site (e.g. whether or not it is consecrated land) have an important bearing on the way in which the site can be acquired for parsonage purposes. In some cases land comprising the whole of a church site (the church building and surrounding churchyard) is consecrated while in others the actual building and none or only part of the surrounding land may be consecrated. Churchyard used for burials will have been consecrated. The diocesan registrar will resolve any questions about whether land is consecrated.

Section 1.2 Parsonage Acquisition

Consecrated sites

B.3.1 Consecrated churchyards or burial grounds may be appropriated for parsonage purposes by means of a Pastoral Scheme under Section 44 of the Mission and Pastoral Measure 2011. A Section 44 Scheme appropriating consecrated land to parsonage use may include supplementary unconsecrated churchyard land and such Schemes can also create rights of way over (remaining) churchyard land. Section 44 Schemes must be initiated by the Diocesan Mission and Pastoral Committee under the Mission and Pastoral Measure 2011. The preparation of the necessary Pastoral Scheme is dealt with by the diocese (subject to the Commissioners' approval being obtained before the service of notices on the interested parties and publication in a local newspaper under section 9 of the Mission and Pastoral Measure 2011) with its completion being dealt with by the Commissioners' Pastoral Division. The procedures are set out in the Code of Recommended Practice to the Mission and Pastoral Measure 2011 published by the Commissioners.

In view of the extensive rights of objection under the Mission and Pastoral Measure 2011 (relatives of persons buried in land during the past 50 years which is to be built on can veto a Pastoral Scheme) it is essential that no authority for a parsonage building scheme to begin should be given in advance of the making of the Pastoral Scheme by the Commissioners.

Upon the coming into operation of the Pastoral Scheme the land transfers automatically to the incumbent for parsonage purposes freed from the legal effects of consecration and accordingly from faculty jurisdiction.

Unconsecrated church land

B.3.2 Where the site was originally acquired through the Church Commissioners or the former Ecclesiastical Commissioners or the Church Building Commissioners, the incumbent (or the Bishop during a vacancy) can appropriate or convey unconsecrated church sites for parsonage purposes under the New Parishes Measure. The DBF acquires the land for parsonage purposes and upon completion of the conveyance the land vests automatically in the incumbent. [See B.1 above.](#)

Faculty Jurisdiction

B.3.3 Usually a churchyard or burial ground vests in the incumbent for the time being of the benefice. Consecrated churches, churchyards and burial grounds are subject to faculty and one may be required to authorise any matter affecting them (e.g. rights of access over consecrated churchyards may be necessary to gain access to a parsonage site). As an alternative a Pastoral Scheme under Section 44 of the Mission and Pastoral Measure 2011 may be used to secure the necessary rights (where churchyard land is being appropriated for parsonage purposes via that Scheme).

Land belonging to a church being closed for regular public worship

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- B.4 A Pastoral Church Buildings Scheme which includes a declaration of closure for regular public worship of a church and provisions for its future use or a subsequent Pastoral (Church Buildings Disposal) Scheme providing for the future of the property may provide for part of the property to be appropriated to use as glebe. Generally, no subsequent conveyance to the DBF is necessary.

Diocesan Board of Finance Corporate Property

- B.5 A Diocesan Board of Finance which owns a property or a piece of land which is recommended for use as a parsonage house or as a site on which to build one can give the property under the New Parishes Measure or the Parsonages Act 1865. The Charity Commissioner's consent is not required in either case.

[See also B.1 and B.2 above and Section 7.2 'New Parishes Measure'](#).

The Board of Finance may request a consideration for the property or site. In such cases the transaction could proceed as a purchase under the Parsonages Measures ([see Part A above](#)).

Diocesan Board of Finance in trust for a Parochial Church Council

- B.6 If land or property belonging to a Diocesan Authority in trust for a Parochial Church Council is needed for parsonage purposes the transaction would involve the appropriate diocesan authority as well as the Parochial Church Council and the Diocesan Parsonages Board. The diocese would also have to obtain the approval of the Charity Commissioners in the circumstances outlined in [A.3 above](#). Otherwise the position of the diocesan trustees is similar to that of the Board of Finance when granting part of its corporate property for parsonage use⁽³⁾ ([see B.5 above](#)).

Diocesan Glebe

- B.7 (i) *Section 23 of the Endowments and Glebe Measure*

The Diocesan Board of Finance may exercise its powers under section 14 of the New Parishes Measure 1943 to grant under section 23(1)(d) of the Endowments and Glebe Measure 1976 any glebe building or land for, or for the extension of, a parsonage. [See Section 8.2 'New Parishes Measure' for the procedures involved; and Section 2.3 'Glebe Disposal'](#).

- (ii) *Pastoral Scheme*

A Pastoral Scheme may provide for a glebe property to be transferred to the incumbent for parsonage purposes. No conveyance is then needed. The Scheme would be the authority for the change of ownership to the incumbent. (*See the Code of Recommended Practice to the Mission and Pastoral Measure 2011.*)

Diocesan Parsonages Board

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B.8 A house vested in the Diocesan Parsonages Board to house an ecclesiastical office holder on Common Tenure could be transferred to the incumbent of a benefice as a parsonage house in a number of *ways*

(i) *Ecclesiastical Offices (Terms of Service) Measure 2009*

The Parsonages Board could dispose of the property under s.7 of the 2009 Measure, with the benefice acquiring it under the Parsonages Measure. As a “regulated transaction” notice under the 2009 Measure should be served on the occupier and the Bishop in addition to the notices required for a Parsonages Measure acquisition See A2 above

(ii) *New Parishes Measure 1943*

A Diocesan Parsonages Board can give the property under the New Parishes Measure or the Parsonages Act 1865. The Charity Commissioner’s consent is not required in either case.

[See also B.1 and B.2 above and Section 8.2 ‘New Parishes Measure’.](#)

(iii) *Pastoral Scheme*

A Pastoral Scheme may provide for a Diocesan Parsonages Board property to be transferred to the incumbent for parsonage purposes. No conveyance is then needed. The Scheme would be the authority for the change of ownership to the incumbent. *(See the Code of Recommended Practice to the Mission and Pastoral Measure 2011*

Gift

B.9 The Commissioners or the Diocesan Board of Finance can accept as a gift a house for a parsonage or land on which to build one. Gifts cannot be accepted under the Parsonages Measures. It is generally best to avoid conditional gifts. Gifts can be accepted by the Board under the New Parishes Measure 1943 or by the Commissioners under the Parsonages Act 1865. [See B.1 and B.2 above and Section 8.2 ‘New Parishes Measure’.](#)

Return of Gifts

B.10 Disputes sometimes arise where a house which has been given unconditionally by a donor as a parsonage later comes to be sold. The donor may ask for the return of his or her money, either as given, or in proportion to the price realised at sale. The use of sale proceeds is governed by Section 5 of the Parsonages Measures and there is no power to make any such payment to the donor directly from the sale proceeds. However a diocese may in some circumstances decide to make a grant to the donor from diocesan funds, including the Diocesan Pastoral Account. This might particularly be appropriate where the donor was the PCC, and the sale of the property means the loss of a parochial facility previously provided in the house.

[N.B. See Annex B ‘Illustration of intra-church transfers’, for an example of the legislation involved in some of the land and property transfers detailed in this Note.](#)

Notes

I. S.1(6) of the Parsonages Measure 1938 (as amended) includes the following definitions:

(1) “Connected person” - [see Annex A](#).

(2) “Qualified surveyor” means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

II. Section 119 of the Charities Act 2011

(3) Generally speaking the disposal of “church” land is regulated by one of two regimes, either that overseen by the Church Commissioners in relation to benefice or glebe property or that overseen by the Charity Commissioners in relation to corporate and trust property. When disposing of diocesan corporate or trust property DBFs are not exempt ordinarily from following the procedure laid down in Section 119 of the Charities Act 2011, which in broad terms means that they need the Charity Commissioners’ consent if any transfer is less than market value, or if it is to a connected person as defined in the Act or if professional advice is not being followed. PCCs are similarly not exempt when disposing of parochial property. However, the requirements of Section 119 do not have to be met in respect of any disposition for which general or special authority is expressly given by any statutory provision contained in or having effect under an Act of Parliament or by any legally established scheme. For example, the provisions of Section 4 of the Parsonages Act 1865 and Section 92 of the Mission and Pastoral Measure 2011 (insofar as it relates to the New Parishes Measure 1943) would normally provide sufficient statutory authority for a property vested in a diocesan authority either corporately or on behalf of a PCC to be transferred to an incumbent as a parsonage house without observing the usual requirements of Section 119.

III. Exemption from Stamp Duty

All transactions under the Parsonages Act 1865, Parsonages Measure 1938 and New Parishes Measure 1943 used to be exempt from stamp duty. However, the Finance Act 2003 replaced stamp duty by a new stamp duty land tax with effect from 1 December 2003 and the charities relief provision in Schedule 8 of this Act provided for exemption only on acquisitions. This effectively removed the Church of England’s special exemption status for sales bringing it into line with the rights of exemption enjoyed by other charitable bodies. The Diocesan Board of Finance is the purchasing party in acquisitions under section 13 of the New Parishes Measure and will therefore be responsible for filing a Land Transaction Return for the purposes of stamp duty land tax. It may be possible for the local

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solicitors acting for the Diocesan Board of Finance to discharge this responsibility on their behalf.

Building Parsonages

Changes since 2000

1. *Principal amendment arising from the Church of England (Miscellaneous Provisions) Measure 2000:*

- Under the Parsonages Measures the Commissioners' consent to the building of a parsonage house is no longer required provided certain criteria are met and there are no objections to the proposal from either the patron(s) or the PCC(s).

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.

The legal position

2. Under Section 2 of the Parsonages Measures 1938 an incumbent (or the Bishop in a vacancy) can build a parsonage house. The Bishop (where he is not acting), the Diocesan Parsonages Board and, in certain circumstances, the Commissioners must consent. The PCC(s) of the parish(es) and the patron(s) of the benefice have a right to object to the Commissioners. Where a team ministry has been established for the benefice, all the members of the team have a right to be consulted and any views expressed must be taken into account by the Diocesan Parsonages Board. ([See the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position.](#))

The need or otherwise for the Commissioners' consent

3. The Commissioners' consent to the building is **not** required unless:
- (a) a person who is a connected person ⁽¹⁾ or a trustee for, or nominee of, a connected person is concerned with the building (e.g. the proposed architect or main contractor);
 - (b) the requirements of 4. below have not been complied with; or
 - (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

4. Before carrying out the building, the Diocesan Parsonages Board (on behalf of the incumbent or the Bishop in a vacancy) must:

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- (a) obtain and consider a written report on the proposed building from a qualified surveyor ⁽²⁾, qualified architect or other suitably experienced person instructed exclusively on behalf of the benefice;
- (b) decide that it is satisfied, having considered the report, that the terms on which the building will be carried out are the best that can be reasonably obtained for the benefice; and
- (c) have regard to the standards and procedures recommended in the current edition of the Commissioners' Parsonages Design Guide.

N.B. The Parsonages Design Guide gives detailed advice concerning the standards and procedures which should be followed in any parsonage building project.

Application for the Commissioners' consent

5. Where the Commissioners' consent is required, the diocese must complete and submit an application form ([Form H](#)), provide full details of the proposal and enclose copies of any objections. The application should not normally be submitted until the expiry date for representations has passed or confirmation received that there are no objections to the proposals. Please also send the Commissioners a copy of the notice served on the patron(s) and PCC(s). On no account should the building begin until such time as the Commissioners have informed the diocese of their decision on the proposal, having considered the background to it and any objections. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'.](#)

Connected person

6. In order to establish that the person proposed to carry out the building is not a connected person as defined under the Parsonages Measure 1938 ⁽¹⁾, the Commissioners recommend that the diocese obtain a written declaration to that effect. [See Annex A for a specimen of such a declaration.](#)

Notes

S.1(6) of the Parsonages Measure 1938 (as amended) includes the following definitions:

⁽¹⁾ "Connected person" - [see Annex A.](#)

⁽²⁾ "Qualified surveyor" means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the

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incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

N.B. For the purposes of building schemes (which are comparatively rare), the definition of 'qualified surveyor' is too narrow in terms of offering professional advice to the diocese. Hence the references in 4(a) above to qualified architects or other suitably experienced persons.

Parsonage Disposal

Part A: Sales under the Parsonages Measures 1938 & 1947

Changes since 2000

A.1 *Principal amendments arising from the Church of England (Miscellaneous Provisions) Measure 2000:*

- Under the Parsonages Measures the Commissioners' consent to a sale is no longer required provided certain criteria are met and there are no objections to the proposal from either the patron(s) or the PCC(s);
- Under the Parsonages Measures the DBF to serve notice on the patron(s) and PCC(s) concerning the proposed disposition of sale proceeds with the Commissioners considering any objections;
- Responsibility for holding Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts transferred to dioceses.

A.1(a) *Principal amendments arising from the Church of England (Miscellaneous Provisions) Measure 2006:*

- Section 1(5) of the Parsonages Measures was amended so that all moneys arising from any sale or exchange under the Measures shall be paid to the Diocesan Board of Finance be held in trust for the benefice in the same way that was the case when it was previously held by the Commissioners.
- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.

The legal position

- A.2 Under Section 1 of the Parsonages Measures an incumbent (or the Bishop in a vacancy) can sell any part of a parsonage house, its outbuildings and grounds including an "excluded" part (i.e. that part of a divided parsonage not forming the residence house of the benefice as determined by the Bishop under Section 11 of the Parsonages Measures). The consents required are those of the Bishop (where he is not acting), the Diocesan Parsonages Board, any member of a team ministry living in the house, and, in certain circumstances, the Commissioners. PCCs and patrons have a right to object to the Commissioners. Where a team ministry has been established for the benefice, all the members of the team have a right to be consulted and any views expressed must be taken into account by the Diocesan Parsonages Board. ([See the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position.](#))

Basic considerations

- A.3 The sale of the house itself may be proposed because the house is considered (a) unsuitable and needs to be replaced or (b) pastorally redundant and it is desirable for practical reasons to dispose of it in advance of any formal Scheme for pastoral reorganisation under the Mission and Pastoral Measure 2011. When contemplating sale, some of the more important factors to consider may include:
- (i) the need or otherwise to retain part of the site and rights of access to it if the house is to be replaced and planning permission can be obtained; and
 - (ii) the need to apportion the sale proceeds if adjoining glebe land is to be sold at the same time.

Parsonage house sales when pastoral reorganisation is expected

- A.4 Where a sale is proposed on pastoral grounds and the house is not to be replaced, dioceses should consider carefully whether it would be more appropriate to deal with its disposal in the context of a Pastoral Scheme (*see B.2 below*). This is because if pastoral reorganisation is expected it is important to ensure that immediately preceding sales (or transfers of sale proceeds) under the Parsonages Measures do not confuse or prejudice such reorganisation. If the pastoral reorganisation proposed is likely to be controversial, an early parsonage house sale under the Parsonages Measures might be prejudicial and sale should be deferred and proposed later under a Pastoral Scheme on the basis that the Scheme would be the test of whether a house was pastorally surplus to requirements. However, proper weight should be given to the general desirability of disposing of unsuitable houses and exercising good stewardship of resources in relation to houses which, for example, would otherwise be left empty for protracted periods.

The desirability of selling a parsonage house without replacement depends on the progress of any relevant pastoral proposals and whether the house is 'unsuitable' or 'suitable'.

- (a) **Where no relevant draft proposals have been circulated by the Diocesan Mission and Pastoral Committee nor is such circulation imminent**
 - (i) If the house is **unsuitable** the Commissioners would, if their approval is required, normally consent to a Parsonages Measures sale, subject to the consideration of any objections from the patron(s) or PCC(s).
 - (ii) If the house is **suitable**, a Parsonages Measures sale is most likely to be proposed where the benefice is vacant and its pastoral future is either unclear or cannot be put into operation for a long time, or where it is undesirable to leave the house empty and disposal seems the only available option. If these or similar criteria can be met, and there are no objections from the patron(s) or PCC(s), the Commissioners would, if their approval is required, normally consent to such a sale. If however there were

objections of substance the diocese would need to provide strong reasons for the Commissioners to consider overruling them.

- (iii) In both cases the sale proceeds would be kept by the DBF in an interest-bearing account for the benefice concerned. Before any parsonage proceeds (held on behalf of the benefice by the diocese) can be transferred to the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (*see A.11 below for the procedures involved*) notice must be served on the patron(s) and PCC(s). If objections are received the diocese should ask the Commissioners to adjudicate on those objections.
 - (iv) If pastoral proposals are received by the Commissioners before such a sale under the Parsonages Measures is completed, the draft Pastoral Scheme will need to include an "either/or" clause in case the parsonage house has not been sold when the Scheme takes effect (i.e. the house may be sold either under the Parsonages Measures before the Scheme comes into effect or be disposed of by the diocese under the Mission and Pastoral Measure thereafter).
- (b) **Where relevant draft proposals have been circulated by the Diocesan Mission and Pastoral Committee or the informal ascertainment of views has commenced**
- (i) If the house is **unsuitable** and the diocese is able to confirm to the Commissioners (where their consent is needed) that consultation has revealed no likely objection to its sale, the sale may proceed with an "either/or" clause in the draft Scheme (subject to there being no objections to Parsonages Measures notices).
 - (ii) If the house is **suitable** the Commissioners would, if their approval is required, be unwilling to agree to a Parsonages Measures sale and the proposed disposal should be included in the draft Pastoral Scheme instead.

N.B. the designation of a parsonage as ‘unsuitable’ or ‘suitable’ is non-statutory and the Commissioners would not refuse to consider a proposal to dispose of a house without replacement on this criterion alone. However, if objections to the proposal were received, the Commissioners would test the proposal for fairness/reasonableness in this respect.

The need or otherwise for the Commissioners’ consent

A.5 The Commissioners' consent to a sale is **not** required unless:

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- (a) the sale is made to a person who is a connected person ⁽¹⁾ or a trustee for, or nominee of, a connected person; or
- (b) the requirements of A.6 below have not been complied with in relation to it; or
- (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

A.6 Before entering into an agreement for the sale of a parsonage or parsonage land, the diocese (on behalf of the incumbent (or Bishop in a vacancy)) must:

- (a) obtain and consider a written report on the proposed sale from a qualified surveyor ⁽²⁾ instructed by and acting exclusively for the benefice;
- (b) advertise the proposed sale for such period and in such manner as advised in the surveyor's report (unless (s)he has advised that it would not be in the best interests of the benefice to advertise the proposal); and
- (c) obtain the surveyor's recommendation of the terms of the transaction.

If these criteria cannot be met but the DBF still wishes to proceed, it must obtain the Commissioners' consent. For example, if it believes that accepting the highest offer as recommended in the surveyor's report would adversely affect the incumbent's ministry or would otherwise have a detrimental effect on the Church's reputation, the diocese may decide to accept a lower offer. In such circumstances an application should be made for the Commissioners' consent with a clear explanation of the diocese's reasons.

See section 2.3, A4 for a case study where the diocese accepted an offer on a glebe property and subsequently received a higher offer.

The surveyor's report

A.7 The surveyor's report should deal with the matters laid down in the Charities (Qualified Surveyors' Reports) Regulations 1992 and would normally include the following:

- (i) a description of the house and grounds, detailing the size and layout of the accommodation, running costs and present or future maintenance liabilities;
- (ii) whether the building is in good order and whether it would be in the best interests of the Church for repairs to be carried out before sale;
- (iii) a site plan (prepared in accordance with the Land Registry requirements –see [Annex H](#)) showing the property to be sold, any land to be retained (e.g. for building a replacement parsonage house) and any other nearby church property;
- (iv) development potential (if any);
- (v) details of any easements or rights of way to be reserved and restrictive covenants to be imposed;
- (vi) a valuation of the property.

N.B. Dioceses should additionally ask the surveyor to report to them on any other matters which may be relevant in the circumstances, or on which it is felt that advice is needed.

Application for the Commissioners' consent

- A.8 Where the Commissioners' consent is required, the diocese must complete and submit an application form ([Form H](#)) and provide full details of the proposal and enclose copies of any objections for the Commissioners to consider. A copy of the notice served on the patron(s) and PCC(s) should also be sent to the Commissioners. In such cases the application should not normally be submitted until the expiry date for objections has passed or confirmation received that there are none. On no account should the sale be agreed to until such time as the Commissioners have informed the diocese of their decision on the proposal, having considered the background to the proposal and any objections. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'.](#)

N.B. As from 1 January 2001 the Commissioners were not required to seal deeds under the Parsonages Measures to signify compliance with the 1938 Measure or (on disposals) to give a receipt for the consideration. They were, however, still required to certify, under Section 99 of the Land Registry Act 1925, that the conditions imposed by the Parsonages Measures had been met in disposal cases where the property in question had a previously registered title. This requirement ceased with effect from 13 October 2003 when the Land Registration Act 2002 came into effect. This Act specifies a form of restriction to be applied for when an incumbent is to be registered as the proprietor of land. The wording of the restriction (Form D in Schedule 4 as applied by Rule 91) is "No disposition of the registered estate is to be registered unless made in accordance with the Parsonages Measure 1938 (in the case of parsonage land) or the New Parishes Measure 1943 (in the case of church or churchyard land) or some other Measure or authority". Rule 93(g) confirms that any of the Commissioners, the Parsonages Board or the Diocesan Board of Finance may apply for the restriction. The wording of the restriction means that it will not be necessary to obtain the Commissioners' specific consent to its removal when the incumbent sells the property. If the disposal is carried out in accordance with the relevant statutory authority, an application to the Land Registry to remove the restriction will be sufficient. In summary there is now no need for dioceses to ask the Commissioners to sign section 99 certificates.

Method of sale

- A.9 Subject to satisfying the criteria referred to in A.5 and A.6 above or after obtaining the Commissioners' consent where this is necessary, the diocese may arrange for the property to be placed on the market. The diocese, in conjunction with the surveyor, is

responsible for settling the method of sale (normally on the open market, by auction, tender or private treaty after an adequate period of advertisement). The surveyor should be asked to assess any offers received and to give a positive recommendation if (s)he believes that one offer represents the best obtainable in the circumstances. In some cases the surveyor may need, for instance, to give specific advice about the effect of a sale on the value of any adjoining church property to be retained. More than one report, at different stages of the transaction, may be necessary. If a house is put on the market for sale by private treaty and a firm asking price has been quoted, the first unconditional offer of that amount should normally be accepted. Subject to the surveyor's advice, it would therefore normally be better not to name a definite asking price in private treaty transactions so as not to preclude the acceptance of a higher offer.

Connected person

- A.10 In order to establish that a proposed purchaser is *not* a connected person as defined under the Parsonages Measure 1938⁽¹⁾, the Commissioners recommend that the diocese obtain a written declaration to that effect. [See Annex A](#), for a specimen of such a declaration.

Where the property is to be sold by auction, the diocese cannot at that stage be sure that the purchaser will not be a connected person. The conditions of sale should therefore make it clear that, if the purchaser turns out to be a connected person, or a trustee for, or nominee of, a connected person (as would be evidenced by the purchaser being unable or unwilling to sign a written declaration to that effect), the sale would be conditional on the Commissioners' consent being obtained.

Proceeds of sale

- A.11 On completion of the sale, the solicitor acting for the benefice must pay the proceeds to the Diocesan Parsonages Board to be held on behalf of the benefice by the diocese. Once any outstanding Commissioners' loans to the benefice have been repaid, the first call on the funds will be towards the provision and/or improvement of a replacement parsonage house - if one is necessary. Any funds not required for this purpose may be transferred to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (or a combination of the two). However the Diocesan Parsonages Board must first serve the recommended notice (Form 2) of its proposals concerning the disposition of surplus sale proceeds on the patron(s) and the PCC(s). At this point the Board may wish to take the opportunity to explain its proposals concerning the application of funds in a covering letter. The period within which any objections to the proposals may be made to the Diocesan Parsonages Board is 21 days, commencing on the day after the date on which the notice has been given. Alternatively, if the patron(s) and PCC(s) are willing to forego their right to receive a formal notice in this way, they may agree to this "shortened procedure" in writing on a recommended form (Form 5). Once the period allowed for representations has passed, or the shortened procedure has been adopted, and providing there are no representations, the money may be transferred. If there are objections, the matter should be referred to the Commissioners for a decision with a completed Form H. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

[See Section 1.10 'Parsonages Measures Rules 2000 and Recommended Forms' concerning the service of notices etc.](#)

Part B: Sales under the Mission and Pastoral Measure 2011

Changes since 2000

B.1 *Principal amendments arising from the Church of England (Miscellaneous Provisions) Measure 2000:*

- Under an amendment carried forward into the Mission and Pastoral Measure 2011 the Commissioners' consent to the terms of sale of parsonage houses and parsonage land transferred to a DBF for disposal under a Pastoral Scheme is no longer required if the property could have been sold without such consent had it been glebe. ([See Section 2.3 'Disposal of Glebe'.](#))

The need or otherwise for the Commissioners' consent

B.2 A Pastoral Scheme may transfer a parsonage house, part of a parsonage house or any parsonage land (including the site of a demolished parsonage house) to the Diocesan Board of Finance for disposal in accordance with paragraph 8 of Schedule 3 to the Mission and Pastoral Measure 2011. The terms of any subsequent sale, lease or other disposal of the property do **not** require the Commissioners' consent unless:

- (a) the sale or other disposal is made to a person who is a connected person ⁽¹⁾ or a trustee for, or nominee of, a connected person; or
- (b) the requirements of B.3 or B.4 below have not been complied with in relation to it; or
- (c) the DBF is taking over the property as part of its corporate property portfolio or otherwise. This usually involves the payment of market value established by an independent qualified surveyor.

N.B. Where the Commissioners' consent is not required, the deed of transfer should recite something along the lines of: "The exception in paragraph 8(2) of Schedule 3 to the Mission and Pastoral Measure 2011 applies to this transfer, which does not require the consent of the Church Commissioners."

Best terms

B.3 The DBF must, before entering into an agreement for the sale, lease or other disposition of the property:

- (a) obtain and consider a written report on the proposed disposition from a qualified surveyor ⁽²⁾ instructed by and acting exclusively for the DBF;

- (b) advertise the proposed disposition for such period and in such manner as advised in the surveyor's report (unless (s)he has advised that it would not be in the best interests of the diocese to advertise the proposal); and
- (c) decide that it is satisfied, having considered the surveyor's report, that the terms negotiated are the best that can be reasonably obtained for the diocese.

Short leases

B.4 Where the proposed disposition is the granting of a lease for **seven years or less**, the DBF must, before entering into an agreement for such a lease:

- (a) obtain and consider the advice on the proposed disposition of a person⁽³⁾ who is reasonably believed by the DBF to have the requisite ability and practical experience to provide it with competent advice on the proposal (i.e. (s)he need not be a qualified surveyor); and
- (b) obtain that person's recommendation of the terms of the transaction.

Application for the Commissioners' consent

B.5 Where Commissioners' consent is required, the diocese must complete and submit an application form ([Form PMD](#)) and provide full details of the proposal so that the Commissioners can consider it.

Connected person

B.6 In order to establish that a proposed purchaser is **not** a connected person as defined under the Parsonages Measure 1938⁽¹⁾, the Commissioners recommend that the diocese obtain a written declaration to that effect: see Annex. A for a specimen declaration.

Where the property is to be sold by auction, the diocese cannot at that stage be sure that the purchaser will not be a connected person. The conditions of sale should therefore make it clear that, if the purchaser turns out to be a connected person, or a trustee for, or nominee of, a connected person (as would be evidenced by the purchaser being unable or unwilling to sign a written declaration to that effect), the sale would be conditional on the Commissioners' consent being obtained.

Interim letting

B.7 The sale of the property may be delayed (e.g. if planning permission is awaited for development of part of its grounds, the state of the housing market is poor, or if some preliminary works are required to enhance its sale prospects) and the diocese may decide to let the property pending its sale. In such cases it is essential to ensure that the DBF can obtain vacant possession at the end of the term. [See Section 1.9 'Parsonage Lettings' for guidance on the letting of parsonage houses in these and other circumstances.](#)

Proceeds of sale

- B.8 A Pastoral Scheme may provide for the net proceeds of disposal (including net premiums and rents) to be applied towards the provision, restoration, improvement or repair of a parsonage house, a team vicar's house, an assistant curate's house or a church or place of worship within the meaning of Section 58 of the Mission and Pastoral Measure 2011; otherwise the proceeds must be credited by the DBF to either the Diocesan Pastoral Account or to the Capital Account of the Diocesan Stipends Fund, or be split between the two, either as the DBF may determine or as the Scheme may provide. If there is an outstanding Commissioners' loan on the property to be sold, the amount needed to repay the loan should be deducted from the sale proceeds and sent to the Commissioners. Where the proceeds are insufficient to discharge any such loan, the DBF must make arrangements to meet the deficit from other diocesan funds – these may include the DPA or DSF Capital Account.

Part C: Other means of Disposing of Parsonages

Changes since 2000

C.1 Principal amendment arising from the Church of England (Miscellaneous Provisions) Measure 2000:

- Under Section 32 of the Endowments and Glebe Measure 1976 the Bishop is responsible for making an Order to transfer parsonage land to a diocesan board of finance as glebe. The Commissioners no longer make such Orders and their consent is no longer required unless proceeds are involved and/or representations are received against the proposed transfer.

Principal amendment arising from the Ecclesiastical Offices (Terms of Service) Measure 2009:

- The Ecclesiastical Offices (Terms of Service) Measure 2009 gave Diocesan Parsonages Boards a power to acquire property for the purposes of its functions under the Measure as a housing provider for ecclesiastical office holders other than incumbents, A Consequential Provisions Order made under that measure amended the Mission and Pastoral Measure 2011 to allow a pastoral scheme transfer a parsonage to the Board for this purpose or vice-versa.

New Parishes Measure 1943

- C.2 Section 14 of the New Parishes Measure and Section 92(2) of the Mission and Pastoral Measure 2011 empowers an incumbent (or the Bishop during a vacancy) to convey parsonage land (with or without a consideration) for the following purposes as defined by Section 13 of the New Parishes Measure, subject to the consent of the Diocesan Parsonages Board:

- (i) as a site for a church, churchyard or burial ground *or* enlarging the site of an existing church, churchyard or burial ground;

- (ii) to provide access to or improve the amenities of a church, churchyard or burial ground;
- (iii) as a site for a place of worship, church hall or to improve the amenities of the same;
- (iv) provide vehicle parking space in connection with any of the above uses.

In the case of (i) and (ii) above the land vests in the incumbent; in the case of (iii) the land vests in the Diocesan Board of Finance in trust for the Parochial Church Council. In the case of (iv) the property can be vested in either and depends on the wording of the transfer deed. The general rule is that the property should vest in the same owner as that of the property to be served by the parking space. Any sale proceeds are treated as outlined in A.11 above.

[The procedures involved are set out in Section 8.3 'New Parishes Measure 1943'.](#)

Transfer to a Diocesan Board of Finance as glebe

C.3 A parsonage house or parsonage land may be transferred to a Diocesan Board of Finance as part of its glebe property in two ways:

(i) **Mission and Pastoral Measure 2011**

A Pastoral Scheme can provide for a parsonage to be transferred to a DBF as glebe usually but not exclusively to house a team vicar, assistant curate, deaconess or lay worker. Under Section 24 of the Endowments and Glebe Measure 1976 these categories of clergy (and these categories only) can occupy glebe houses rent free. The DBF is otherwise required to manage glebe for the benefit of the Income Account of the Diocesan Stipends Fund, e.g. charge a market rent. If a DBF so wishes, the DSF Capital Account can pay for a house acquired in this way and the proceeds are dealt with as outlined in [A.11](#) above. The Commissioners' agreement to the sum to be paid is required. This usually involves the payment of the market value established by an independent qualified surveyor.

(ii) **Section 32 of the Endowments and Glebe Measure 1976**

Where a Diocesan Board of Finance decides that any parsonage land belonging to a benefice or any part of such land (e.g. the parsonage grounds, any excluded part of a parsonage house or, rarely, the house itself) is not necessary for parsonage purposes, it may transfer such land to the Board as glebe with or without a consideration. Where there are proceeds (as with C.3(i) above), the Commissioners would expect to agree the sum involved and [A.11](#) above applies. It is expected that a Section 32 Order would generally only be used to transfer a whole house where long-term pastoral reorganisation cannot be put in place for the time being and the house is likely to be surplus to requirements for some time.

The legal position

The Board must notify the incumbent (if the benefice is full) or sequestrators (if the benefice is vacant) of its intention to proceed with an Order under Section 32. If a team ministry has been established for the benefice, then the Board must also notify every member of the team. A period of one month must be given following such notification for objections to be made to the Commissioners.

The need or otherwise for the Commissioners' consent

The Commissioners' consent to the completion of a Section 32 Order is only required if proceeds are involved or if any objection is raised and the matter cannot be resolved locally. Where the Commissioners' consent is required, the diocese should provide full details of the proposal together with a copy of the statutory notice so that the Commissioners can consider the matter. On no account should the Section 32 Order be completed until such time as the Commissioners have informed the diocese of their decision on the proposal.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'.](#)

;

[See Section 2.6 'Section 32 Orders' which details the procedures to follow, including advice about investigating title and completing the Order.](#)

N.B. A Section 32 Order must never be used as a device to avoid the need to consult the benefice patron(s) or PCC(s) as would be required under the Parsonages Measures.

Transfer to a Diocesan Board of Finance as corporate property

C.4 A parsonage house or parsonage land may be transferred to a Diocesan Board of Finance as part of its corporate property in three ways:

(i) **Parsonages Measures**

The Board may buy the house or land as an ordinary purchaser under the Parsonages Measures. The market value of the property would normally be payable by the Board and the procedures detailed in Part A above will apply if the Board needs to refer a case to the Commissioners because it does not fall within standard criteria.

(ii) **Mission and Pastoral Measure 2011: transfer for diocesan or parochial purposes**

A Pastoral Scheme may provide for a parsonage house or parsonage land to be transferred (with or without a consideration) to the DBF for diocesan or parochial purposes. Proceeds would be dealt with as outlined under [A.11](#) above (the amount needs to be agreed by the Commissioners in the light of recommendations by an independent qualified surveyor). If the house is to be used for the foreseeable future either for housing a minister engaged in pastoral

work in the diocese (e.g. a sector minister), or for a purpose clearly connected with the furtherance of the active pastoral ministry, then it would be appropriate to transfer it to the diocese for **diocesan purposes**. The house would then become diocesan corporate property and, subject to the Memorandum and Articles of Association of the DBF concerned, would be available for a wide variety of uses by the diocese; any subsequent sale proceeds could be applied accordingly. In the case of *Barnes v Derby DBF*, the claimant argued that the DBF had no power to sell a house transferred to it for diocesan purposes by virtue of a pastoral scheme without the authority of a further scheme. However, in his Judgment dated 5 February 2003, the Judge ruled that there was an implicit power of sale. However, a transfer for diocesan purposes must not be proposed if the house is to be sold in the near future. It should be transferred for disposal. See B.1 above.

If a parsonage house is to be transferred for **parochial purposes** then it would become parochial property held in trust by the Diocesan Authority (usually the DBF) in accordance with the PCC (Powers) Measure 1956. Subject to the consent of the Diocesan Authority (and Charity Commissioners if the Diocesan Authority does not have a general dispensation for disposal of property subject to certain guidelines being followed), the benefiting parish could, if it wished, dispose of the property at some future date, at which point the PCC would be entitled to the sale proceeds and the income arising therefrom.

N.B. A Pastoral Scheme can provide for a house to be transferred for either diocesan or parochial purposes but not both. Transfer for “diocesan purposes” is generally preferred as it allows a wider range of uses than “parochial purposes” and enables the diocese as a whole to benefit from any future sale. In practice “parochial purposes” is very little used, particularly as any parochial purpose can generally also be seen as a purpose of the diocese.

(iii) **Mission and Pastoral Measure 2011: transfer to corporate property**

The DBF may elect to take over as part of its corporate property a house transferred to it for disposal under a Pastoral Scheme, usually on payment of the market value of the property on the advice of an independent qualified surveyor and subject to the Commissioners’ approval. The proceeds will be payable to either the Diocesan Pastoral Account or the Diocesan Stipends Fund Capital Account.

Transfer to a Diocesan Parsonages Board

C.5 A parsonage house or parsonage land may be transferred to a Diocesan Parsonages Board for the purposes of its functions under the Ecclesiastical Offices (Terms of Service) Measure 2009 in two ways:

(i) **Parsonages Measures**

The Board may buy the house or land as an ordinary purchaser under the Parsonages Measures. The market value of the property would normally be payable by the Board and the procedures detailed in Part A above will apply if the Board needs to refer a case to the Commissioners because it does not fall within standard criteria.

(ii) **Mission and Pastoral Measure 2011**

A Pastoral Scheme may provide for a parsonage house or parsonage land to be transferred to the Diocesan Parsonages Board for the purposes of its functions under the Ecclesiastical Offices (Terms of Service) Measure 2009.

Compulsory Purchase Orders and other civil legislation

C.6 When a Local Authority or other statutory authority intends to purchase a parsonage house or part of its grounds or to acquire an easement over parsonage land under compulsory powers, the transaction is not subject to any of the consents and notices or other procedures described in [Part A](#) above that would normally be required under the Parsonages Measures unless the benefice is vacant and presentation has not been suspended - *see below*.

There are over thirty civil Acts where the Diocesan Board of Finance is involved as second-tier (and sometimes first-tier) recipients of notices of compulsory purchase etc. of parsonage land. Since the coming into effect of the Church of England (Miscellaneous Provisions) Measure 2006, the DBF has for the most parts replaced the Commissioners in this respect. In many cases they receive compensation moneys (which are normally credited to Parsonage Building Funds held on benefice's behalf by the Board) or otherwise have to consent to transactions. This part of this note gives a very broad overview of some of the Acts most commonly used. It is not exhaustive and in most cases dioceses should instruct their own professional advisers to protect the benefice interests.

The DBF may be involved because:

- (a) the acquiring Authority may serve a copy of the notice of its intention on the Board (depending whether this is a requirement of the relevant legislation) as well as “the owner of the land”;
- (b) the Board has to receive the compensation monies for credit to a Parsonage Building Fund held on the benefice's behalf by the Board) for the benefice concerned; and
- (c) it is a party to the deed.

If the benefice is *full* then the provisions of the Acquisition of Land Act 1981 will generally apply, with special reference to Section 12(3) relating to notices (which results in the Board receiving a notice as well as the incumbent). It will be for the Board (in consultation with the incumbent) to liaise with the acquiring Authority on protecting the benefice interests and for a solicitor to be instructed to act on behalf of the benefice. By Section 31 of the Compulsory Purchase Act 1965 and Section 13 of the Land Compensation Act 1973, the compensation monies must be paid to the Board who will

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acknowledge receipt. The deed should be sent to the Board for sealing. Proceeds will be dealt with as described in [A.11](#) above.

If the benefice is *vacant* and the acquiring Authority is acting under any of the following:

- (a) the Pipelines Act 1962;
- (b) New Towns Act 1981;
- (c) Town and Country Planning Act 1990;
- (d) Local Government Planning and Land Act 1980;
- (e) Planning (Listed Buildings and Conservation Areas) Act 1990;
- (f) Planning (Hazardous Substances) Act 1990;

then the Board is empowered by these Acts to seal the deed and to receive the compensation monies on behalf of the benefice.

If however the acquiring Authority is acting under most other civil legislation in a vacancy, then:

- (i) *where presentation to the benefice is suspended*, the sequestrators appointed under Section 86 of the Mission and Pastoral Measure 2011 are authorised by Schedule 7 of that Measure to execute a conveyance with the consent of the Bishop. The Board would join in the conveyance for the purpose of receiving the compensation monies which would be dealt with as outlined in A.11 above; *or*
- (ii) *where presentation to the benefice is not suspended* under Section 85 of the Mission and Pastoral Measure 2011, there is no person who can make the conveyance under the compulsory powers legislation. It will therefore be necessary to proceed under the Parsonages Measures which empowers the Bishop to act in the vacancy. The Board would receive the consideration via the DBF for credit to a Parsonage Building Fund now held on the benefice's behalf by the Board for the benefice concerned. A.11 above refers.

Road widening

C.7 In addition to the exercise of compulsory powers there are two further ways in which parsonage land required for road widening purposes may be dealt with:

- (a) **Sale under the Parsonages Measures**
This is dependent upon a monetary consideration being paid; [see Part A above](#).
- (b) **Dedication**
An incumbent has the power under Section 11 of the Church Property

(Miscellaneous Provisions) Measure 1960 to dedicate, either with or without a consideration, part of the parsonage grounds for a highway subject to the consent of the Bishop and the DBF. There is no power for the Bishop to act during a vacancy in which case a sale under the Parsonages Measures would be necessary; [see Part A above](#). This method does not always work in the best interests of the benefice because, although a formal deed is required to dedicate parsonage land for use for highway purposes, the surface of the land technically remains vested in the incumbent. Also Local Authorities often require such a deed to be coupled with an agreement for the incumbent to enter into a further deed to convey the surface of land if this proves necessary at some future date. Any consideration would be payable to the DBF in the first instance and the procedures outlined under [A.11](#) above concerning the application of such proceeds should be followed.

Whatever method is proposed a qualified surveyor should be instructed to negotiate terms on behalf of the benefice and it is reasonable to expect the acquiring authority to meet all the costs of the transaction.

[N.B. See Annex B 'Illustration of intra-church transfers', for an example of the legislation involved in some of the land and property transfers detailed in this Note.](#)

Notes

I S.1(6) of the Parsonages Measure 1938 (as amended) includes the following definitions:

(1) "Connected person" - [see Annex A](#).

(2) "Qualified surveyor" means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

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(3) Where the proposed disposition is for a lease of seven years or less, the DBF should choose its adviser carefully. It should be satisfied that the person it wishes to consult has the ability and experience to offer competent advice on the terms of the lease, including advice on the covenants and the rent.

III Exemption from Stamp Duty

All transactions under the Parsonages Act 1865, Parsonages Measure 1938 and New Parishes Measure 1943 used to be exempt from stamp duty. However, the Finance Act 2003 replaced stamp duty by a new stamp duty land tax with effect from 1 December 2003 and the charities relief provision in Schedule 8 of this Act provided for exemption only on acquisitions. This effectively removed the Church of England's special exemption status for sales bringing it into line with the rights of exemption enjoyed by other charitable bodies.

Demolition of Parsonages

Part A: Demolition under the Parsonages Measures 1938 & 1947

Recent changes

A.1 *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2005*

- Under the Parsonages Measures the Commissioners' consent to a demolition is no longer required provided there are no objections from either the patron(s) or the PCC(s).

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.

Practical considerations

A.2 Under Section 1 of the Parsonages Measures an incumbent (or bishop during a vacancy) can demolish part or all of a parsonage house and any building situated on parsonage land subject to the consents and notices set out in A.5 below. **The consent of the Commissioners to any scheme involving demolition is only required if there are objections to what is proposed. The sale of a cleared site counts as a parsonage disposal (see Section 1.4 above).** Although total demolition is rare (since more often than not this is likely to represent the loss of a valuable asset), there are circumstances where such a proposal may be to the advantage of the benefice and the diocese, for instance:

- (i) An unsuitable house may occupy a large site with development possibilities, but the building may be so placed that the full potential cannot be realised. In this case the house might need to be demolished to make way for a new one in part of the grounds and any remaining land sold;
- (ii) The existing house may form part of a church complex (sometimes physically attached to a church) where a redevelopment is proposed which involves the demolition of the existing buildings and their replacement by a new church and house. Surplus land is often realised as a result, in many cases financing most (if not all) of the cost of providing the new church and house.

A.3 The demolition of a structurally unsound or otherwise unsuitable house and its replacement on a site which is too small to yield any surplus land for sale may occasionally be proposed. Such a proposal may be justified on the grounds that the site is well placed pastorally and no other suitable house or site is likely to become available

Section 1.5 Demolition of Parsonages

for purchase. However, in the absence of any sale proceeds, the cost of such a scheme would probably be above average (after taking account of demolition costs etc). In all proposed demolition cases the diocese should obtain a surveyor's report or feasibility study.

Applying for the Commissioners' consent

- A.4 The diocese must complete and submit an application form ([Form H](#)) and provide full and detailed reasons for such a proposal. The application for the Commissioners' approval should be accompanied by a copy of the surveyor's report or feasibility study on which the proposal is based. All aspects of the project should be set out together with any alternative proposals which have been considered so that the Commissioners can satisfy themselves that the proposal is justified and supported by professional advice. The diocese should have checked with the Local Authority that demolition will be permitted (e.g. if the building is listed or in a conservation area listed building consent will be needed) and also that preliminary discussions have taken place with the planning authority about redevelopment
- A.5 Where a house and church are to be demolished together, close liaison with the Diocesan Mission and Pastoral Committee is essential from the outset.

The legal position

- A.6 The consents required are those of the Bishop (if not acting in a vacancy), the Diocesan Parsonages Board, any member of a team ministry living in the house, and the Commissioners. The PCC(s) of the parish(es) and the patron(s) of the benefice can object to the Commissioners. Where a team ministry has been established for the benefice, all the members of the team have a right to be consulted and any views expressed must be taken into account by the Diocesan Parsonages Board. ([See the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position.](#)) An application for the Commissioners' consent (using [Form H](#)) should not normally be submitted until the expiry date for objections has passed or confirmation received that there are no objections. If objections have been received, then copies should be sent to the Commissioners within five working days of receipt. In all cases, the application should be sent with full details of the proposal and a copy of the notice sent to the patron(s) and PCC(s). On no account should any demolition works take place until such time as the Commissioners have informed the diocese of their decision on the proposal, having considered the background to the proposal and any objections. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

Part B: Disposal of a Demolished Parsonage Site under the Mission and Pastoral Measure 2011

- B.1 A Pastoral Scheme may transfer (a) the site of a demolished parsonage house or (b) a parsonage house which is to be demolished to the Diocesan Board of Finance for disposal in accordance with paragraph 8 of Schedule 3 to the Mission and Pastoral Measure 2011. [See Section 1.4, Part B for the procedures to be followed following such a transfer.](#)

Part C: Demolition of Outbuildings under the Repair of Benefice Buildings Measure 1972

- C.1 Under Section 5(4) of the Repair of Benefice Buildings Measure 1972, a report by a diocesan surveyor may recommend the demolition of any parsonage outbuilding which appears to be superfluous. If the Diocesan Parsonages Board decides to adopt such a recommendation then it must serve notice of the proposal on the incumbent. The incumbent would then have a right of objection to the Commissioners who would decide the matter one way or the other after consulting the Board and the incumbent. If (a) the incumbent does not object to the proposal or (b) the Commissioners overrule any representation (s)he might make, the Board may proceed with the demolition. Where there is no incumbent, notice should be served on the sequestrators (if the benefice is under sequestration) or on the Bishop (if the benefice is not under sequestration) and they would have the same rights of representation and consultation.

Improvement, Division, Enlargement, Additions and Alterations of Parsonages

Part A: Improvements, Division and Enlargement under the Parsonages Measures 1938 & 1947

Changes since 2000

A.1 *Principal amendment arising from the Church of England (Miscellaneous Provisions) Measure 2000:*

- Under Section 2 of the Parsonages Measures the Commissioners' consent to the major improvement of a parsonage house is no longer required provided certain criteria are met and there are no objections to the proposal from either the patron(s) or the PCC(s).
- Under Section 2A of the Parsonages Measures the Commissioners' consent to the minor improvement, division or enlargement of a parsonage house in a vacancy is only required where there are objections from either the patron(s) or the PCC(s).

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.

Major improvements to a parsonage house (more than £50,000) – Section 2 of the Measures

The legal position

A.2 An incumbent (or the Bishop in a vacancy) can improve a parsonage house. The Bishop (where he is not acting), the Diocesan Parsonages Board and, in certain circumstances, the Commissioners must consent. The PCC(s) of the parish(es) and the patron(s) of the benefice can object to the Commissioners. Where a team ministry has been established for the benefice, all the members of the team have to be consulted and any views expressed must be taken into account by the Diocesan Parsonages Board. In this connection it is the Commissioners' view that 'improvement' includes dividing or enlarging a house. ([See the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position.](#))

N.B. A.2 to A.6 of this Note apply to major improvement, division or enlargement schemes costing in excess of £50,000. Otherwise, the Parsonages Measures enable the Bishop to authorise sequestrators (i.e. the rural dean (or team vicars in a team ministry)), the churchwardens of every parish in the benefice and such other persons as the Bishop may appoint) to act for the benefice in any proposals involving the

(minor) improvement, division, or enlargement of a parsonage in a vacancy – [see A.7 to A.13 below.](#)

The need or otherwise for the Commissioners' consent

A.3 The Commissioners' consent to the improvements is **not** required unless:

- (a) a person who is a connected person ⁽¹⁾ or a trustee for, or nominee of, a connected person is concerned with the improvements (e.g. the proposed contractor);
- (b) the requirements of A.4 below have not been complied with; or
- (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

A.4 Before carrying out any improvements, the Diocesan Parsonages Board (on behalf of the incumbent or the Bishop in a vacancy) must:

- (a) obtain and consider a written report on the proposed improvements from a qualified surveyor ⁽²⁾, qualified architect or other suitably experienced person instructed by and acting exclusively for the benefice; and
- (b) decide that it is satisfied, having considered the report, that the terms on which the improvements will be carried out are the best that can be reasonably obtained for the benefice.

Application for the Commissioners' consent/finance

A.5 Where the Commissioners' consent is required, the diocese must complete and submit an application form ([Form H](#)). If their consent is required to the improvements then the diocese must provide full details of the proposal and enclose copies of any objections. The application should not normally be submitted until the expiry date for representations has passed or confirmation has been received that there are no objections. A copy of the notice served on the patron(s) and PCC(s) should also be sent to the Commissioners. The improvement works should not begin until the Commissioners have informed the diocese of their decision on the proposal, having considered the background to it and any objections. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'.](#)

Connected person

- A.6 In order to establish that a person (e.g. the contractor) proposed to carry out the improvements is *not* a connected person as defined under the Parsonages Measure 1938⁽¹⁾, the Commissioners recommend that the diocese obtain a written declaration to that effect: [see Annex A for a specimen of such a declaration.](#)

Minor works in a vacancy (less than £50,000) – S.2(A) of the Measures

- A.7 The Bishop can authorise the sequestrators to carry out minor schemes of improvement (i.e. less than £50,000) during a vacancy. The consultations and consents required under the Parsonages Measures are the same as those outlined in A.2 above except that:
- (i) where the parsonage house is occupied by a member of the team in a team ministry, the sequestrators must obtain that member's consent; and
 - (ii) the Commissioners are only involved where there are objections.

A.3 and A.4 above do not apply but see [A.5](#) above for applications for the Commissioners' consent to minor improvements where there are objections.

The Commissioners understand that it is the practice of many Diocesan Parsonages Boards to carry out minor improvements to parsonages (irrespective of whether the benefice is vacant) under the provisions of the Repair of Benefice Buildings Measure 1972 – [see Part B below.](#) Dioceses may prefer this simpler regime but it should never be used simply to by-pass the rights of the patron(s) and the parochial church council(s) under the Parsonages Measures to be consulted over such proposals and to make representations.

Dividing or enlarging a parsonage house in a vacancy – S.2(A) of the Measures

- A.8 The Bishop can authorise the sequestrators to divide or enlarge a parsonage house during a vacancy. Division generally has two advantages:
- (a) it reduces the area occupied by the incumbent making it not only more convenient for parsonage use but also cheaper to run and maintain;
 - (b) the divided part can provide income and/or capital by being leased or sold.
- A.9 However, this is often not an ideal solution as it tends to have corresponding disadvantages, for example:
- (a) houses suitable for division are often older properties where the part remaining as a parsonage may still have large rooms with high ceilings which are expensive to heat and where maintenance costs may remain relatively high;
 - (b) there will be less privacy for the incumbent (and family) if the divided off part is in separate occupation and there may be disturbance from the other occupier, especially if the division is horizontal rather than vertical.

- A.10 Division schemes can vary considerably in scope and complexity but are usually in essence an improvement scheme plus a disposal of the divided-off part. The disposal of the divided-off part often realises sufficient proceeds to make the improvement element self-financing. A freehold sale of the divided-off part would take place under the Parsonages Measures and would be subject to the consents and notices referred to in [Part A of Section 1.4 'Parsonage Disposal'](#). If the divided off part is to be retained, it should either be subject to a Section 11 Certificate by the Bishop under the Parsonages Measures (in order to determine that the retained part has the legal status of the parsonage with the remainder becoming an “excluded part”) or, more commonly, should be transferred to diocesan glebe by a Section 32 Order under the Endowments and Glebe Measure 1976. [See Section 2.6 'Section 32 Orders'](#).
- A.11 A horizontal division of a house effectively rules out a freehold sale of the divided off part. This is because if the part of the freehold is vertically above another it becomes a “Flying Freehold” which creates problems in respect of shared maintenance responsibilities, e.g. for the roof. In these exceptional circumstances the freehold of the divided off part should always be transferred to the DBF as glebe and only a long leasehold interest sold. The diocese will then be in a position to control maintenance of the whole property. In any case, provision should clearly be made for a division of responsibility for the maintenance of the fabric, drainage, services and utilities.
- A.12 In a division scheme it is usually necessary to carry out major improvements to the divided off part, as well as the retained part, in order to make the latter saleable or lettable. In most cases the aim would be for work carried out to the parsonage house element to be self-financing. Although in financial terms it may be desirable for the divided off part to be sold freehold or, perhaps, on a long lease for a premium in order to realise capital to fund improvement works, this may conflict with the desire to retain more control over the occupation of the divided off part by letting it only on a short term basis. It may therefore be appropriate for the DBF to pay a market value for a divided off part which is becoming diocesan glebe, especially if it is to be held for clergy housing or short term letting rather than immediately sold or let on a long lease. Works to the divided off part should, if it is to become glebe, be treated as glebe improvements and the cost should be strictly apportioned between the two parts. Any deficit arising on the divided off part should be met from glebe, not benefice, funds. [See Section 2.4 'Glebe Improvements'](#).
- A.13 It is the Commissioners' view that, for schemes of division or enlargement in a vacancy costing more than £50,000, Diocesan Parsonages Boards should obtain and consider reports from qualified surveyors, qualified architects or other suitably experienced persons as outlined in A.4 above and establish whether a connected person is involved (see A.3). It is for the Diocesan Parsonages Board to decide whether to give its consent where a connected person is involved. Otherwise, the procedures are as outlined in A.7 above.

[\(See B.2 below for an alternative regime for additions/alterations under the Repair of Benefice Buildings Measure 1972.\)](#)

Part B: Additions and Alterations under the Repair of Benefice Buildings Measure 1972

Changes since 2000

B.1 *Principal amendment arising from the Church of England (Miscellaneous Provisions) Measure 2000:*

- Where a member of a team ministry other than the incumbent occupies a parsonage house, any additions or alterations to be carried out to the property under the Repair of Benefice Buildings Measure require that person to be consulted.

The legal position

B.2 An incumbent (or the sequestrators where the benefice is vacant) can make additions or alterations to a parsonage house. This includes schemes of minor improvement (costing less than £50,000). In this connection, it is the Commissioners' view that "improvements" includes enlarging a house but not a scheme of division which should be carried out under the Parsonages Measures. The consent of the Diocesan Parsonages Board is required and the patron(s) has the right to be consulted, as does any member of a team ministry who lives in the parsonage house in question. Although not a statutory requirement, the Commissioners recommend that, in the case of a team ministry, every member of the team should also be consulted over the proposal. ([See the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position.](#))

Notes

S.1(6) of the Parsonages Measure 1938 (as amended) includes the following definitions:

(1) "Connected person" - [see Annex A.](#)

(2) "Qualified surveyor" means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

N.B. For the purposes of improvement schemes, the definition of 'qualified surveyor' is too narrow in terms of offering professional advice to the diocese. Hence the references in this note to qualified architects or other suitably experienced persons.

Financing the Building, Purchase and Improvement of Parsonages and the application of Parsonage Building Funds

Changes since 2000

1. *Principal amendments arising from the Church of England (Miscellaneous Provisions) Measure 2000:*

- Responsibility for holding Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts was transferred to dioceses;
- The Commissioners' approval is no longer required to the use of DSF Capital under the Diocesan Stipends Fund Measure 1953. Such use is now determined by the Diocesan Board of Finance with the agreement of the Bishop;
- The Commissioners' approval is no longer required to the use of Diocesan Pastoral Account funds. This was devolved to the Diocesan Board of Finance;

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.
- Under the Parsonages Measures the DBF has to serve notice on the patron(s) and PCC(s) concerning the proposed use of sale proceeds held by the DBF on the benefice's behalf with the Commissioners responsible for the consideration of any objections.

Sources of finance

2. Providing suitable accommodation for parsons and their families may involve the building or purchase of new or replacement parsonages or the improvement of existing stock. The necessary finance for such projects can come from funds belonging to the benefice or the diocese. Loans from the Church Commissioners are no longer available.

In practice the funds available are likely to differ from one scheme to another; they may be used individually or in combination with one another and may also be determined by diocesan policy.

Funds belonging to the benefice (Parsonage Building Funds)

3. Net proceeds from the sale of a former parsonage house or parsonage land (including any consideration paid for the release or variation of restrictive covenants benefiting the house or land; granting easements; Compulsory Purchase Orders etc.) are held by the Diocesan

Section 1.7 Finance of Parsonages

Board of Finance on completion of the transaction and credited to an interest-bearing account held by the diocese for the benefice concerned.

4. The proceeds (net of any legal and other costs and after the repayment of any outstanding Commissioners' loans to the benefice - *see 8. below*) can then be used towards the provision of a replacement parsonage house (if one is needed) or the improvement (but not repair) of the existing house.
5. 'Improvements' in this context includes the division, enlargement, addition and alteration of parsonage houses, i.e. capital works. [See Section 1.6 'Improvement, Division, Enlargement, Additions and Alterations of Parsonages.](#)

The legal position

6. If the Commissioners are satisfied that any such funds are **not** required for any of the purposes outlined above then, at the diocese's request and subject to the appropriate Parsonages Measures notices being served on the patron(s) and PCC(s) and the consideration by the Commissioners of any objections ([see the table annexed to Section 1.1 'Parsonages – Consents and Notices' for a summary of the legal position](#)), the funds may be credited to either the Diocesan Pastoral Account (DPA) or the Capital Account of the Diocesan Stipends Fund (DSF Capital). However, where pastoral reorganisation involving the benefice is likely to take place, the funds will normally be dealt with in any Pastoral Scheme made under the Mission and Pastoral Measure 2011. This may include the use of the funds for parsonage purposes in the new benefice (where, for example, two or more benefices are united to create a new one) or their transfer to either the DPA or DSF Capital Account.

Funds not specifically required for the benefice

7. Where a sale has taken place and proceeds are held by the Board, the diocese may want to transfer the proceeds to the DPA or DSF Capital Account. The Diocesan Parsonages Board should consult the Diocesan Mission and Pastoral Committee about the pastoral situation. The following guidelines would normally apply:
 - (a) Where no relevant draft pastoral proposals have been circulated by the Diocesan Mission and Pastoral Committee nor is such circulation imminent the proceeds could transfer as requested subject to the Diocesan Parsonages Board serving notice of its proposal on the patron(s) and the PCC(s). The Commissioners would need to consider any objections before deciding whether such a transfer should proceed. [See Part A of Section 1.4 'Disposal of Parsonages' for further details of the procedures which should be followed.](#)
 - (b) Where relevant draft proposals have been circulated by the Diocesan Mission and Pastoral Committee or the informal ascertainment of views has commenced the Commissioners will include provision for the transfer of the proceeds in the draft Pastoral Scheme.

“Top slicing”

8. It is sometimes necessary for the DBF to retain funds for a particular benefice because the parsonage house may have been sold under the Parsonages Measures without being replaced and pastoral reorganisation (which would determine whether or not a parsonage was required under any new arrangements) may have been considered but delayed for one reason or another. However, it may be possible to release a proportion of these funds for credit to the DPA/DSF Capital Account in advance of a Pastoral Scheme if the diocese so desires, subject to the appropriate Parsonages Measures notices being served on the patron(s) and PCC(s) and the consideration by the Commissioners of any objections and provided that sufficient funds remain to cover the cost of providing a replacement parsonage house for the benefice should one ultimately be required. [The procedures referred to in 7\(a\) above should be followed.](#)

Diocesan Funds

9. (a) *Diocesan Pastoral Account*

Funds paid into this account, including surplus PB Funds are held by dioceses for the purposes laid down in Section 94 of the Mission and Pastoral Measure 2011. These include grants and loans for parsonage house purposes as well as the improvement and repair of other types of clergy housing (e.g. glebe or diocesan corporate owned team vicars' houses and curates' houses). The DPA also comprises proceeds arising from the sale of parsonages and churches which have become redundant under pastoral reorganisation.

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- (b) *Diocesan Stipends Fund Capital Account*

DSF Capital Accounts are held by dioceses and their purpose is primarily to generate income for clergy stipends as well as the acquisition, development or improvement of glebe and parsonage houses. DSF Capital cannot be used towards the purchase or improvement of diocesan corporate property or property held in trust by the DBF. Proceeds from the sale, exchange or other dealings with glebe land must be credited to the account (including any gifts, bequests and mineral royalties) and dioceses can also choose to transfer any surplus PB Funds to DSF Capital (as referred to above) as well as proceeds arising from the sale of parsonages transferred to dioceses under Pastoral Schemes.

(N.B. Funds standing to the credit of the Income Account of Diocesan Stipends Funds are used primarily to pay stipends but can also be used for the repair and maintenance of parsonage houses.)

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- (c) *Other funds*

These may include (i) diocesan corporate funds; (ii) grants from national bodies such as Marshall's Charity; and (iii) local trusts.

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(N.B. Separate contributions made by parishes under their dioceses' houses management scheme for housing purposes generally within the diocese or towards the upkeep of the parsonage house belonging to their own benefice or a combination of the two (as may be provided for under the Repair of Benefice Buildings Measure 1972); and block allocations made available to dioceses by the Commissioners on an annual basis which may be used for parsonage purposes are available for repair or maintenance purposes only). **Commissioners' loans**

10. Currently no such loans are available for these purposes.

Payment of accounts

11. Diocesan Parsonages Boards act as budget holders for all parsonage building, purchase or improvement schemes and are therefore responsible for all payments to architects, contractors etc.

Parsonage Easements

Changes since 2000

1. *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*

- The Commissioners' consent is no longer required for taking or granting easements for the benefit of, or over, parsonage land.
- Any consideration paid as a result of granting an easement is payable to the Diocesan Parsonages Board in the first instance rather than the Commissioners.

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice.

The legal position

2. (i) Easements

Under Section 9 of the Church Property (Miscellaneous Provisions) Measure 1960 an incumbent (or the Bishop in a vacancy) can take an easement for the benefit of a parsonage house or grant an easement for the benefit of some other land over part of the parsonage grounds subject to the consent of the Bishop (unless acting) and the Diocesan Parsonages Board. However, where the parsonage house needs rights of access over consecrated churchyard, a faculty would be required.

Easements can be taken or granted with or without payment of either a capital sum and/or a periodic rent. The Commissioners recommend that a qualified surveyor⁽¹⁾ (or otherwise someone reasonably believed by the Board to have the practical ability and experience to advise on the matter) should be instructed to act on behalf of the Church and his or her report to the Board should indicate the term, consideration (if any), and arrangements regarding costs. Please note that arrangements for easements to be taken or granted in connection with a sale or purchase of a parsonage house and/or grounds should be concluded by the time of exchange of contracts on the primary transaction.

If a capital sum is paid to the Board the Measure provides for it to be used in a similar way to parsonage sale proceeds. On completion of the grant of easement, the solicitor acting for the benefice should pay the sum to the Diocesan Parsonages Board. The sum is then credited to a Building Fund held by the diocese for the benefice concerned. Once any outstanding Commissioners' loans

to the benefice have been repaid or reduced, the first call on the funds will be towards any necessary (future) improvements to the parsonage house. However, any funds not so required in the foreseeable future for this purpose may be credited to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (or a combination of the two). However the Diocesan Parsonages Board must first serve the recommended notice (Form 2) of its proposals concerning the use of surplus funds on the patron(s) and the PCC(s). The period within which any objections to the proposals may be made to the Diocesan Parsonages Board is 21 days, commencing on the day after the date on which the notice has been given. Alternatively, if the patron(s) and PCC(s) are willing to forgo their right to receive a formal notice in this way, they may agree to this “shortened procedure” in writing on a recommended form (Form 5). Once the period allowed for representations has passed, or the shortened procedure has been adopted, the funds may be transferred. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be obtained. Where there are objections the application form (Form H) should be submitted to the Commissioners who would then take a decision on the proposal having considered any objections.

[See Section 1.10 ‘The Parsonages Measures Rules 2000’ and Recommended Forms concerning the service of notices etc.](#)

(ii) Wayleaves

In cases where the proposed wayleave is substantial, e.g. a transformer, satellite antennae or underground cables on parsonage land which might interfere with its normal use or future development, or where a qualified surveyor recommends that a permanent arrangement is necessary, the matter should be dealt with under the Church Property (Miscellaneous Provisions) Measure 1960 – *see 2(i) above*.

If a wayleave of a minor nature over parsonage land is proposed, e.g. odd poles, stays, wires etc. an informal agreement with the incumbent (or the benefice sequestrators in a vacancy) may suffice. An incumbent (or the sequestrators) may sign the documents without obtaining any other consents and whether or not an incumbent’s successors are bound by the agreement depends on its terms and on the statutory provisions under which it was acquired. Electricity, gas, telecom and cable companies and other statutory bodies have special forms for use in these circumstances. However, in practice it is expected that the matter would be reported to the Diocesan Parsonages Board so that advice can be obtained if necessary before any such agreements are entered into. Any payment by way of rent should be sent to the Diocesan Parsonages Board and credited to the Diocesan Stipends Fund Income Account.

Section 1.8 Parsonage Easements

S.1(6) of the Parsonages Measure 1938 (as amended) includes the following definition:

⁽¹⁾“Qualified surveyor” means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

Parsonage Lettings

General advice to dioceses

1. Introduction

Some dioceses already have a good deal of experience in this field, but, as this note demonstrates, this is a complex area, and incumbents, sequestrators and dioceses should be advised by their own solicitor in each case.

2. Reasons for letting parsonage houses

Parsonage houses usually fall vacant only in an interregnum or pending pastoral reorganisation proposals and/or the sale of the house. The primary consideration must be for the pastoral care of the parish concerned, and this might mean that the house has to be kept empty for a short while pending the appointment of a new incumbent. However, if the house is unlikely to be occupied for some time, or if it is being held pending eventual sale, it may be worth considering a letting in the interim. This approach offers some benefits:

- (i) it deters vandalism;**
- (ii) it keeps the house properly maintained;**
- (iii) it generates rental income; and**
- (iv) it avoids adverse comment on leaving houses empty.**

There is the potential disadvantage that the tenant might not leave, in which case court proceedings may be necessary, with potential costs, delay and adverse publicity. These risks may be reduced if the letting is to a housing association that can offer suitable alternative accommodation to the occupying (sub) tenant. Nevertheless, those concerned locally will need to exercise caution. If there is any possibility of a business tenancy arising under Part II of the Landlord & Tenant Act 1954, the relevant statutory provisions in that Act should be excluded by Court Order.

3. Lettings in a vacancy

During a vacancy, the Bishop can authorise the sequestrators (i.e. the rural dean (or team vicars in a team ministry), the churchwardens of every parish in the benefice and such other persons as the Bishop may appoint)) to grant a lease, for such period as the Bishop authorises, of the parsonage house and/or grounds (except any excluded part – [see paragraphs 10 and 11 below](#)) under section 38(2) of the Endowments and Glebe Measure 1976. The Diocesan Board of Finance's consent is required. The Commissioners' consent is no longer required.

4. The courts have held in the past that the Rent Acts (conferring security of tenure on the tenant) do not apply to the letting of a parsonage, where possession might be required for occupation by an incumbent. However, this decision was based on the principle that the Rent Acts were inconsistent with the provisions of section 59 of the Pluralities Act 1838,

and section 59 no longer applies to lettings of parsonages by sequestrators (see section 38(2) of the Endowments and Glebe Measure 1976 as amended by the Church of England (Miscellaneous Provisions) Measure 2000). Accordingly, it is prudent to assume that any letting of a parsonage by sequestrators now creates an assured shorthold tenancy, provided, of course, that the Housing Act conditions for such a tenancy exist (occupation as a residence by the tenant etc).

5. Although a shorthold may be granted for a period of less than six months, it should be borne in mind that the Housing Act 1988 precludes the court from making an order for possession during the first six months on the ground that the tenancy is a shorthold.

6. Lettings by incumbent

The parsonage house is vested in the incumbent in his or her corporate capacity (i.e. he holds the freehold for himself and his successors in office). While there is no specific legislation that empowers an incumbent to lease a parsonage house, or part of it, it seems that at Common Law s/he has the power to grant leases.

7. Such Common Law power as an incumbent might have was limited by section 2 of the Ecclesiastical Leases Act 1571 (which is still in force). This made void any lease other than one for 21 years "at the accustomed yearly rent" and arguably allowed renewals of extant leases for a further 21 year term. The legislation remains in force, but its application to new lettings has not been tested. As a result it is probably best that an incumbent should not seek to let parsonage houses in those circumstances where s/he might wish to (e.g. where there are two or more parsonages in a plurality of benefices). However, if an incumbent does wish to grant a tenancy, s/he will need to consult the diocese and to bear in mind that any such tenancy will be voidable unless it complies with section 59 of the Pluralities Act 1838. Accordingly, the tenancy must be created in writing and contain a covenant by the tenant to give vacant possession if the bishop requires the incumbent or any other spiritual person to live in the house.
8. Where section 59 applies to a letting by the incumbent, no security of tenure will be conferred on the tenant. Following an extension of the principle enounced by the courts in the Rent Act case referred to in paragraph 4 above, the applications of the Housing Act 1988 and of the Pluralities Act 1838 are mutually exclusive. So a tenancy to which the 1838 Act applies will be neither an assured nor an assured shorthold within the Housing Act 1988, so that no security of tenure is given to the tenant and the property may be used for occupation by an incumbent or other 'spiritual person' if necessary.
9. The scope of section 59 is limited, and it is clear it will rarely be appropriate to rely on it. For example, it cannot be relied on where a parsonage house is let pending sale. In such cases the incumbent will have to grant an assured shorthold tenancy, and the point mentioned in paragraph 5 above will need to be borne in mind.

10. Excluded parts of parsonage houses

An incumbent will not ordinarily wish to let part of the parsonage house in which s/he is required to reside, not least because if part of the parsonage house is not needed by him or

her, it is theoretically capable of becoming an "excluded part by virtue of a section 11 certificate (under the Parsonages Measure 1938) signed by the Bishop.

11. Under section 29 of the Endowments and Glebe Measure 1976 any excluded part of a parsonage house (e.g. a self-contained flat or flats) is absolutely prohibited from being let. Before it can be let a transfer to diocesan glebe ownership is necessary by means of an Order under section 32 of the Endowments and Glebe Measure 1976.

12. Lettings by DBF as glebe

It is often preferable for the house, or area in question, to be made diocesan glebe and then let by the Diocesan Board of Finance. The Commissioners' consent may be required (see paragraph 16 below).

13. The Diocesan Board of Finance should ensure that any lease granted does not confer security of tenure on the tenant or on any occupying subtenant.
14. A potential problem with transferring a house to glebe is that, where pastoral reorganisation is under consideration, such a transfer might be held to prejudice the eventual question of whether or not a house was surplus to longer term requirements. The Commissioners' views should be sought at an early stage in cases such as this.

15. "House for duty" lettings

Parsonage houses set aside permanently (or for the foreseeable future) for "house of duty" occupation ought to be taken out of benefice ownership and transferred to the DBF as (a) Diocesan Parsonages Board property, (b) corporate property, (c) glebe or (d) for diocesan or parochial purposes. The Commissioners are not in a position to offer guidance on the form of licence to occupy such properties, but believe that the Ecclesiastical Law Association is preparing a sample standard licence.

16. The Commissioners' role

The Commissioners' consent is only required if the property being let is glebe and the transaction does not fall within the standard criteria by which dioceses are now free to deal with their glebe property without reference to the Commissioners. However, where the Commissioners' consent is not required, the Commissioners' staff are ready always to advise on the most appropriate course to adopt in relation to planned lettings.

17. Practical issues

In granting a tenancy or lease it is necessary to ensure that possession of the house can be regained when required. The circumstances surrounding each letting will vary, and each case will merit careful attention.

18. Appropriate professional advice must be taken before entering into a binding agreement to grant a tenancy or lease. Any documentation should be approved prior to completion by the diocesan registrar or other solicitor acting for the incumbent/sequestrators.

19. Dioceses will, no doubt, consider before it falls empty what they would like to do with an empty parsonage. In appropriate cases they may wish to consider
- (i) arranging for it to be used on a temporary basis by other clergy;**
 - (ii) an open market letting which confers no security of tenure but which still meets local housing needs; or**
 - (iii) short term use by a Housing Association.**

Where an open market letting as an assured shorthold tenancy is planned, dioceses will probably wish to offer a minimum letting period of, say, six to nine months for reasons of commercial viability (even though such tenancies do not require a minimum fixed term).

20. Summary

During a vacancy in the benefice, the sequestrators may, at the Bishop's direction, grant an assured shorthold tenancy of a parsonage under section 38(2) of the Endowments and Glebe Measure 1976.

21. If the property (or part in question) is never going to be needed for occupation by an incumbent, the incumbent may let it on an assured shorthold tenancy. Otherwise the incumbent may only let it if section 59 of the Pluralities Act 1838 is complied with.
22. Excluded parts of a parsonage house can be let only if first transferred into glebe ownership.

N.B. This replaces the Guidance Note issued by the Commissioners in February 1998 and takes account of the change to S.38(2) of the Endowments & Glebe Measure 1976 introduced by the Church of England (Miscellaneous Provisions) Measure 2000.

STATUTORY INSTRUMENT

2007 No 862

ECCLESIASTICAL LAW, ENGLAND

The Parsonage Measure (Amendment) Rules 2007

Made (Approved) by the General Synod 27 February 2007

Laid before Parliament 16 March 2007

Coming into force 1st May 2007

In exercise of their powers conferred by section 15 of the Parsonages Measure 1938 **(a)** as amended by the Synodical Government Measure 1969**(b)**, the Patronage (Benefices) Measure 1986**(c)**, the Church of England (Miscellaneous Provisions) Measure 2000**(d)**, the Church of England (Miscellaneous Provisions) Measure 2006**(e)** the Church Commissioners make the following Rules:-

Registered patron subject to incapacity

1. Where a registered patron is subject to the management and administration of a guardian, trustee, committee or receiver, any notice given under the Measure to the registered patron shall be given to such guardian, trustee, committee or receiver, who shall, for the purposes of the Measure and of these Rules, be deemed to be the registered patron in place of the registered patron subject to the incapacity.

Office as registered patron

2. Where an office is a registered patron, the person who is for the time being the holder of that office shall be the registered patron for the purposes of the Measure and of these Rules.

Deceased registered patron

3. If a registered patron has died and the person to whom the right of patronage is to be transferred is not yet registered as patron of the benefice, any notice given under the Measure shall be given to the personal representatives of the deceased registered patron, who shall, for the purposes of the Measure and of these Rules, be deemed to be the registered patron in place of the deceased registered patron.

(a) 1 & 2 Geo 6 No. 3; **(b)** 1969 No. 2; **(c)** 1986 No. 3; **(d)** 2000 No 1. **(e)** 2006 No 1.

Registered patron's donee by power of attorney

4. If a registered patron has, by instrument creating a power of attorney, conferred on the donee of the power authority to discharge on the registered patron's behalf all the functions of a patron of the benefice concerned, such donee shall, for the purposes of the Measure and of these Rules, be deemed to be the registered patron in place of the registered patron.

Determination of registered patron in case of dispute

5. The diocesan registrar of the diocese in which the benefice concerned is situated shall determine any dispute as to who is deemed under the foregoing Rules to be the registered patron for the purposes of the Measure and of these Rules, and such determination shall be final and conclusive.

Where the registered patron cannot be found or where it is impracticable to serve notice on the registered patron personally

6. In any case where the diocesan registrar of the diocese in which the benefice is situated is satisfied that a registered patron cannot be found:
 - (a) the diocesan registrar may (if the missing registered patron is one of joint registered patrons) direct that the other registered patrons of the benefice shall represent the missing registered patron for the purposes of the Measure and of these Rules; or
 - (b) the diocesan registrar shall (in any other case) direct that the Diocesan Board of Patronage for the diocese concerned shall represent the missing registered patron for the purposes of the Measure and of these Rules.

Notices

7. Rules 7(a) and (b) revoked.
 - (c) A notice or other document required or authorised by the Measure to be served on, sent or given to a person may be served, sent or given by delivering it to such person, or by leaving it at such person's proper address, or by post.
 - (d) The proper address of the person on or to whom any such notice or other document is required or authorised to be sent, served or given shall be that person's last known address, except that:
 - (i) in the case of the secretary or clerk of a corporation it shall be the registered or principal office of the corporation;
 - (ii) in the case of the secretary or clerk of an unincorporated body or partner of a firm, it shall be that of the principal office of the body or firm; and

(iii) in the case of a Parochial Church Council it shall be the address of the secretary or acting secretary or, in the absence of such person, the address of such other member as may be deemed appropriate by the Board.

(e) If any question arises as to the person on or to whom, or the manner in which any notice or other document is to be served, sent or given under the Measure or under these Rules, the diocesan registrar may decide the question and his or her decision shall, for the purposes of the Measure or of these Rules be final and conclusive.

Prescribed time for objections to or representations on proposals

8. For the purpose of section 3(1) and section 7 of the Measure 'the prescribed time' shall be a period of 21 days commencing on the next working day after the date on which the notice in question has been given under section 3(1) or, as the case may be, section 7 of the Measure.

Passing to Commissioners of objections or representations

9. Where objections or representations are received by the Board in response to a notice given under section 3(1) or 7 of the Measure, the Board shall within five working days of receipt send such objections or representations to the Commissioners for consideration.

Shortened procedure

10. If the Board is satisfied that approval under the Measure to a particular transaction is required urgently, the issue of any notice required by the Measure or the consideration of objections or other proceedings consequent on such notice may be dispensed with, with the prior written consent of the registered patron and of the Parochial Church Council.

Deposit of copy assurances

11. A certified copy of any assurance of land (including buildings) purchased or acquired by way of exchange under the Measure shall be sent to the diocesan registrar of the diocese in which the benefice concerned is situated, who shall deposit it in the diocesan registry.

Recommended practice

12. The Board shall have regard to advice given to it by the Commissioners at any time in connection with procedures under the Measure.

Interpretation

13. In these Rules:

'the Board' means the Board appointed or designated under section 1 of the Repair of Benefice Buildings Measure 1972(d) for the purposes of that Measure;

Section 1.10 Parsonage Measure Rules and Recommended Forms

'the Commissioners' means the Church Commissioners for England;

'the Measure' means the Parsonages Measure 1938, as amended;

'Parochial Church Council' means the Parochial Church Council of any parish within a benefice affected by a proposal under the Measure;

'registered patron' has the meaning given to it by section 39(1) of the Patronage (Benefices) Measure 1986; and

the headings are for ease of reference only and are not part of the Rules themselves.

14. Citation, Commencement and Revocation

- (a) These Rules may be cited as the Parsonages Measure (Amendment) Rules 2007 and shall come into force on the first day of 1 May 2007.
- (b) The Parsonages Measure Rules 2000 are hereby revoked.

RECOMMENDED FORMS

Parsonages Measure 1938

Form 1

Section 3(1) of the Parsonages Measure 1938, as amended

Notice to a Registered Patron and Parochial Church Council and (where there is no Parochial Church Council) Churchwardens

BENEFICE:

DIOCESE:

Either:

I, as the Incumbent of this Benefice, hereby give notice under section 3(1) of the Parsonages Measure 1938, as amended, of my intention to [sell] [pull down] [exchange] [build] [purchase] [improve] the following property:

Or:

I, as the Bishop of the Diocese, acting in a vacancy of this Benefice, hereby give notice under section 3(1) of the Parsonages Measure 1938, as amended, of my intention to [sell] [pull down] [exchange] [build] [purchase] [divide] [enlarge] [improve] the following property:

Written notice of any objection to the proposal should be sent to the Secretary to the Diocesan Parsonages Board at *[insert address]*

before *[insert date, allowing at least 21 days commencing the working day after the date of this notice]*

Name (please print).....

Capacity.....

Signature.....

Date.....

Section 1.10 Parsonage Measure Rules and Recommended Forms

This notice is being sent to: *[insert names and other details as required]*

1. All registered patrons of the Benefice:
 - (i).....
 - (ii).....
 - (iii).....

2. The Secretaries to all the Parochial Church Councils of parishes within the area of the Benefice:
 - (i) Name of PCC Secretary.....
Parish.....
 - (ii) Name of PCC Secretary.....
Parish.....
 - (iii) Name of PCC Secretary.....
Parish.....

And where there is no Parochial Church Council in any one or more of the parishes within the area of the Benefice, the churchwardens of any such parish without a Parochial Church Council:

- (i) Name of Churchwarden.....
Parish.....
- (ii) Name of churchwarden.....
Parish.....
- (iii) Name of churchwarden.....
Parish.....
- (iv) Name of churchwarden
Parish

Parsonages Measure 1938

Form 2

Section 7 of the Parsonages Measure 1938, as amended

Notice to a Registered Patron and Parochial Church Council and (where there is no Parochial Church Council) Churchwardens

BENEFICE:

DIOCESE:

The Diocesan Parsonages Board, with the consent of the Bishop of the Diocese, hereby gives notice under section 7 of the Parsonages Measure 1938, as amended, that it will apply and dispose of the moneys arising from the sale or exchange of *[address or other description of property disposed of]*

by the application of the sum of £ for or towards the [erection] [purchase] [improvement] [division] [reduction in size] [enlargement] of *[address or other description of property in question]*

and/or by the disposition of [the sum of £] [the balance, if any, of the moneys so arising] to the [Capital Account of the Diocesan Stipends Fund] [Diocesan Pastoral Account] [apportioned between the Capital Account of the Diocesan Stipends Fund and the Diocesan Pastoral Account as follows:]

[insert details of any apportionment between the two accounts]

Section 1.10 Parsonage Measure Rules and Recommended Forms

Written notice of any objection to the proposals should be sent to the Secretary of the Diocesan Parsonages Board at *[insert address]*

before *[insert date, allowing at least 21 days commencing the working day after the date of this notice]*

Name (please print).....

Capacity.....

Signature.....

Date.....

This notice is being sent to: *[insert names and other details as required]*

All registered patrons of the Benefice:

(i).....

(ii).....

(iii).....

The Secretaries to all the Parochial Church Councils of parishes within the area of the Benefice:

(i) Name of PCC Secretary.....

Parish.....

(ii) Name of PCC Secretary.....

Parish.....

(iii) Name of PCC Secretary.....

Parish.....

And where there is no Parochial Church Council in any one or more of the parishes within the area of the Benefice) the churchwardens of any such parish without a Parochial Church Council:

(i) Name of churchwarden.....

Parish.....

*Section 1.10 Parsonage Measure Rules and Recommended
Forms*

(i) Name of churchwarden.....

Parish.....

(ii) Name of churchwarden.....

Parish.....

Parsonages Measure 1938

Form 3

Consent by Bishop or Diocesan Parsonages Board

BENEFICE:

DIOCESE:

Delete text
as
appropriate

I, [as Bishop of the Diocese] [on behalf of the Diocesan Parsonages Board for the diocese in which this benefice is situated], hereby consent to the [sale] [demolition] [exchange] [erection] [purchase] [improvement] [division in a vacancy] [reduction in size] [enlargement in a vacancy] [improvement in a vacancy] of

Insert brief
description
of property

NAME (please print): _____

CAPACITY: _____

SIGNED: _____

DATE: _____

Parsonages Measure 1938

Form 4

Consent by Member of Team Ministry living in affected parsonage house

BENEFICE:

DIOCESE:

Delete text as appropriate

I, as a member of the team ministry living in the parsonage house of the above-named benefice, hereby consent to the [sale] [demolition] [exchange] [division in a vacancy] [reduction in size] [enlargement in a vacancy] [improvement in a vacancy] of

Insert brief description of property

NAME (please print): _____

SIGNATURE: _____

DATE: _____

Parsonages Measure 1938

Form 5

Consent by a Registered Patron or Parochial Church Council or (where there is no PCC) Churchwardens to Shortened Procedure

BENEFICE:

DIOCESE:

I, [being [one of] the Registered Patron [s] of this benefice] [on behalf of the Parochial Church Council of the parish of] [being one of the Churchwardens of the parish of]

Insert and
delete text
as
appropriate

hereby consent to any notice required by the Parsonages Measure 1938 as amended and the consideration of any objections or other proceedings consequent on such notice in connection with

Insert brief
description
of proposal

being dispensed with under Rule 10 of the Parsonages Measures (Amendment) Rules 2007 if all the interested parties consent and the Diocesan Parsonages Board is satisfied that the matter is urgent.

NAME (please print): _____

CAPACITY: _____

SIGNATURE: _____

DATE: _____

Circulation List

Insert names as required:

1. The Registered Patron (s) of the Benefice:

(i) _____

(ii) _____

(iii) _____

2. The Secretaries to all of the Parochial Church Councils of parishes within the area of the Benefice:

(i) Name of PCC Secretary: _____

Parish: _____

(ii) Name of PCC Secretary: _____

Parish: _____

(iii) Name of PCC Secretary: _____

Parish: _____

And where there is no Parochial Church Council in any one or more of the parishes within the area of the Benefice, the churchwardens of any such parish without a Parochial Church Council:

(i) Name of Churchwarden: _____

Parish: _____

(ii) Name of Churchwarden: _____

Parish: _____

(iii) Name of Churchwarden: _____

Parish: _____

Parsonages Measure 1938

Form 6

Directions by the Diocesan Parsonages Board concerning Shortened Procedure

BENEFICE:

DIOCESE:

All the Registered Patrons of this benefice and the Parochial Church Councils (or Churchwardens where there is no Parochial Church Council) of the parishes comprising the area of the benefice have confirmed in writing to the Diocesan Parsonages Board that they have consented to dispense with any notice required by the Parsonages Measure 1938 as amended and the consideration of any objections or other proceedings consequent on such notice in connection with

Insert brief
description
of proposal

if the Diocesan Parsonages Board is satisfied that the matter is urgent.

Being of the opinion that the case is urgent, and under Rule 10 of the Parsonages Measures (Amendment) Rules 2007, the Diocesan Parsonages Board hereby confirms that such notice and the consideration of any objections or other representations arising therefrom shall be dispensed with.

NAME (please print): _____
Secretary to the Diocesan Parsonages Board

SIGNATURE: _____

DATE: _____

Circulation List

Insert names as required:

1. The Registered Patron (s) of the Benefice:

(i) _____

(ii) _____

(iii) _____

2. The Secretaries to all of the Parochial Church Councils of parishes within the area of the Benefice:

(i) Name of PCC Secretary: _____

Parish: _____

(ii) Name of PCC Secretary: _____

Parish: _____

(iii) Name of PCC Secretary: _____

Parish: _____

And where there is no Parochial Church Council in any one or more of the parishes within the Benefice, the churchwardens of any such parish without a Parochial Church Council:

(i) Name of Churchwarden: _____

Parish: _____

(ii) Name of Churchwarden: _____

Parish: _____

(iii) Name of Churchwarden: _____

Parish: _____

Section 1.10 Parsonage Measure Rules and Recommended Forms

Parsonages Measure 1938

Form 7

Certificate as to Residence House of the Benefice

BENEFICE:

DIOCESE:

I, being the Bishop of the Diocese, hereby certify that, as from [insert date], the following property shall be deemed and taken to be the residence house of this benefice:

Insert address or description of new residence house

This Certificate is given in accordance with Section 11 of the Parsonages Measure 1938 as amended.

BISHOP'S NAME (please print): _____

SIGNED: _____

DATE: _____

This covering letter to be issued by the diocese in conjunction with Forms 1 and 2 in Parsonages Measure matters where notice has to be served on any of the interested parties (i.e. sale; demolition; building; purchase; improvement; use of sale proceeds)

TO: Please list

Parsonages Measure 1938 (as amended)

Benefice:

Diocese:

It is intended to deal with the following (property) (funds) as detailed on the attached form(s):

Please note that objections received after the statutory notice period has expired will not be considered by the diocese unless there are exceptional circumstances for doing so (e.g. postal strike, fax or email breakdown).

However, should any representation not be resolved at the diocesan level:

- it will be passed to the Church Commissioners who will share it with the Diocesan [Board][Committee] and ask for their views. It will also be shared with the Commissioners' Mission and Pastoral Committee.
- When making a representation, please indicate whether you would like an opportunity to speak to the Committee regarding your representation if the Commissioners decide a hearing should be held regarding the case.
- You will receive the Commissioners' correspondence with the [Board][Committee] and will be able to comment further to the Commissioners if you wish.
- When the Commissioners acknowledge your representation they will let you know the next few dates of the Committee's meetings. They will confirm the actual date nearer the time. If a hearing is held, anyone may attend the meeting of the Mission and Pastoral Committee that considers the case and representors may have an opportunity to speak to the Committee. Otherwise the case will be considered in private.
- The Mission and Pastoral Committee will consider your representations on the basis of a paper prepared by the Pastoral Division staff and any points raised at the meeting, if a hearing is held.
-

Please see cypastoral.org/reps for further information about the procedure.

Yours sincerely

Section 1.10 Parsonage Measure Rules and Recommended Forms

Name:

Post held:

Church Commissioners

Parsonages Measures 1938 & 1947 (as amended)

Application for Consent to the Sale (including that of a Site); Demolition; Exchange; Building; Purchase; or Improvement of a Parsonage; and the Division, Enlargement or Improvement of a Parsonage in a Vacancy; and the Application/Transfer of Sale Proceeds

Where the Commissioners' Consent is Required

Details of the Proposal(s)

1.	(a) Diocese: (b) Benefice: (c) Commissioners' Reference No: (d) Name and address of Incumbent (if any):	
		<i>Please answer Yes/No and/or tick boxes as appropriate.</i>
2.	Nature of the proposal(s): (i) Sale (ii) Demolition (iii) Exchange (i.e. sale to vendor of new parsonage with or without balancing payment) (iv) Building (v) Purchase (vi) Improvement (vii) Division <i>(in a vacancy)</i> (viii) Enlargement <i>(in a vacancy)</i> (ix) Improvement <i>(in a vacancy)</i> (x) Application/Transfer of Benefice Funds (including proceeds)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Section 1.11 Parsonages Measures Application Form H

3.	<p>Please indicate why the Commissioners' consent to the proposal(s) is required:</p> <p>(i) the transaction is with a person who is a connected person or a trustee for, or nominee of, a connected person; <input type="checkbox"/></p> <p>(ii) the diocese (on behalf of the incumbent (or Bishop in a vacancy)):</p> <p>(a) has not obtained and considered a written report on the proposal(s) from a qualified surveyor (or architect or other suitably experienced person where it is proposed to build or improve a parsonage) instructed by and acting exclusively for the benefice; <u>or</u> <input type="checkbox"/></p> <p>(b) has not advertised the proposal(s) for such period and in such manner as advised in the surveyor's report (unless (s)he has advised that it would not be in the best interests of the benefice to advertise the proposal); <u>or</u> <input type="checkbox"/></p> <p>(c) has not obtained the surveyor's recommendation of the terms of the transaction (e.g. where it is proposed to proceed with a purchase or sale above or below the surveyor's valuation of the property for pastoral or other reasons); <u>or</u> <input type="checkbox"/></p> <p>(iii) the application/transfer of benefice funds is involved; <input type="checkbox"/></p> <p>(iv) an objection has been made by a patron or PCC (or Churchwarden(s) where there is no PCC) in response to the statutory notice (Form 1 and/or Form 2); <input type="checkbox"/></p>	<p><i>Sale only</i></p>
4.	<p>Please give brief details of the reasons for and background to the proposal(s). <i>(Further details may be included in a covering letter):</i></p>	
5.	<p>Is the existing house unsuitable? <i>(i.e. differs significantly from the standards recommended in the current Parsonages Design Guide.)</i></p>	<p>Yes/No</p>
6.	<p>Where a house is to be either replaced, divided, enlarged or improved, will the resultant house be suitable for the foreseeable future having regard to the standards recommended in the current edition of the Parsonages Design Guide?</p>	<p>Yes/No</p>

Section 1.11 Parsonages Measures Application Form H

7.	Is the current house pastorally redundant?	Sale/Demolition only Yes/No
8.	Is pastoral reorganisation affecting this benefice under consideration? <i>(If the answer is 'No', go to 10.)</i>	Yes/No
9.	<p>If pastoral reorganisation is under consideration:</p> <p>(i) have the views of interested parties under the Mission and Pastoral Measure been sought?</p> <p>(ii) have proposals for pastoral reorganisation affecting this benefice been circulated locally?</p> <p>(iii) has provision been made for the parsonage and/or grounds in any such proposals?</p> <p>If yes, please give details:</p> <p>(iv) are the pastoral proposals in general and the parsonage proposals in particular likely to be contentious locally and, if so, why?</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
10.	<p>Please confirm that the following consents to the proposal(s) have been obtained. <i>[The relevant transaction(s) are detailed below]:</i></p> <p>(i) the incumbent (or Bishop in a vacancy); <i>[sale/demolition/exchange/build/purchase/improvement]</i></p> <p>(ii) the Bishop (where he is not acting); <i>[sale/demolition/exchange/build/purchase/improvement]</i></p> <p>(iii) the Diocesan Parsonages Board; <i>[all transactions]</i></p> <p>(iv) where a team ministry has been established for the benefice, any member of the team living in the parsonage house. <i>[sale/demolition/exchange]</i> <i>[division/enlargement/improvement in a vacancy]</i></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>

Section 1.11 Parsonages Measures Application Form H

11.	<p>Please confirm that where a team ministry has been established for the benefice, all the members of the team have been consulted about the proposal and their views taken into account.</p> <p><i>(N.B. Such consultation is <u>not</u> required where the proposal(s) relate only to the application of benefice funds.)</i></p>	<input type="checkbox"/>
12.	<p>Please confirm that the Local Authority has indicated (informally if needs be) that demolition and any subsequent redevelopment of the site will be permitted.</p>	<p><i>Demolition only:</i></p> <input type="checkbox"/>
13.	<p><u>Either:</u></p> <p>Please give the date on which the Parsonages Measures notice (Form 1 and/or Form 2) was served on the patron(s) and PCC(s) (or churchwardens where there is no PCC) and attach a copy of the notice.</p> <p><i>(N.B. The application should not be submitted until <u>after</u> the expiry date for making representations has passed or confirmation received that none of those on whom notice has been served has an objection. However, copies of any objections should be forwarded to the Commissioners within five working days of receipt.)</i></p> <p><u>Or:</u></p> <p>If the matter is urgent and the patron(s) and PCC(s) (or churchwardens where there is no PCC) have consented to the adoption of Shortened Procedure, please attach signed copies of the recommended Form 5 (or equivalent forms).</p>	<p>Date:</p> <p><i>Copy attached:</i> <input type="checkbox"/></p> <p><i>Copies attached:</i> <input type="checkbox"/></p>
14.	<p>Has the patron(s) and/or the PCC(s) objected to the proposal(s)?</p> <p>IF YES, PLEASE ATTACH COPIES OF ANY OBJECTIONS WHICH HAVE NOT ALREADY BEEN FORWARDED TO THE COMMISSIONERS</p>	<p>Yes/No</p> <p><i>Copies attached:</i> <input type="checkbox"/></p>
15.	<p>Is the patronage of the benefice exercised by the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster?</p> <p>If yes, please attach a copy of their written consent to the proposal(s).</p>	<p>Yes/No</p> <p><i>Copy attached:</i> <input type="checkbox"/></p>
16.	<p>Please attach a copy of the surveyor's report (and any plan(s)), except where the proposal relates only to the application of benefice funds.</p> <p>If such a report has not been obtained, please explain why:</p>	<p><i>Copy attached:</i> <input type="checkbox"/></p>
17.	<p>Where glebe is to be dealt with as part of the same transaction and the Commissioners' consent is required, please submit Form G.</p>	<p><i>Form G attached</i> <input type="checkbox"/></p>

(Signed)

Date:

Authorised Signatory

For Church Commissioners' Use Only

NAME:

REF:

DATE:

The Commissioners have approved this/these proposal(s).

(Signed)..... Date:.....

ENTER DETAILS OF TRANSACTION(S) ON HOUSES SYSTEM

LETTER

Church Commissioners
Church House, Great Smith Street, London, SW1P 3AZ
Tel: 020 7898 1000
Fax: 020 7898 1873
Email: pastoral@churchofengland.org

Church Commissioners

Mission and Pastoral Measure 2011

**Application for Consent to the Disposition of a Parsonage House and/or Parsonage Land
(including the Site of a Demolished Parsonage) Transferred to a Diocesan Board of Finance for
Disposal in a Pastoral Scheme/Order**

Where the Commissioners' Consent is Required

1.	(a) Diocese: (b) [Former] Benefice Name: (c) Commissioners' Reference No: (d) Date Pastoral Scheme/Order came into effect:	<i>Please answer Yes/No and/or tick boxes as appropriate.</i>
2.	Nature of the proposed disposal(s): (i) SALE (ii) LEASE (iii) OTHER (PLEASE SPECIFY)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Section 1.12 Pastoral Measure Disposal: Application Form PMD

3.	<p>Details of the proposed disposal(s):</p> <p>(i) <u>Address/Location of property:</u></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(ii) <u>Sale</u></p> <p>Name of purchaser:</p> <p>Agreed consideration:</p> <p>Arrangement for payment of costs:.....</p> <p>(iii) <u>Lease</u></p> <p>Name of proposed lessee:</p> <p>Date for commencement of term and proposed duration:</p> <p>Premium:</p> <p>Rent:</p> <p>Arrangements for payment of costs:</p> <p>(iv) <u>Other Transaction</u></p> <p>Name of proposed other party:</p> <p>Agreed consideration:</p> <p>Arrangements for payment of costs:</p> <p>(v) Other principal terms agreed (e.g. covenants to be imposed and/or rights to be reserved in favour of any retained land):</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>	
----	--	--

Section 1.12 Pastoral Measure Disposal: Application Form PMD

4.	<p>Please indicate why the Commissioners' consent to the proposed disposition is required:</p> <p>(i) the transaction is with a person who is a connected person or a trustee for, or nominee of, a connected person; <input type="checkbox"/></p> <p>(ii) the diocese:</p> <p>(a) has not obtained a written report on the proposed disposition from a qualified surveyor (or, in the case of a grant of lease for seven years or less, obtained advice from a person who is reasonably believed by the DBF to have the requisite ability and practical experience to provide it with competent advice) acting exclusively for the DBF; <u>or</u> <input type="checkbox"/></p> <p>(b) has not advertised the proposed disposition(s) for such period and in such manner as advised in the surveyor's report (unless (s)he has advised that it would not be in the best interests of the diocese to do so); <u>or</u> <input type="checkbox"/></p> <p>(c) has not obtained the surveyor's recommendation (or, in the case of a grant of lease for seven years or less, the recommendation of the person referred to in (a) above) of the terms of the transaction (including any terms for safeguarding the amenities of the land) (e.g. where it is proposed to proceed with a sale below the surveyor's valuation of the property for pastoral or other reasons); <input type="checkbox"/></p> <p>(iii) the DBF is taking over the property as part of its corporate property portfolio or otherwise. <input type="checkbox"/></p>	
5.	<p>Please attach a copy of the surveyor's report (or, in the case of a lease of seven years or less, evidence of other advice received):</p> <p>If such a report (or other advice) has not been obtained, please explain why: (further details may be included in a covering letter.)</p>	<p>Copy attached: <input type="checkbox"/></p>

(Signed)

Date:

Authorised Signatory

For Church Commissioners' use only

NAME:

REF:

DATE:

The Commissioners have approved this/these proposal(s).

(Signed)..... Date:.....

LETTER

Church Commissioners
Church House, Great Smith Street, London, SW1P 3AZ
Tel: 020 7898 1000
Fax: 020 7898 1873
Email: pastoral@churchofengland.org

Section 2

Glebe

- 2.1 Consents & Notices (with flowchart of glebe consents and notices)
- 2.2 Acquisition
- 2.3 Disposal
- 2.4 Improvements
- 2.5 Financing the Acquisition and Improvement of Glebe
- 2.6 Section 32 Orders
- 2.7 Application Form G (Endowments and Glebe Measure proposals)

GLEBE

Introduction

Prior to 1 April 1978 glebe land was part of the endowments of many benefices. This was property (in addition to the parsonage house and grounds) which was owned by the incumbent by right of his office. Glebe comprised a wide variety of properties including farms, fields and residential and commercial property. An incumbent was entitled to retain the glebe for his own use if he wished (for instance, some incumbents farmed their own land) or he could let it and any income formed part of the stipend. The majority let the land or property.

As from 1 April 1978 glebe ceased to belong to individual incumbents (in order to pool resources) and by virtue of Section 15 of the Endowments and Glebe Measure 1976 it became owned by the diocesan board of finance of the diocese to which the benefice owning the glebe belonged, even if the glebe was in another diocese. The diocesan boards of finance thereby became responsible for its management.

Consents and Notices

Changes since 2000

1. *Principal amendment in the Church of England (Miscellaneous Provisions) Measure 2000:*

- Provided certain criteria are met and there are no objections to the proposal, the Commissioners' consent to transactions under the Endowments and Glebe Measure 1976 is no longer required.

1A. *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2005:*

- Schedule 3 of the Measure (which limits the range of transactions that are subject to the full consultative procedures of the Measure) has been reintroduced to the Measure.
- The PCC becomes an interested party in qualifying glebe disposals in all cases covered by Schedule 3 of the Measure e.g. sales and leases of more than 21 years which are potentially within the Commissioners' ambit (and not just in a vacancy of the benefice) as well as in S.32 Orders (transferring parsonage land to glebe).

1B. *Principal amendments in the Mission and Pastoral etc. (Amendment) Measure 2018:*

- Notice of a proposed Glebe transaction must still be served but the requirement for the Commissioners to consider any representations was removed.

The legal position

Section 2.1 Glebe – Consents & Notices

2. Under Section 18(1) of the Endowments and Glebe Measure Diocesan Boards of Finance can acquire property to add to their glebe holdings. The consent of the Church Commissioners is ***not*** required to any acquisition or appropriation of glebe under Section 18. See [Section 2.2 ‘Glebe Acquisition’](#).
3. Section 20(1) of the Endowments and Glebe Measure authorises a Diocesan Board of Finance to sell, exchange, lease, mortgage or otherwise deal with any glebe land of the diocese and, in certain circumstances, the consent of the Commissioners ***is*** required - See [Section 2.3 ‘Glebe Disposal’](#). In all cases covered by Schedule 3 of the Measure (e.g. sales and leases of more than 21 years) the DBF must serve notice of any such proposal on:
 - (a) the incumbent (if the benefice is full) of the benefice in which the glebe is situated;
 - (b) all the team vicars and, in the case of a glebe house occupied by a member of the team who is not a team vicar, also on the occupant;
 - (c) the priest-in-charge (if presentation to the benefice has been suspended under Section 85 of the Mission and Pastoral Measure 2011 and a priest-in-charge has been appointed) ***or*** the churchwardens of the parish in which the glebe land is situated (if presentation to the benefice has not been suspended or there is no priest-in-charge in post);
 - (d) the Parochial Church Council of the parish in which the glebe is situated (whether or not the benefice is vacant).

When serving notice, the DBF is not required to give details of the specific terms of the proposed transaction, but the notice must identify the property in question and refer to the nature of transaction proposed, e.g. sale; lease; release of covenant etc. The notices have three main purposes:-

- They forewarn the parish about the transaction so that it is prepared for any adverse local reaction;
- they give those receiving the notice an opportunity to advise the DBF about the likelihood of such reaction and to draw its attention to any pastoral damage which might result;
- where the disposal of the land is for development or potential development (via an option or promotion agreement) they allow the parish to draw attention to potential community benefits it would like, such as an extension to a Church School or Church Hall, which the DBF may be able to secure through a Section 106 agreement,.
- This enables the DBF to consider whether it might wish to renegotiate the terms of the transaction or even not to proceed with it, if it feels that the pastoral damage would outweigh the financial benefits (but always bearing in mind the DBF’s duty to manage glebe for the benefit of the Diocesan Stipends Fund).

N.B. Where the benefice is vacant and it is proposed to lease glebe which had it not become such land would have been an excluded part of a parsonage house, notice should also be served on the Bishop.

[See the attached flowchart for a summary of the legal position concerning Notices to be served under the Endowments and Glebe Measure. A recommended Form of Notice for](#)

[use in glebe disposals is also attached. \(N.B. The use of this Form is optional and dioceses can continue to serve Notice in the form of a letter if they prefer.\)](#)

See also appendix X for guidance on communication, generally, about glebe management and transactions.

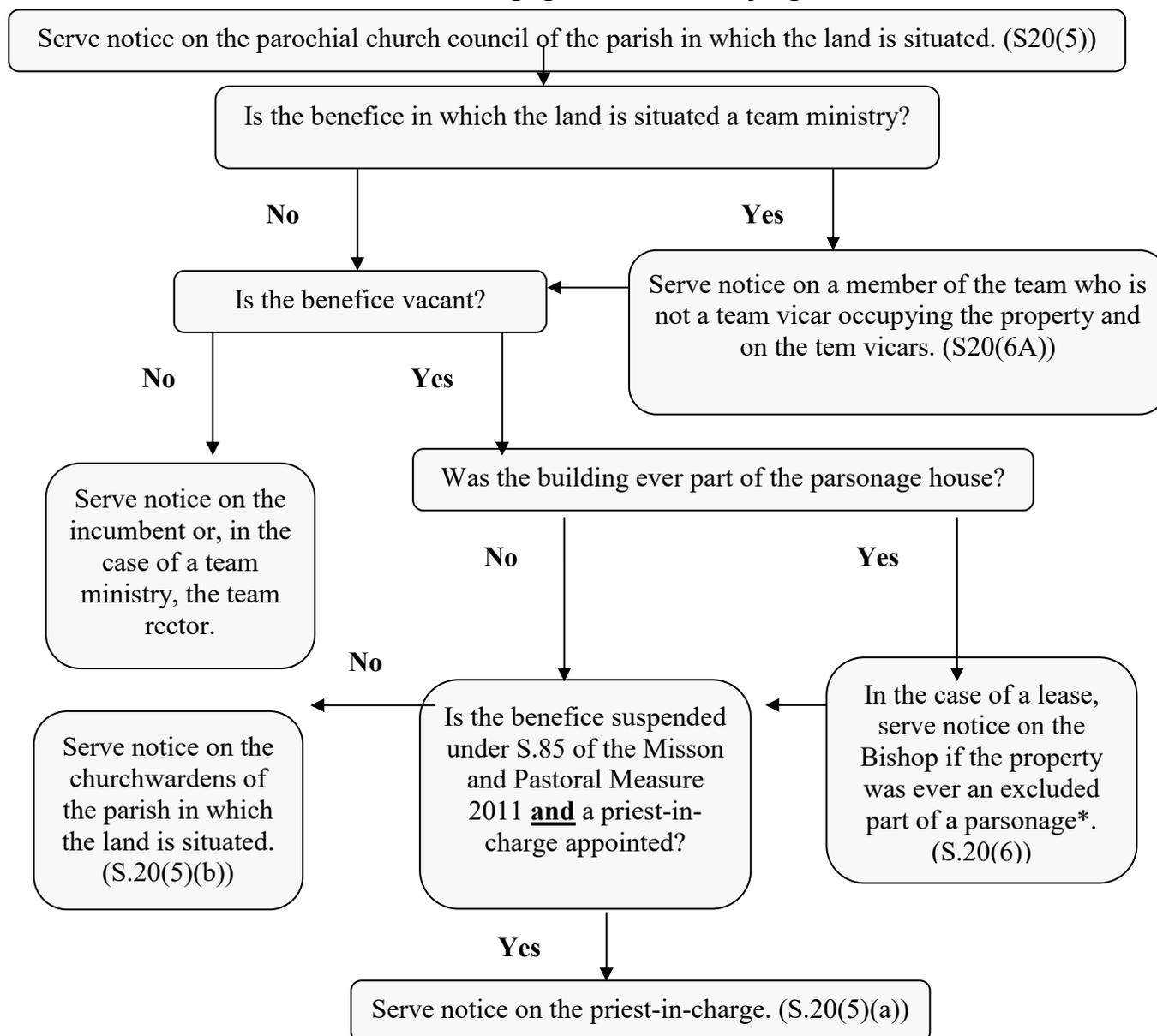
4. Under Section 32 of the Endowments and Glebe Measure, parsonage land considered by the diocese no longer necessary for parsonages purposes may be transferred to glebe. The Board must notify the incumbent (if the benefice is full) or sequestrators (if it is vacant) of its intention to proceed with an Order under Section 32. All the Parochial Church Councils must be notified and, if there is a team ministry, every member of the team [The notice must give a period of one month for written representations to be made to the Commissioners with respect to the proposed transfer. The Commissioners' consent to the completion of a Section 32 Order is only required if proceeds are involved or if any objection is made within the specified time-limit and the matter cannot be resolved locally.

See [Section 2.6 'Section 32 Orders'](#) which details the procedures to follow, including advice about investigating title and completing the Order; and [Section 2.2 'Glebe Acquisition'](#).

5. As a matter of good practice, it is recommended that incumbents and PCCs be put in the picture informally when glebe sales (especially controversial ones) are under consideration. This enables the DBF to anticipate pastoral difficulties when proposals become public knowledge and may enable to take steps at an early stage to avoid or mitigate them. . This informal step would predate the formal serving of notice on the incumbent.

Endowments and Glebe Measure 1976 (as revised)

Notices to be served by the Diocesan Board of Finance in the Sale, Exchange, Lease, Mortgage etc. of Qualifying Glebe



Notes

S20(5) of the Endowments and Glebe Measure 1976 requires that the notice served on the relevant parties in connection with qualifying glebe should:

- (a) inform that party of the nature of the proposed transaction;
- (b) identify the land to which it relates and the easement (if any) over any church land or parsonage land of which that land has the benefit; and

* An excluded part of a parsonage in this context is one that was divided from the rest of the parsonage under S.11 of the Parsonages Measure 1938 and has since become glebe.

Endowments and Glebe Measure Recommended Form

Section 20(5) of the Endowments and Glebe Measure 1976

Notice by Diocesan Board of Finance in relation to qualifying glebe land

Notice to an incumbent (if the benefice is not vacant); the Parochial Church Council of the parish in which the glebe is situated (in all cases); a priest-in-charge (where a benefice has been suspended); or the churchwardens of the parish in which the affected land is situated, where a benefice is vacant and not suspended; team vicars and a member of a team living in a house which is affected by the proposals.

BENEFICE :

PARISH :

DIOCESE :

The Diocesan Board of Finance hereby gives notice under Section 20(5) of the Endowments and Glebe Measure 1976 that it proposes to carry out the transaction detailed below relating to the following glebe property:

[insert details of the property (including any rights over adjacent parsonage or church land)]
[insert details of the nature of the proposed transaction, e.g. sale; lease; release of covenant etc.]

Any comments on the proposal should be sent to the Secretary to the Diocesan Board of Finance at [insert address of Diocesan Board of Finance] before [insert date, it is suggested that this should be at least 21 days beginning the working day after the date of this notice].

Name (please print).....

Capacity.....

Signature.....

Date.....

This notice is being sent to: *[insert names and other details as required]*

1. Incumbent
2. Parochial Church Council of the parish of
[insert name of parish where property is situated]
3. Team Vicars

Section 2.1 – Consents and Notices

.....
.....

4. Member of team ministry living in house affected (if any).....
5. Priest-in-charge
6. Churchwardens of the parish of.....
[insert name of parish where property affected is situated]

N.B. When serving notice, the DBF is not required to give details of the specific terms of the proposed transaction, but the notice must identify the property in question and refer to the nature of the transaction proposed, e.g. sale; lease; release of covenant etc.

Glebe Acquisition

Part A: Acquisition under the Endowments and Glebe Measure 1976

Changes since 2000

1. *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*
 - Under the Endowments and Glebe Measure 1976 the Commissioners' consent is no longer required for the acquisition of glebe, whether by purchase or appropriation.
 - Glebe Management Schemes prepared by DBFs under the Endowments and Glebe Measure 1976 may, subject to the Commissioners' approval, provide for the setting up of a wholly owned subsidiary or subsidiaries to hold glebe on the same trusts as before.
 - Responsibility for holding Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts was transferred to the dioceses.

Section 18

The legal position

A.2 Under Section 18(1) of the Endowments and Glebe Measure DBFs can acquire property to add to their glebe holdings. Section 19(1) of the Measure requires a diocese to manage and deal with its glebe for the benefit of its stipends fund; i.e. to generate income to provide or augment the stipends of clergy and others engaged in the cure of souls in the diocese. It follows, therefore, that DBFs should have in mind the investment potential of any property which they wish to acquire (or indeed sell) as glebe. The consent of the Church Commissioners is ***not*** required to any acquisition or appropriation of glebe under Section 18.

The Diocesan Stipends Fund Capital Account may be used to purchase houses for persons (other than incumbents) engaged in the cure of souls in the diocese. Under Section 24 of the Measure only such persons can occupy glebe houses rent free – the diocese is otherwise obliged to charge a proper rent (normally a market rent). If the property to be acquired is a team vicarage regard should be had to the advice in the Parsonages Design Guide.

See Section 2.5 'Financing the Acquisition and Improvement of Glebe'.

Easements and wayleaves for the benefit of glebe land can also be taken under Section 18(1) of the Measure and any monetary consideration agreed may be paid from the DSF Capital Account.

DBF corporate property or DBF property in trust for PCC

- A.3 Diocesan Board of Finance corporate property and property vesting in the Diocesan Authority in trust for the Parochial Church Council may be appropriated as glebe with the consent of the Charity Commissioners (and the Parochial Church Council if the land is held in trust), under Sections 18(2) and 18(3) of the Endowments and Glebe Measure.⁽¹⁾

Section 32 Order

- A.4 Where a Diocesan Board of Finance decides that any parsonage land⁽²⁾ belonging to a benefice or any part of such land (e.g. the parsonage grounds, any excluded part of a parsonage house or, rarely, the house itself) is not necessary for parsonage purposes, it may transfer such land to the Board as glebe with or without a consideration. Where there are proceeds, the Commissioners would expect to agree the sum involved. It is expected that a Section 32 Order would generally only be used to transfer a whole house where long-term pastoral reorganisation cannot be put in place for the time being and the house is likely to be surplus to requirements for some time.

The Board must notify the incumbent (if the benefice is full) or sequestrators (if the benefice is vacant) along with all the PCCs comprising the area of the benefice of its intention to proceed with an Order under Section 32. If a team ministry has been established for the benefice, then the Board must also notify every member of the team. A period of one month must be given following such notification for written representations to be made to the Commissioners.

The need or otherwise for the Commissioners' consent

- A.5 The Commissioners' consent to the completion of a Section 32 Order is only required if proceeds are involved or if any objection is raised within the statutory period and the matter cannot be resolved locally. Where the Commissioners' consent is required, the diocese must provide full details of the proposal together with a copy of the notice so that the Commissioners can consider the matter. On no account should the Section 32 Order be completed until such time as the Commissioners have informed the diocese of their decision on the proposal.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'](#).

[See Section 2.6 'Section 32 Orders' which details the procedures to follow, including advice about investigating title and completing the Order.](#)

N.B. A Section 32 Order must never be used as a device to avoid the need to consult the benefice patron(s) or PCC(s) as would be required under the Parsonages Measures (see Section 1.4 'Disposal of Parsonages').

Part B: Other means of acquiring glebe

Transfer of parsonage to glebe in a Pastoral Scheme

- B.1 A Pastoral Scheme can provide for a parsonage or parsonage land to be transferred to a DBF as glebe, usually but not exclusively to house a team vicar, assistant curate, deaconess or lay worker – [see A.2 above](#). This method is often used when pastoral reorganisation results in the need to provide for the future of a surplus parsonage house. No further conveyance to the Board is needed. If a DBF so wishes the DSF Capital Account can pay for a house or land acquired in this way and the Commissioners' agreement to the sum to be paid is required. This usually involves the payment of the market value established by an independent qualified surveyor. Proceeds would be payable to the DBF for credit to the benefice's Building Fund [See Section 2.5 'Financing the Acquisition and Improvement of Glebe'](#).

Consecrated church site

- B.2_ Part of consecrated church site may be acquired indirectly as glebe by a Pastoral Scheme under Section 44 of the Mission and Pastoral Measure 2011. Such a scheme (which would be initiated by the Diocesan Mission and Pastoral Committee) would remove the effects of consecration and transfer the land from the incumbent to the DBF for disposal. Under Section 18(2) of the Endowments and Glebe Measure the DBF may then appropriate the land as glebe subject to the consent of the Charity Commissioners.

Unconsecrated churchyard

- B.3 An area of unconsecrated churchyard vesting in the incumbent can be transferred to the diocese as glebe with or without a consideration under Section 17(1)(cc) of the New Parishes Measure 1943, if it was acquired originally through the Church Commissioners or the former Church Building Commissioners and the land is no longer required for its original purpose. The consents of the incumbent (if the benefice is full) and bishop are required. Any proceeds should be sent to the Commissioners and applied for such purposes as may be agreed between the Commissioners and the bishop after consulting the incumbent. [See Section 8.1 'New Parishes Measure 1943'](#).

Land belonging to a church being closed for regular public worship

- B.4 A Pastoral Church Buildings Scheme which includes a declaration of closure for regular public worship of a church and provisions for its future use or a subsequent Pastoral (Church Buildings Disposal) Scheme providing for the future of the property may provide for part of the property to be appropriated to use as glebe. Generally, no subsequent conveyance to the DBF is necessary.

Notes

⁽¹⁾Generally speaking the disposal of “church” land is regulated by one of two regimes, either that overseen by the Church Commissioners in relation to benefice or glebe property or that overseen by the Charity Commissioners in relation to corporate and trust property. When disposing of diocesan corporate or trust property DBFs are not exempt ordinarily from following the procedure laid down in Section 119 of the Charities Act 2011. PCCs are similarly not exempt when disposing of parochial property.

⁽²⁾Where (exceptionally) any benefice property does not constitute parsonage land as defined by Section 45 of the Endowments and Glebe Measure (e.g. one exception is part of the garden of a former parsonage house not specifically retained as a site for a new parsonage house), Section 32 does not apply. Such property would therefore normally need to be disposed of under the Parsonages Measures and, if necessary, acquired as glebe under Section 18(1) of the Endowments and Glebe Measure. [See Section 1.4 ‘Parsonage Disposal’.](#)

Glebe Disposal

Part A: Disposal under Section 20 of the Endowments and Glebe Measure 1976

Changes since 2000

A.1 *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*

- The Commissioners' approval to the disposal of glebe is no longer required provided standard criteria are met and there are no objections following statutory notices;
- Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts were transferred to dioceses.

A.1A *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2005*

- Only the more major transactions outlined in Schedule 3 of the Measure ("qualifying glebe") are subject to the full consultative procedure and the Commissioners' potential involvement.
- The Parochial Church Council became an interested party in glebe disposals and S.32 Orders (transferring parsonage land to glebe).

A.1B. *Principal amendments in the Mission and Pastoral etc. (Amendment) Measure 2018:*

- Although Notices of a proposed disposal of Glebe still needs to be served, the requirement for the Commissioners to consider any representations was removed.

The legal position

A.2 Under Section 20(1) of the Endowments and Glebe Measure a Diocesan Board of Finance can "sell, exchange, lease, mortgage or otherwise deal with" glebe land. This includes granting leases (of any length) and granting easements or wayleaves over glebe. Most disposals of glebe take place under this section of the Measure.

Under Section 20(5) (by which "qualifying glebe" is limited to sale; exchange; leases granted for premiums; leases of 21 years or more; glebe that would otherwise have been parsonage property under s.20(6) of the Measure; mineral transactions; and mortgages) the DBF must serve notice of any proposal involving qualifying glebe indicating the nature of the proposed transaction and identifying the land involved. The Board is not required to divulge the exact terms of the disposal which may, in any event, be subject to commercial confidentiality. This is because representations can only be made with respect to the principle of the proposal. However, the notice must identify the property in question

Section 2.3 Glebe Disposal

and refer to the type of transaction proposed, e.g. sale; lease; release of covenant etc. The notice must be served on:

- (a) the incumbent (if the benefice is full) of the benefice in which the glebe is situated;
- (b) all the team vicars (if a team ministry has been established for the benefice) and, in the case of a glebe house which is the subject of the proposal and is occupied by a member of the team who is not a team vicar, on that member also;
- (c) the priest-in-charge (if presentation to the benefice has been suspended under Section 85 of the Mission and Pastoral Measure 2011 and a priest-in-charge has been appointed) **or** the churchwardens of the parish in which the glebe land is situated (if presentation to the benefice has not been suspended).
- (d) the Parochial Church Council of the parish in which the land is situated.

N.B. Where the benefice is vacant and it is proposed to lease glebe which had it not become such land would have been an excluded part of a parsonage house, notice should also be served on the Bishop.

[See the flowchart annexed to Section 2.1 ‘Glebe – Consents and Notices’ for a summary of the legal position concerning Notices to be served under the Endowments and Glebe Measure. See also the recommended Form of Notice for use in glebe disposals.](#)

The need or otherwise for the Commissioners’ consent

A.3 The Commissioners’ consent to the disposal of qualifying glebe under Section 20 of the Measure is **not** required unless:

- (a) the disposition is to be made to a connected person⁽¹⁾ or a trustee for, or nominee of, a connected person; or
- (b) the requirements of A.4 or A.5 below have not been complied with; or

Best terms

A.4 Before entering into an agreement for the sale, lease or other disposal of any glebe land the DBF must:

- (a) obtain a written report from a qualified surveyor⁽²⁾ acting exclusively for the DBF;
- (b) advertise the proposed disposition for such period and in such manner as advised in the surveyor’s report (unless (s)he has advised that it would not be in the best interests of the diocese to do so); and
- (c) obtain the surveyor’s recommendation of the terms of the transaction (including any terms for safeguarding the amenities of the land).

If these criteria cannot be met but the DBF still wishes to proceed in respect of qualifying glebe, it must obtain the Commissioners’ consent. For example, if it believes

that accepting the highest offer as recommended in the surveyor's report would adversely affect the incumbent's ministry or would otherwise have a detrimental effect on the Church's reputation, the DBF may decide to accept a lower offer. In such circumstances an application should be made for the Commissioners' consent with a clear explanation of the Board's reasons.

N.B. Where it is proposed to grant a lease of not more than seven years the DBF can obtain advice from any person who is reasonably believed to have the requisite ability and practical experience to provide competent advice, i.e. it need not necessarily consult a qualified surveyor. However, the DBF must be satisfied that the terms negotiated (including any terms for safeguarding the amenities of the land) are the best that can be reasonably obtained for the diocese.

“Gazumping” case study

The following case study shows possible options for dealing with the disposal of a property where a higher offer is received after acceptance of an earlier offer.

- Property was marketed for offers in the region of £400,000.
- There was considerable interest and all parties who expressed an interest were invited to make their best bids by a certain date.
- The two highest offers were: Mr X - £420,000 and Mr Y - £419,000.
- Mr X was in a position to proceed and his offer was accepted subject to contract.
- Unsuccessful bidders were notified, but not told of the highest figure.
- A week after the deadline, but before contracts were exchanged, Mr Y offered £430,000.

Although trustees may take exceptional circumstances into account, they must normally obtain the best return for their beneficiaries even if it means they have to act in what might be thought of as an unethical, but not illegal, way.

Therefore, as the diocese had not exchanged contracts, it would have been possible for it to have accepted Mr Y's increased offer, although it might have been advised to make acceptance of the offer on a strictly conditional basis that contracts were exchanged within, say, 7 days. In this case, however, the diocese wanted to be seen to act equitably and ethically and to avoid any potential reputational damage to the Church by accepting a late offer without giving the (now) under-bidder a chance to review his position.

One possible option would have been to have invited best and final offers of above £430,000 from only Mr X and Mr Y. Another option would have been to have invited closed bids from only Mr X and Mr Y with a 10% deposit and immediate exchange of contracts. In the event, the diocese chose the first option.

The surveyor's report

A.5 The surveyor's report should deal with the matters laid down in the Charities (Qualified Surveyors' Reports) Regulations 1992 and would normally include the following:

- (i) a description of the land or property to be disposed of (in the case of a glebe clergy house details should be given of the size and layout of the accommodation and grounds, running costs and present or future maintenance liabilities);
- (ii) whether the building is in good order and whether it would be in the best interests of the Church for repairs to be carried out before sale;
- (iii) a site plan (prepared in accordance with the Land Registry requirements – see [Annex H](#)) showing the property to be disposed of, any land to be retained (e.g. for building a parsonage or other clergy house) and any other nearby church property;
- (iv) such safeguards as may be necessary to protect the amenities of any land likely to be affected by the proposed disposal;
- (v) development potential (if any);
- (vi) details of any easements or rights of way to be reserved and restrictive covenants to be imposed;
- (vii) a valuation of the property.

N.B. Dioceses should additionally ask the surveyor to report to them on any other matters which may be relevant in the circumstances, or on which it is felt that advice is needed.

It may not always be necessary to make a full planning application in order to test the development potential of glebe land prior to sale. Informal discussions with the relevant Local Authority's Planning Department would be sufficient in cases where the expected sale proceeds were small, although the Commissioners' consent would be required if the diocese decided not to follow its surveyor's advice in such cases.

Application for the Commissioners' consent

A.6 Where the Commissioners' consent to a disposal of qualifying glebe is required the diocese must complete and submit an application form ([Form G](#)), provide full details of the proposal (including a site plan showing the property to be disposed of). Please also send the Commissioners a copy of the notice served. On no account should any transaction be agreed until the Commissioners have informed the diocese of their decision, having considered the background to the proposal.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages and Glebe matters'.](#)

Connected person

- A.7 In order to establish that a proposed purchaser of qualifying glebe is ***not*** a connected person as defined in the Endowments and Glebe Measure with reference to the Parsonages Measure 1938 ⁽¹⁾, the Commissioners recommend that the diocese obtain a written declaration to that effect. [See Annex A for a specimen of such a declaration.](#)

Where the qualifying glebe property is to be sold by auction, the DBF cannot at that stage be sure that the purchaser will not be a connected person. The conditions of sale should therefore make it clear that, if the purchaser turns out to be a connected person, or a trustee for, or nominee of, a connected person (as would be evidenced by the purchaser being unable or unwilling to sign a written declaration to that effect), the sale would be conditional on the Commissioners' consent being obtained.

Sale Proceeds

- A.8 On completion of the sale or other disposal of a glebe asset (including the grant of an easement or wayleave over glebe land), the solicitor acting for the DBF should send the proceeds to the DBF for credit to the Diocesan Stipends Fund Capital Account. Any interest which has accrued on the sale proceeds before being sent to the DBF should be credited to the Diocesan Stipends Fund Income Account. If fees and other charges arising from the disposal have not been already been deducted from the proceeds, they can be paid direct from the DSF Capital Account.

Joint sale of glebe and parsonage land

- A.9 It may sometimes be proposed to dispose of adjacent glebe and parsonage land to the same purchaser. A qualified surveyor should recommend the apportionment of sale proceeds (if the transactions are not separate) between the glebe and parsonage land. If the eventual proceeds differ from those recommended, then they should be adjusted pro rata. In the case of the parsonage element, proceeds should be, net of all legal and other costs arising from the sale, be credited to a Parsonage Building Fund held on the benefice's behalf by the Board [See Section 1.4 'Disposal of Parsonages'](#).

Part B: Other means of disposing of glebe

B.1 Disposal under Section 23 of the Endowments and Glebe Measure

- (a) *Section 23(1)*

Under Section 23(1) a Diocesan Board of Finance can appropriate glebe (with or without a consideration) via Section 14 of the New Parishes Measure 1943 for those purposes of Section 13 of the New Parishes Measure, i.e.

- (i) any glebe building consisting of a house, church or part of a church or which is suitable to be used or converted into a parsonage or a church;
- (ii) as a site for a new or enlarged church, churchyard, burial ground or

Section 2.3 Glebe Disposal

- parsonage;
- (iii) to provide access to or improve the amenities of a church, churchyard, burial ground or parsonage.

In each case the land vests in the incumbent and any proceeds should be paid into the DSF Capital Account.

[The procedures involved are set out in Section 8.3 'New Parishes Measure 1943'.](#)

(b) Section 23(2)

Under Section 23(2) the DBF can appropriate any glebe building or land (with or without a consideration) for use as a place of worship, church hall or enlarging the site of such an existing building or to provide parking space for any of the above. The land vests in the Diocesan Board of Finance in trust for the Parochial Church Council. Any proceeds should be paid into the DSF Capital Account.

N.B. A DBF can purchase glebe as an addition to its corporate property if it so wishes and this would only need to be referred to the Commissioners if the case does not fall within standard criteria.

Mission and Pastoral Measure 2011

B.2 Under Section 45(1)(c) of the Mission and Pastoral Measure a house which is held by a DBF as glebe (e.g. a curate's or team vicar's house) can, with the agreement of the Diocesan Glebe Committee and Diocesan Mission and Pastoral Committee and with or without a consideration, be designated and vested as a parsonage house in a pastoral scheme or order. However, in the absence of other proposals under the Mission and Pastoral Measure, such a transfer would normally take place under Section 23(1) of the Endowments and Glebe Measure – [see B.1\(a\) above.](#)

Compulsory Purchase Orders/Easements

B.3 When a Local Authority or other statutory authority needs to purchase glebe or otherwise acquire easements etc. under compulsory powers, the Commissioners' consent under the Endowments and Glebe Measure is not required, nor is it necessary for the diocese to serve notices. When the proceeds of sale or the granting of the easement are received they should be credited by the diocese to its DSF Capital Account in accordance with Section 25(1) of the Measure. If an authority chooses to use voluntary rather than statutory powers, then the provisions of the Endowments and Glebe Measure will apply.

Road widening

B.4 The power of sale available to the DBF under Section 20 of the Endowments and Glebe Measure includes the power to sell glebe to a Local Authority or other statutory authority (if compulsory powers are not used) for road widening purposes – [the procedures detailed under Part A above should be followed.](#) Alternatively the diocese may, with the agreement of the authority concerned, propose a simple form of agreement instead of a formal conveyance.

Leasehold Reform Act 1967/Leasehold Reform Housing and Urban Development Act 1993

B.5 Both the 1967 and 1993 Acts provide for the right to acquire a legal interest in land (either freehold or leasehold) provided that the applicant(s) meets the criteria set out under the relevant Act. Where the land in question is glebe, Section 20(2D) of the Endowments and Glebe Measure provides that the transaction is not caught by the usual procedures of the Measure. For example, there is no need for the serving of any notices and the Commissioners are not involved. Dioceses will however want to seek professional advice to ensure that the transaction is fair from the diocesan perspective. Under the 1967 and 1993 Acts, the Commissioners' express consent is required to the terms of any conveyance/transfer except as regards matters determined by the Court or a Leasehold Valuation tribunal or the Land Tribunal. In practice this means that the Commissioners will consult the DBF on the matter and follow its advice. It is hoped to remove the Commissioners' role in this respect via the next Miscellaneous Provisions Measure.

Notes

The following terms are defined in the Endowments and Glebe Measure as having the same meaning as in S.1(6) of the Parsonages Measure 1938 (as amended):

(1) "Connected Person" - [see Annex A](#).

(2) "Qualified surveyor" means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

Glebe Improvements

Changes since 2000

1. *Principal amendment in the Church of England (Miscellaneous Provisions) Measure 2000:*
 - Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts were transferred to dioceses.

Improvements under the Endowments and Glebe Measure 1976

2. Diocesan Boards of Finance have a statutory power and duty under Section 19 of the Endowments and Glebe Measure to manage glebe for the benefit of the Diocesan Stipends Fund and this will sometimes involve undertaking improvement works of a capital nature. These works may be to existing buildings or to potential development land (e.g. by providing improved access for the purposes of sale).

The Commissioners' involvement

3. The Commissioners' consent is ***not*** required for any proposal to improve or develop glebe. Such projects are generally funded from either the Diocesan Stipends Fund Capital Account or the Diocesan Pastoral Account which are held by dioceses.. [See Section 2.5 'Financing the Acquisition and Improvement of Glebe.](#)

Financing the Acquisition and Improvement of Glebe

Changes since 2000

1. *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*
 - Responsibility for holding Diocesan Pastoral Accounts and Diocesan Stipends Fund (Capital and Income) Accounts transferred to dioceses;
 - The Commissioners' approval is no longer required to the use of DSF Capital under the Diocesan Stipends Fund Measure 1953. Such use is now determined by the Diocesan Board of Finance with the agreement of the Bishop;
 - The Commissioners' approval is no longer required to the use of Diocesan Pastoral Account funds under the Mission and Pastoral Measure 2011. This was devolved to the Diocesan Board of Finance.

[N.B. This Section should be read in conjunction with Section 2.2 'Acquisition of Glebe'.](#)

Financial aspects

2. *Diocesan Stipends Fund Capital Account*

The DSF Capital Account is an endowment fund for the benefit of clergy stipends. It receives all proceeds from the sale, exchange or other dealings with glebe land and, at the diocese's discretion, can receive any surplus proceeds from parsonage sales. Subject to the Bishop's consent, DSF Capital can be used for the following property related purposes:

- (a) the acquisition of land to be held as glebe;
- (b) the development and improvement of glebe;
- (c) the payment of capital expenditure for which the DBF has become liable owing to its interest in any glebe;
- (d) the discharge of principal or interest on loans in respect of glebe;
- (e) the discharge of principal or interest on loans made to the DBF under Section 36 of the Endowments and Glebe Measure 1976 (e.g. Commissioners' loans); and
- (f) the provision and improvement of parsonage houses.

There are of course a number of non-property based investment schemes open to dioceses via the DSF Capital Account which are not covered by this note.

3. *Diocesan Pastoral Account*

Under Section 94(4) of the Mission and Pastoral Measure 2011, dioceses can apply any DPA monies not required or likely to be required for the purposes referred to in Sections 94(1), (2) & (3) (i.e. expenses incurred in connection with any Schemes or Orders made under the Measure or expenditure on any property vested either in the DBF or Commissioners for the purpose of its subsequent disposal) for any of the purposes referred to in sub-paragraphs (a), (b) & (c). Sub-paragraph (a) provides, amongst other things, for

Section 2.5 Glebe Finance

the application of such monies to “other purposes of the diocese or any benefice or parish in the diocese” (including glebe repairs) while sub-paragraph (c) provides for their transfer to the capital or income accounts of the Diocesan Stipends Fund (in which case the funds transferred to the DSF Capital Account could be used for the acquisition or improvement of glebe).

[See Section 1.7 ‘Financing the Building, Purchase and Improvement of Parsonages and the application of Parsonage Building Funds’ for further information concerning the use of the DSF Capital Account and the Diocesan Pastoral Account.](#)

Commissioners’ loans are no longer available for these purposes.

Section 32 Orders

Changes since 2000

1. *Principal amendment in the Church of England (Miscellaneous Provisions) Measure 2000:*

- Under Section 32 of the Endowments and Glebe Measure 1976 the Bishop is responsible for making an Order to transfer parsonage land to a Diocesan Board of Finance as glebe. The interested parties are consulted by the DBF and have a right of representation to the Commissioners. The Commissioners no longer make such Orders and their consent is no longer required (unless proceeds are involved and/or representations are received against the proposed transfer).

1A. *Principal amendment in the Church of England (Miscellaneous Provisions) Measure 2005:*

- The Parochial Church Councils of the benefice became interested parties in addition to the incumbent or sequestrators.

The legal position

2. Where a Diocesan Board of Finance decides that any parsonage land (e.g. the parsonage grounds, any excluded part of a parsonage house or, rarely, the house itself) is not necessary for parsonage purposes, it may transfer such land to the Board as glebe under Section 32 of the Endowments and Glebe Measure. The Measure does not provide specifically that a consideration may be paid but this is possible with the consent of the Bishop under Section 32(7). Where there are proceeds, the Commissioners would expect to agree the sum involved.

The most common types of parsonage land involved are parts of large gardens which can be sold for development, used for other church purposes, or to consolidate adjacent glebe land. Parts of parsonage houses that have been divided into separate flats and old parsonages that have been replaced and which, for one reason or another, are not to be disposed of immediately, or are to be used for other church purposes, can also be suitable candidates for a Section 32 Order. It is expected that such an Order would generally only be used to transfer an existing parsonage house where long-term pastoral reorganisation cannot be put in place for the time being and the house is likely to be surplus to requirements for some time.

The Board must serve notice on the incumbent (if the benefice is full) or sequestrators⁽¹⁾ (if the benefice is vacant) along with all of the PCCs comprising the area of the benefice of its intention to proceed with an Order under Section 32. If a team ministry has been established for the benefice, then the Board must also serve notice on every member of the team. A minimum period of at least 21 days must be given following such notification for written representations to be made to the Secretary to the diocesan board of finance concerned. [A recommended Form of Notice is attached to this Note as Annex C.](#)

N.B. A Section 32 Order must never be used as a device to avoid the need to consult the benefice patron(s) as would be required under the Parsonages Measures ([see](#)

[Section 1.4 ‘Parsonage Disposal’](#) if the ultimate intention is to dispose of the property in question.

The need or otherwise for the Commissioners’ consent

3. The Commissioners’ consent to the completion of a Section 32 Order is ***not*** required unless:
 - (a) proceeds are involved; or
 - (b) any objection is raised within the statutory period and the matter cannot be resolved locally.

Where the Commissioners’ consent is required, the diocese must provide details of the proposal together with a copy of the notice so that the Commissioners can consider the matter – see also 4. below. On no account should the Section 32 Order be completed until such time as the Commissioners have informed the diocese of their decision on the proposal.

Report and valuation

4. Where proceeds are involved, a statement of the land’s value should be obtained from a qualified surveyor ⁽²⁾ and accompany the application for the Commissioners’ consent. A brief report from the diocesan surveyor is sufficient.

Please note that HM Land Registry’s rules are rather different in that once the Section 32 Order has been completed, and if title to all or part of the land is already registered, it will be necessary for the Board to lodge the Order with HM Land Registry so that the transfer to the Board as diocesan glebe can be registered. The statement of value will be required by the Land Registry (unless the full market value is being paid).

Where title to the land is not already registered, there is no requirement to register title following completion of the Section 32 Order. There is therefore no need to obtain a statement of the land’s value (whether or not a consideration is being paid) for Land Registry purposes. However, a brief report and valuation is still needed for the Commissioners to consider the proposal if proceeds are involved.

In summary:

- ◆ the Commissioners need a statement of value where proceeds are involved;
- ◆ the Land Registry needs a statement of value where title is registered and where anything less than full value is being paid; and
- ◆ no valuation is needed where proceeds are not involved and the title is not registered.

[See Section 5 ‘The Role of the Church Commissioners’ Mission and Pastoral Committee in relation to Parsonages and Glebe matters’.](#)

Proceeds

5. Where a consideration is to be paid by the DBF, the solicitor acting for the benefice should, on completion of the Section 32 Order, pay the proceeds to the Diocesan Parsonages Board. The proceeds are then credited to a Parsonages Building Fund for the benefice concerned. Once any outstanding Commissioners' loans to the benefice have been repaid, the first call on the funds will be towards the improvement of the parsonage house (if only a surplus part of the parsonage or its grounds has been transferred to glebe) *or* to provide and/or improve a replacement parsonage house (if the entire parsonage and grounds has been transferred) - if one is necessary. Any funds not so required may be credited to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (or a combination of the two). However the Diocesan Parsonages Board must first serve the recommended notice (Form 2) of its proposals concerning the disposition of surplus proceeds on the patron(s) and the PCC(s). The period within which any objections to the proposals may be made to the Diocesan Parsonages Board is 21 days, commencing on the day after the date on which the notice has been given. Alternatively, if the patron(s) and PCC(s) are willing to forego their right to receive a formal notice in this way, they may agree to this “shortened procedure” in writing on the recommended form (Form 5). Once the period allowed for representations has passed, or the shortened procedure has been adopted the funds may be transferred. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be obtained. If there are objections, an application form ([Form H](#)) should be completed and submitted to the Commissioners together with any objections received.

[See Section 1.10 ‘Parsonages Measures Rules 2000 and Recommended Forms’ concerning the service of notices etc.](#)

Paying full market value

6. Since a Section 32 Order can transfer parsonage land to glebe for a consideration, the DBF may choose to pay the full market value for the property from its Diocesan Stipends Fund Capital Account.

Paying for such property would have the effect of releasing money held in the DSF Capital Account for wider statutory purposes – such as the construction of new churches and the provision of loan funding for parishes. The proceeds would be credited to a Parsonage Building Fund now held on the benefice’s behalf by the Board for the benefice in question - as outlined in 5. above. A diocese might then request the transfer of this money to its Diocesan Pastoral Account. The procedures outlined in 5. above would apply.

Preparing the Order

7. A Section 32 Order is a legal document and, to ensure that there are no future difficulties in dealing with the property transferred, the Commissioners recommend that it be prepared by the DBF’s solicitors. To assist dioceses, a separate note is attached together with a specimen draft Order – see [Annexes A and B to this Note](#).

Notes

I. Sequestrators

⁽¹⁾Section 1(1) of the Church of England (Miscellaneous Provisions) Measure 1992 provides that on a vacancy in a benefice the churchwardens of every parish within the benefice, the rural dean and any other person appointed by the bishop automatically become sequestrators without the need for any writ of sequestration. Additional sequestrators may also be appointed by the Bishop. Where a team ministry has been established, the place of the rural dean for this purpose is taken by the team vicars and any other member of the team who has special responsibility for the pastoral care of an area which is not within a team vicar's special cure of souls. However, this is subject to the Bishop's discretion to decide that any one or more of them should not be sequestrators (S.17 of the Team and Group Ministries Measure 1995).

II. Qualified Surveyor

⁽²⁾ A person meeting the definition of the term "Qualified surveyor" in S.1(6) of the Parsonages Measure 1938 (as amended), i.e. a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

III. Definition of parsonage land

Where (exceptionally) any benefice property does not constitute parsonage land as defined by Section 45 of the Endowments and Glebe Measure (e.g. one exception is part of the garden of a former parsonage house not specifically retained as a site for a new parsonage house), Section 32 does not apply. If required as glebe, such property would therefore normally need to be disposed of under the Parsonages Measures and, if necessary, acquired as glebe under Section 18(1) of the Endowments and Glebe Measure. See [Section 1.4 'Parsonage Disposal'](#); and [Section 2.2 'Glebe Acquisition'](#).

IV. Excluded part of a parsonage

Section 29 of the Endowments and Glebe Measure does not permit an incumbent or sequestrators to let an "excluded" part of a parsonage house (i.e. that part of a divided parsonage not forming the residence house of the benefice as determined by the Bishop under Section 11 of the Parsonages Measure 1938). Where such a letting is proposed, the "excluded" part should first be transferred to the diocese as glebe under Section 32. It may then be let by the DBF – [see Section 1.9 'Parsonage Lettings' for further details.](#)

Church Commissioners

Notes for Completing a Section 32 Order

Part A: Investigating Title

1. (a) Title to the property affected by the Order needs to be fully investigated before the Order is made and it is essential that all available deeds are checked to ensure that there are no restrictive covenants, rights of reverter or other adverse interests affecting the property which could subsequently lead to difficulties for the Diocesan Board of Finance as owner of the glebe.
 - (b) Upon application the Church of England Record Centre* will release any title deeds which appear to relate to the property in question together with a note of any copy deeds they hold, the originals of which may be in the diocesan registry.
 - (c) Any deeds held by the Church of England Record Centre or Diocesan Registry on behalf of the incumbent relating to land being retained as well as to the property being transferred cannot be passed to the Board when the Order has been made. They will continue to be held by the Record Centre or Diocesan Registry for the incumbent, and the Order should include an undertaking by the Commissioners or Incumbent/ Diocesan Registry to produce the deeds, at any time, if so required by the Board.
2. (a) Once the Section 32 Order has been completed, and if title to all or part of the land is already registered, it will be necessary for the Board to lodge the Order with HM Land Registry so that the transfer to the Board as diocesan glebe can be registered. A valuation of the land will be required by the Land Registry (unless the full market value is being paid) and the Commissioners recommend that this be provided by a qualified surveyor.
 - (b) Where title to the land is not already registered, there is no requirement to register title following completion of the Section 32 Order. There is therefore no need to obtain a valuation of the land for Land Registry purposes (whether or not a consideration is being paid), although the Commissioners still need a brief valuation if a consideration is involved.

Part B: Completing the Draft Order

NOTES

(1) **Date**

If the effective date of the Order is to be different from the date the Bishop seals it, please make the necessary alteration in the second paragraph.

(2) **Acknowledgement for deeds**

Delete the Commissioners' acknowledgement for deeds and the Fourth Schedule of the draft Order if the deeds are held at the Diocesan Registry or there are no title deeds. If the Church of England Record Centre or Diocesan Registry hold title deeds relating to the land being retained as well as to the property transferred, the relevant particulars should be inserted so the Commissioners or Incumbent/Diocesan Registry may give an acknowledgement for their production.

(3) **Location Plan** (see [Annex H](#))

This needs to be an OS extract if possible, scale 1:1250 or larger, showing precisely:

- (a) the property being transferred (e.g. colour-washed pink);
- (b) any access ways granted or reserved (e.g. coloured brown);
- (c) any car parking area;
- (d) any other rights granted or reserved (e.g. water, drainage etc.) which are not shown under (4) below.

(4) **Layout plan**

This needs to show:-

- the vertical and/or lateral division of the building;
- any internal access to be granted or reserved (e.g. staircases or passageways);
- the runs of any special services to be granted, reserved or shared.

(5) **Rights granted and reserved - Second and Third Schedules**

The Second Schedule sets out matters included in the transfer over the Retained Land, and the Third Schedule contains matters reserved for the Retained Land. How much, if any, of the Schedules is required will be a matter for consideration in each individual case but the first three paragraphs in each schedule should always be included.

Certain of the paragraphs, e.g. paragraph 5, appear in both Schedules and are mutually exclusive. One or other of such paragraphs will always need to be deleted. Others may be required in either Schedule or both, and rights which are inappropriate should be deleted. Particular attention is drawn to the following matters:-

Plan Markings

- (a) The Plan should identify the following:

On the Location Plan (no. 1):-

Section 2.6 Section 32 Orders

the land transferred : e.g. colour-washed pink
rights of access : e.g. coloured brown

On the Layout Plan (no. 2):-

the parts of the house/out- : e.g. edged red
buildings/garage transferred

On either or both plans:

rights of way on foot transferred : e.g. coloured brown
vehicle rights transferred : e.g. hatched blue
rights of way on foot reserved : e.g. coloured green
vehicle rights reserved : e.g. coloured yellow

NOTE - If confusion is likely to be caused these markings may need to be varied (and appropriate alterations made to the First Schedule and paragraph(s) of the Second and/or Third Schedules).

Hot water and heating

- (b) Attention is drawn to the paragraphs dealing with hot water and heating and to the supply of services where these are not separately metered. If there are situations where the boiler is in one part of the house, or the electricity meters are not separated, arrangements will have to be made for the supply to the other part of the house and for the costs to be shared. It is clearly desirable for there to be independent installations, especially if there is any possibility of future sale of the part transferred/retained.

Drive

- (c) In most cases it is probable that the access way or the drive to the building will have to be shared, and it will be for consideration in each case whether the cost of maintaining this is to be left in general terms, as in the draft, or whether a more detailed apportionment can be included in the Order (e.g. a fixed percentage of the cost of maintenance, repair and/or resurfacing).

Car parking

- (d) The draft includes two alternative methods of dealing with car parking:
- (i) in some cases a reference to a garage may be necessary in the Deed if the garage accommodation is shared. In other cases the garage may be a separate building which will be shown as any other transferred building;
 - (ii) where there is no garage accommodation but simply a right to park a car or cars, consideration should be given whether a specified area is to be transferred or

whether the right to park a car in some general area, such as a yard, is to be granted or reserved. If a defined area is to be allotted, it should be coloured as part of the land transferred. However, this may give rise to later problems and it might be better therefore to confer a right to park a car in a general area of the retained land which will be delineated and labelled "parking".

Lateral division - flats and maisonettes

- (e) (i) Where the building is split into flats or maisonettes, it will be necessary for there to be mutual covenants on the part of the incumbent and his or her successors in title on the one hand (in relation to the Retained Land) and on the part of the Diocesan Board and its successors in title on the other hand (in relation to the glebe property transferred). These covenants will provide for the repair, maintenance and renewal of the structure, foundations and the roof and of the insurance of the building for the benefit and protection of the other owner and may be conditional upon payment of a due proportion (preferably a set percentage) of these costs, together with VAT and professional charges, etc.
- (ii) It is recommended that these covenants be incorporated in a separate deed but that a new clause be inserted into the Order to refer to that deed.
- (iii) To be sure that these obligations bind future owners of each part of the building, a requirement should be inserted into the covenant to ensure that each owner procures a fresh deed of mutual covenant from the purchaser.

*The Church of England Record Centre
15 Galleywall Road
South Bermondsey
London, SE16 3PB

[Draft] Order

under Section 32 Endowments & Glebe Measure 1976

BENEFICE:

DIOCESE:

PROPERTY:

DATE:

UNDER the authority of Section 32 of the Endowments and Glebe Measure 1976 ("**the Measure**") the Lord Bishop of _____ ("**the Bishop**") being satisfied that the property described in the First Schedule ("**the Property**") is neither necessary for the convenient occupation of the Incumbent of the above-named Benefice ("**the Incumbent**") nor required as the residence house of the said Benefice **HEREBY ORDERS** as follows :-

THAT as from the date hereof⁽¹⁾ the Property (insofar as the same is parsonage land within the meaning of the said Measure)

TOGETHER WITH the matters set out in the Second Schedule

EXCEPT AND RESERVED unto the Incumbent and his successors the owners and occupiers of the adjoining and neighbouring parsonage land or any church land within the meaning of the Measure ("**the Retained Land**") the matters set out in the Third Schedule

SHALL without any conveyance or other assurance vest in the Board of Finance for the above-named Diocese ("**the Board**")

SUBJECT TO

- (i) but with the benefit of any existing tenancies
- (ii) any covenants conditions agreements easements and rights now affecting the Property

[THE CHURCH COMMISSIONERS FOR ENGLAND hereby acknowledge the right of the Board to the production of and to delivery of copies of the Deeds and Documents short particulars whereof are set out in the Fourth Schedule hereto (possession of which is retained by the Church Commissioners for England on behalf of

See note (1)
Part B

See note (2)
Part B

the Incumbent)]⁽²⁾

THE FIRST SCHEDULE

"The Property"

ALL THAT piece or parcel of land situate at

in the County of _____ and being the land shown for the purpose of identification only on the location plan [numbered 1]⁽³⁾ hereto annexed and thereon tinted pink with [that part of] the building erected thereon or on some part thereof and known as

being the part more particularly shown on the plan [numbered 2]⁽⁴⁾ and thereon edged red [AND TOGETHER WITH the garage or outbuildings shown on the plan [numbered 2] and thereon edged/coloured red

THE SECOND SCHEDULE

Matters included in the transfer to the Board⁽⁵⁾

Existing and necessary rights

1.(a) The benefit of any covenants conditions agreements easements and rights to which the Property is now entitled

(b) All such rights in the nature of easements over any other parsonage land or any church land within the meaning of the Measure as are necessary for the reasonable enjoyment of the Property (being rights which were formerly exercisable by the Incumbent in right of his benefice)

Support

2. The right of subjacent and lateral support shelter and protection for such portions of the Property as require the same from the Retained Land

Access for repairs

3. The right for the Board its successors servants and agents at all reasonable times and on giving reasonable notice (except in case of emergency) to enter upon the Retained Land for the purpose of carrying out repairs to any part of the Property which necessitate the use of the Retained Land for such access

[Services

4.(a) The free and uninterrupted passage and running of water soil gas electricity and other services from

Section 2.6 Section 32 Orders

and to the Property through the drains pipes cables and wires situate on the Retained Land

(b) The right for the Board their successors servants and agents at all reasonable times and on giving reasonable notice (except in case of emergency) to enter upon the Retained Land for the purpose of repairing cleansing maintaining renewing or replacing any such drains cables pipes or wires as aforesaid]

[Access

5. The right of access on foot over those parts of the Retained Land coloured brown on the plan/s [and the right of access with vehicles over those parts of the roads as are hatched blue] subject to the owner for the time being of the Property paying on demand a due and proper proportion of the cost according to user of maintaining repairing and cleansing the same]

[Fuel/supplies

6. The right as now existing to the supply of gas water electricity and hot water to the radiators taps and pipes situate in the Property subject to the owner for the time being of the Property paying on demand a due and proper proportion of the cost of:-

- (a) supplying the same including a due and proper proportion of the cost of fuel; and
- (b) keeping the apparatus in repair and renewing the same in whole or in part as and when necessary

PROVIDED THAT

- (i) the owner for the time being of the Retained Land shall not be liable for any interruption or discontinuance of the supply due to circumstances beyond his control; and
- (ii) the owner for the time being of the Retained Land may upon giving not less than six months prior written notice discontinue the supply and require the owner for the time being of the Property to make alternative arrangements]

[Parking

7. The right to park/garage motor cars in that part of the Retained Land delineated on the plan/s and marked "parking"]

THE THIRD SCHEDULE

Matters reserved for the benefit of the Retained Land

Existing rights

1. Such rights in the nature of easements as are necessary for the reasonable enjoyment of the Retained

Section 2.6 Section 32 Orders

Land being rights which were formerly exercisable by the Incumbent

Access for repairs

2. The right at reasonable times and on giving reasonable notice (except in case of emergency) to enter upon the Property for the purpose of carrying out repairs to any part of the Retained Land which necessitate the use of the Property for such access

Support

3. The right to subjacent and lateral support shelter and protection for such parts of the Retained Land as require the same from the Property

[Services

4.(a) Free and uninterrupted passage and running of water soil gas electricity and other services from and to the Retained Land through the drains pipes cables and wires situate on the Property

(b) The right at all reasonable times and on giving reasonable notice (except in case of emergency) to enter upon the Property for the purpose of repairing cleansing maintaining renewing or replacing any such drains pipes cables and wires as aforesaid]

[Shared access

5. The right of access on foot over those parts of the Property coloured green on the plan/s [and the right of access with vehicles over those parts of the roads hatched yellow] subject to the owner for the time being of the Retained Land paying on demand a due and proper proportion according to user of the cost of maintaining cleansing and repairing the same]

[Fuel/supplies

6. The right as now existing to the supply of gas water electricity and hot water to the radiators taps and pipes situate in the Retained Land subject to the owner for the time being of the Retained Land paying on demand a due and proper proportion of the cost of:-

- (a) supplying the same including a due and proper proportion of the cost of fuel; and
- (b) keeping the apparatus in repair and renewing the same in whole or in part as and when necessary

PROVIDED THAT

- (i) the owner for the time being of the Property shall not be liable for any interruption or discontinuance of the supply due to circumstances beyond his control; and

Section 2.6 Section 32 Orders

- (ii) the owner for the time being of the Property may upon giving not less than six months prior written notice discontinue the supply and require the owner for the time being of the Retained Land to make alternative arrangements]

[Parking

7. The right to park/garage motor cars in that part of the Property delineated on the plan/s and marked "parking"]

[THE FOURTH SCHEDULE⁽²⁾

<u>Date</u>	<u>Nature of Document</u>	<u>Parties]</u>
-------------	---------------------------	-----------------

See note (2)
Part B

**Signed and sealed by the Lord Bishop of
in the presence of:**

Annex C

Endowments and Glebe Measure Recommended Form

Section 32(1) of the Endowments and Glebe Measure 1976

Notice by Diocesan Board of Finance in relation to transfer of parsonage house/grounds/land to diocesan glebe

Notice to an incumbent, the Parochial Church Councils of the benefice, the sequestrators where a benefice is vacant, and, where the benefice is a team ministry, all members of the team.

BENEFICE :

DIOCESE :

The Diocesan Board of Finance hereby gives notice under Section 32(1) of the Endowments and Glebe Measure 1976 that it is of the opinion that the property described below is not necessary for the convenient occupation of the incumbent, or, as the case may be, is not required as the residence house of the benefice

[insert details of the property to be transferred from the benefice to glebe]

and that it should be transferred from the ownership of the incumbent to that of diocesan glebe.

Written notice of any objection to the proposal should be sent to the Secretary to the Diocesan Board of Finance at *[insert address of Diocesan Board of Finance]* before *[insert date, allowing at least 21 days beginning the working day after the date of this notice]*. Please note that representations received after the period has expired will not be considered unless there are exceptional circumstances for doing so (e.g. postal strike, fax or email breakdown).

Should any objection not be capable of being resolved at the diocesan level at this stage, it will be:

- Passed to the Church Commissioners who will share them, and those in favour, with the Diocesan Glebe Committee and ask for its views.
- These representations will also be shared with the other representors and the Commissioners' Mission and Pastoral Committee.
- When making a representation, please indicate whether you would like an opportunity to speak to the Committee regarding your representation if the Commissioners decide a hearing should be held regarding the case.
- You will receive the Commissioners' correspondence with the [Board][Committee] and will be able to comment further to the Commissioners if you wish.
- When the Commissioners acknowledge your representation they will let you know the next few dates of the Committee's meetings. They will confirm the actual date nearer the time. If a hearing is held, anyone may attend the meeting of the Mission and Pastoral Committee that considers the case and representors may have an opportunity to speak to the Committee. Otherwise the case will be considered in private.
- The Mission and Pastoral Committee will consider your representations on the basis of a paper prepared by the Pastoral Division staff and any points raised at the meeting, if a hearing is held.

Name (please print).....

Capacity.....

Signature.....

Date.....

This notice is being sent to: *[insert names and other details as required]*

1. Incumbent

2. Members of team

.....

.....

3. Sequestrators of the benefice of *[insert name of benefice]*

.....

.....

.....

[The sequestrators include all the churchwardens and the rural dean (or team vicars in a team ministry), as well as any others who have been appointed.]

4. Secretaries of all the Parochial Church Councils of parishes within the area of the benefice

a. Name of PCC Secretary

Parish

b. Name of PCC Secretary

Parish

c. Name of PCC Secretary

Parish

Please see ccpastoral.org/reps for further information about the procedure.

Church Commissioners

Endowments and Glebe Measure 1976 (As Amended)

Application for Consent to:

PART 1. The Disposition of Glebe under Section 20 (including Sale; Exchange; Lease; Mortgage; Grant of Easement and Wayleave; and the Sale or Lease of Glebe Minerals) where the Commissioners' Consent is required;

Part 1: Disposition of Glebe

1.	<p>(a) Diocese:</p> <p>(b) Full name of Benefice in which the glebe is situated:</p> <p>.....</p> <p>(c) Full name of Parish in which the glebe is situated:</p> <p>.....</p> <p>(d) Commissioners' Reference No:</p>	
		<i>Please answer Yes/No and/or tick boxes as appropriate.</i>
2.	<p>Nature of the proposal(s):</p> <p>(i) Sale</p> <p>(ii) Exchange</p> <p>(iii) Lease</p> <p>(iv) Mortgage</p> <p>(v) Grant of Easement or Wayleave</p> <p>(vi) Sale or Lease of Glebe Minerals</p> <p>(vii) Other (please specify)</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

3.	<p>Details of the transaction(s):</p> <p>(i) <u>Address/Location of property:</u></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(ii) Acres: Hectares:</p> <p>(iii) <u>Sale/Exchange (including Minerals)</u></p> <p style="padding-left: 20px;">Name of proposed purchaser:</p> <p style="padding-left: 20px;">Agreed consideration:</p> <p style="padding-left: 20px;">Arrangements for payment of costs:</p> <p>(iv) <u>Leases/Easements/Wayleaves/Mortgages (including Minerals)</u></p> <p style="padding-left: 20px;">Name of proposed lessee/grantee/mortgagee:</p> <p style="padding-left: 20px;">Date for commencement of term and proposed duration:</p> <p style="padding-left: 20px;">Premium:</p> <p style="padding-left: 20px;">Rent:</p> <p style="padding-left: 20px;">Arrangements for payment of costs:</p> <p>(v) <u>Other Transaction</u></p> <p style="padding-left: 20px;">Name of proposed other party:</p> <p style="padding-left: 20px;">Agreed consideration:</p> <p style="padding-left: 20px;">Arrangements for payment of costs:</p> <p>(vi) Other principal terms agreed (e.g. covenants to be imposed and/or rights to be reserved in favour of any retained land):</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
----	---

4.	<p>Is (or was) the property:</p> <p>(i) a team vicarage?</p> <p>(ii) used for other clergy housing purposes?</p>	<p>Yes/No</p> <p>Yes/No</p>
5.	<p>Please give brief details of the reasons for and background to the proposal(s). (<i>Further details may be included in a covering letter</i>):</p>	
6.	<p>Please confirm that notice of the proposal(s) under Section 20(5) of the Measure was served on one or more of the following:</p> <p><i>Either:</i></p> <p>(a) the incumbent of the benefice in which the glebe is situated (if the benefice is full);</p> <p><i>or</i></p> <p>(b) the priest-in-charge (if presentation to the benefice has been suspended under Section 85 of the Mission and Pastoral Measure 2011 and a priest-in-charge has been appointed);</p> <p><i>or</i></p> <p>(c) the churchwardens of the parish in which the glebe is situated (if presentation to the benefice has not been suspended);</p> <p><i>AND:</i></p> <p>(d) the Parochial Church Council of the parish in which the glebe is situated (irrespective of whether the benefice is vacant)</p> <p><i>AND: if a team ministry has been established for the benefice:</i></p> <p>(e) every team vicar;</p> <p>(f) a member of a team ministry (other than a team vicar) occupying a glebe house which is the subject of the proposal.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>

FOR CHURCH COMMISSIONERS' USE ONLY

NAME:

REF:

DATE:

C/S NO:

The Commissioners have approved this/these proposal(s).

(Signed)..... Date:.....

ENTER DETAILS OF TRANSACTION(S)

LETTER

Church Commissioners
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Section 3

Effect of Ecclesiastical Offices (Terms of Service) Measure 2009 and Ecclesiastical Offices (Terms of Service) Regulations 2009 in relation to clergy housing

- 3.1 Parsonage houses
- 3.2 Other office holders' rights to housing
- 3.3 Regulated transactions
- 3.4 Rights and duties of relevant housing providers and occupiers
- 3.5 Parsonages transferred to diocesan ownership by Pastoral Schemes/Orders
- 3.6 Application Form CT (EO (TOS) Measure proposals)

Parsonage houses

1. The Measure and Regulations do not alter the pre-existing law regarding parsonage houses. The parsonage will continue to be benefice property, irrespective of whether the incumbent is a freeholder or on common tenure. The earlier proposal to transfer the ownership of parsonages to Diocesan Parsonages Boards or Diocesan Boards of Finance was defeated during the Measure's passage through General Synod. That being so, incumbents will retain an effective right of veto on the disposal or acquisition of parsonages and parsonage land as any transfer will still require their signature.

The Parsonages Measures 1938 and 1947 will continue to apply to sales, purchases, exchanges, and improvements of parsonages. Patrons and PCCs will continue to have the right to have their objections to such transactions heard by the Commissioners. The consent of the Bishop and Diocesan Parsonages Board (DPB) will still be required for all transactions plus the consent of the Commissioners where a connected person is a party, where the transaction is not being carried out in accordance with the advice of a qualified agent or where there is an objection from a qualifying person.

The Repair of Benefice Buildings Measure 1972 will continue to apply to all parsonages and houses in DBF ownership occupied by team vicars.

Other office holders' right to housing

2. All other full-time stipendiary office holders and all part-time office holders whose statements of particulars so provide will be entitled to be provided with a house of residence, except that a full-time stipendiary need not be provided with a place of residence if the statements of particulars for their office, with the office holder's agreement, specifies this. Where an office holder holds two part-time posts the statement of particulars will need to specify which post the place of residence is attached to. The duty to provide the place of residence will lie with the relevant housing provider which, as provided in s. 4(7) of the 2009 Measure, for archbishops and diocesan bishops will be the Commissioners; for deans, residentiary canons and other stipendiary office holders in Holy Orders in a cathedral will be the Chapter; and for all other office holders will be the Diocesan Parsonages Board. The DPB for this purpose is the body appointed or designated for that diocese under its scheme made under the Repair of Benefices Buildings Measure. In most dioceses this will be the Diocesan Board of Finance.

The relevant housing provider's duty under s.4.1 is to provide a place of residence which is reasonably suitable for the purpose. It need not provide the house itself as, under s.5(1) it may agree that another housing provider will do so or arrange for another body, person or authority to do so. It may also, under s.4(8), agree with another housing provider that that provider ("the secondary provider") will assume the relevant housing provider's overseeing role. S.6 of the Measure gives relevant housing providers powers to acquire and dispose of houses of residence and to carry out repairs, reduction, demolition, enlargement or alteration to them as appropriate. Where the DBF is the Parsonages Board this will be a distinct category of property

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ownership by the DBF alongside its glebe and corporate property and property held, as the Diocesan Authority, on behalf of PCC

Regulated transactions

3. Section 7 of the 2009 Measure provides for a regime for regulated transactions in respect of such places of residence equivalent to that under the Parsonages Measures. Disposal, purchase or exchange of such properties requires the approval of the Commissioners or, where they are the relevant housing provider, the Archbishops' Council, if it involves a connected person or is not in accord with a qualified agent's advice. In addition for these transactions and for proposals to build, improve, reduce, enlarge or otherwise alter a house of residence the relevant housing provider must serve notice on the occupier or person for whose occupation the house is to be provided, the bishop and where there is a team ministry on all members of the team. For a diocesan bishop's house notice must also be served on the bishop's council and standing committee.

Those on whom notices are served may, within twenty-eight days, object to the proposed transaction in which case the objections must be considered by the Commissioners, or where they are the relevant housing provider or their consent is otherwise required to the transaction, the Archbishops Council and the transaction cannot proceed unless the relevant housing provider satisfies them that it should. The Commissioners' Mission and Pastoral Committee will consider such objections in the same way as those arising under the Parsonages Measures or the Endowments and Glebe Measure.

[See Section 6 'The Role of the Church Commissioners' Mission and Pastoral Committee in relation to Parsonages, Glebe and the housing of Ecclesiastical Office holders'.](#)

Rights and duties of relevant housing providers and occupiers

4. These are set out in Regulations 12-15 of the Ecclesiastical Offices (Terms of Service) Regulations and apply similar provisions to those in the Repair of Benefice Buildings Measure to office holders' places of residence to which the RBBM does not already relate. Thus the relevant housing provider must keep the property in repair; carry out quinquennial inspection reports and copy them to the occupier; pay council tax and any other outgoings specified in the office holder's statement of particulars; and keep the property insured. The relevant housing provider has a right to enter the property to carry out inspections and repairs. The occupier must allow access for these purposes; notify the relevant housing provider of repairs which are required; keep the property clean and free from deterioration; meet the cost of repairs made necessary as a result of damage or neglect by the occupier or his or her family; not use the property other than a place of residence or carry out repairs, additions or alterations without consent; observe the terms of any lease of covenant; notify the relevant housing provider of relevant notices from public authorities or landlords; and vacate the property within one month of ceasing to hold the office or taking up a new office. In the event of the death of the occupier while in office his or her household may remain in occupation for up to three months or such longer period as may be agreed. These

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regulations only apply to houses directly provided by a relevant housing provider not to those provided by arrangement with another person or body such as a patron or a PCC.

This means that Regulations 12-15 do not apply to properties provided by the DBF as relevant housing provider which are held by it other than in its capacity as Diocesan Parsonages Board. However, given the underlying principle of Common Tenure that there should be parity between office holders and the undesirability of using a technical distinction to justify difference of treatment, it is strongly recommended that Dioceses apply the regime in Regulations 12-15, through the medium of a licence to occupy, on the terms set out in those Regulations, to houses in glebe, or corporate ownership which it provides for occupation by office holders on common tenure.

Regulation 15 provides that any disputes relating to sections 4-6 of the Measure and Regulations 12-14 which cannot be settled under the Common Tenure grievance procedure shall be referred to and decided by a single arbitrator appointed by the President of the RICS.

Parsonages transferred to or from diocesan ownership by Pastoral Schemes

5. There is now provision, in the Mission and Pastoral Measure, for parsonages houses, no longer required as such, to be transferred to Diocesan Parsonages Boards, for the purposes of their functions under the 2009 Measure, by a Pastoral Scheme. The Mission and Pastoral Measure Code of Practice which accompanies this Measure, and to which dioceses must have regard, states that where the intention is that a surplus parsonage will be used to house an ecclesiastical office holder (other than a team vicar) then the Scheme should provide for it to be transferred to the Diocesan Parsonages Board.
6. A Pastoral Scheme may also transfer a property held by the Diocesan Parsonages Board for the purpose of housing an ecclesiastical office holder under Common Tenure to a benefice as the place of residence of the incumbent. Where no pastoral reorganisation is involved, such a transfer would be effected as a disposal under the Ecclesiastical Offices (Terms of Service) Measure 2009 and an acquisition under the Parsonages measure 1938 or as a New Parishes Measure transaction **See Section 1 B.7 above.**

Ecclesiastical Offices (Terms of Service) Measure 2009

TO: Office holder concerned

(having already obtained the consent of the Bishop and the Diocesan Parsonages Board/DBF)

Property:

Benefice:

Diocese:

It is intended to deal with the above property as detailed below:

Written notice of any objection to the proposals should be sent to the Secretary of the Diocesan Parsonages Board at [insert address] by [insert date – a minimum of 28 days’ notice period required]. Please note that any objection received after the statutory notice period has expired will not be considered by the diocese unless there are exceptional circumstances for doing so (e.g. postal strike, fax or email breakdown).

However, should any objection not be resolved at the diocesan level:

- it will be passed to the Church Commissioners who will share it with the Diocesan [Board][Committee] and ask for their views. It will also be shared with the Commissioners’ Mission and Pastoral Committee.
- You will receive the Commissioners’ correspondence with the [Board][Committee] and will be able to comment further to the Commissioners if you wish.
- When making a representation, please indicate whether you would like an opportunity to speak to the Committee regarding your representation if the Commissioners decide a hearing should be held regarding the case.
- You will receive the Commissioners’ correspondence with the [Board][Committee] and will be able to comment further to the Commissioners if you wish.
- When the Commissioners acknowledge your representation they will let you know the next few dates of the Committee’s meetings. They will confirm the actual date nearer the time. If a hearing is held, anyone may attend the meeting of the Pastoral Committee that considers the case and representors may have an opportunity to speak to the Committee. Otherwise the case will be considered in private.
- The Mission and Pastoral Committee will consider your representations on the basis of a paper prepared by the Pastoral Division staff and any points raised at the meeting, if a hearing is held.
-

Please see www.ccpastoral.org for further information about the procedure.

Yours sincerely

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Name:

Post held:

Church Commissioners

Ecclesiastical Offices (Terms of Service) Measure 2009 and its Regulations

Application for Consent to:

Build, improve, reduce, enlarge or otherwise alter a house of residence where the Commissioners' consent is required or where the occupier or the person whose occupation the house is to be provided for has objected

Details of the Proposal(s)

1.	(a) Diocese: (b) Benefice: (c) Commissioners' Reference No: (d) Address of subject property: (e) Name of occupant/ proposed occupant:	
		<i>Please answer Yes/No and/or tick boxes as appropriate.</i>
2.	Nature of the proposal(s): (i) Sale (ii) Demolition (iii) Exchange (i.e. sale to vendor of replacement house with or without balancing payment) (iv) Building (v) Purchase (vi) Improvement (vii) Division (viii) Enlargement	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

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3.	<p>Please indicate why the Commissioners' consent to the proposal(s) is required:</p> <p>(i) the transaction is with a person who is a connected person or a trustee for, or nominee of, a connected person;</p> <p>(ii) the diocese (on behalf of the incumbent (or Bishop in a vacancy)):</p> <p>(d) has <i>not</i> obtained and considered a written report on the proposal(s) from a qualified surveyor (or architect or other suitably experienced person where it is proposed to build or improve a parsonage) instructed by and acting exclusively for the DPB/DBF; <u>or</u></p> <p>(e) has <i>not</i> advertised the proposal(s) for such period and in such manner as advised in the surveyor's report (unless (s)he has advised that it would not be in the best interests of the DPB/DBF to advertise the proposal); <u>or</u></p> <p>(f) has <i>not</i> obtained the surveyor's recommendation of the terms of the transaction (e.g. where it is proposed to proceed with a purchase or sale above or below the surveyor's valuation of the property for pastoral or other reasons); <u>or</u></p> <p>(iii) an objection has been made by the occupant/proposed occupant.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><i>Sale only</i></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
4.	<p>Please give brief details of the reasons for and background to the proposal(s). (<i>Further details may be included in a covering letter</i>):</p>	
5.	Is the existing house unsuitable?	Yes/No
6.	Where a house is to be replaced, divided, enlarged or improved, will the resultant house be suitable for the foreseeable future?	Yes/No
7.	Is the current house pastorally redundant?	<p><i>Sale/Demolition only</i></p> <p>Yes/No</p>

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8.	<p>Is pastoral reorganisation affecting this benefice under consideration?</p> <p><i>(If the answer is 'No', go to 10.)</i></p>	Yes/No
9.	<p>If pastoral reorganisation is under consideration:</p> <p>(e) have the views of interested parties under the Mission and Pastoral Measure been sought? Yes/No</p> <p>(ii) have proposals for pastoral reorganisation affecting this benefice been circulated locally? Yes/No</p> <p>If yes, please give details:</p> <p>(iii) are the pastoral proposals in general and the housing aspects in particular likely to be contentious locally and, if so, why? Yes/No</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
10	<p>Please confirm that the following consents to the proposal(s) have been obtained. <i>[The relevant transaction(s) are detailed below]:</i></p> <p>(f) the occupant/proposed occupant; <i>[all transactions]</i></p> <p>(ii) the Bishop; <i>[sale/demolition/exchange/build/purchase/improvement]</i></p> <p>(iii) the Diocesan Parsonages Board; <i>[all transactions]</i></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
11	<p>Please confirm that the Local Authority has indicated (informally if needs be) that demolition and any subsequent redevelopment of the site will be permitted.</p>	<p><i>Demolition only:</i></p> <p><input type="checkbox"/></p>

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12	<p>Please give the date on which the notice under the Ecclesiastical Offices (Terms of Service) Measure was served (for which a minimum period of 28 days is required) and attach a copy of the notice.</p> <p><i>(N.B. The application should not be submitted until <u>after</u> the expiry date for making an objection has passed. Copies of any objections should be forwarded to the Commissioners within five working days of receipt.)</i></p>	<p>Date:</p> <p>Copy attached: <input type="checkbox"/></p>
13	<p>PLEASE ATTACH A COPY OF ANY OBJECTION (IF NOT ALREADY FORWARDED TO THE COMMISSIONERS)</p>	<p>Copies attached: <input type="checkbox"/></p>
14	<p>Please attach a copy of the surveyor's report (and any plan(s)).</p>	<p>Copy attached: <input type="checkbox"/></p>

(Signed)

Date:

Authorised Signatory

For Church Commissioners' Use Only

NAME:

REF:

DATE:

The Commissioners have approved this/these proposal(s).

(Signed)..... Date:.....

ENTER DETAILS OF TRANSACTION(S) ON HOUSES DATABASE

LETTER

Church Commissioners
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 Tel: 020 7898 1000
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Email: pastoral@churchofengland.org

Section 4

Restrictive Covenants

- 4.1 [Restrictive Covenants \(with flowchart of procedures\)](#)
- 4.2 [Application Form R \(Release/Variation of Restrictive Covenant\)](#)

Restrictive Covenants

Changes since 2000

1. *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*

- The Commissioners are no longer party to deeds disposing of parsonage land under the Parsonages Measures (although in certain circumstances their consent to the transaction is required) and are therefore a formal party to any release or variation of restrictive covenants arising from such disposals. However, the Commissioners join in, as needs be, to any release or variation where they were separate covenantees in the original conveyance or are otherwise requested to enter into a deed where they were only a party to the original transaction. Where a variation is requested the Commissioners will release, rather than vary, their interest so that they will not need to be a party to any subsequent variation or release.

Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2006:

- The Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This makes it quicker and more efficient to recommend new forms of notice.

Principal amendments in the Mission and Pastoral etc. (Amendment) Measure 2018:

- Although Notices still need to be served for a proposed disposal of Glebe, the requirement for the Commissioners to consider any representations was removed.

Introduction

2. A covenant is a contract, or agreement contained in a deed, designed either to protect the amenity of any property retained by the vendor and/or limit the use of the land sold.

There are two kinds of covenant:

Positive - a promise to do something such as erect a fence and one which requires the spending of money to comply with it. These are usually only enforceable between the original parties to the deed, although where an incumbent is concerned, because the office of incumbent is a "corporation sole" (i.e. a perpetual corporation), a positive covenant with one incumbent will be enforceable by his or her successors as long as the original purchaser is the owner of the land subject to the covenant; and

Negative (or Restrictive) - these are promises not to do something (e.g. sell alcohol) and do not involve the spending of money. They "run with the land", i.e. they bind successive owners as well as the original purchaser and are also enforceable by subsequent owners of

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the land which benefits. If the burdened land is registered land then the restrictive covenant is only enforceable if it is itself registered on the 'Charges' Register. This is normally the case.

Imposing restrictive covenants when disposing of parsonage or glebe land

3. The Church's general philosophy with regard to imposing restrictive covenants when parsonage or glebe land is to be disposed of is (a) that they should be as few as is consistent with the necessary protection of Church interests (because too rigorous covenants are likely to have an effect on value) and (b) that the nature of any covenants intended to be imposed should be made clear when the property is put on the market or the terms of the proposed disposal are otherwise negotiated with the acquiring party. In practice dioceses will normally decide in consultation with their professional advisers which covenants to impose in individual cases. Covenants may be imposed to benefit parsonage land, diocesan glebe and churchyard irrespective of the status of the land being sold.

Parsonage land

4. Covenants which hitherto have been suggested by the Commissioners for inclusion when parsonage land is disposed of are given at 5. below but the following points should also be taken into account and provision made in a transfer as necessary:
 - ◆ The seller will be the incumbent (or, if the benefice is vacant, the bishop). Whichever is acting as the transferor, (s)he should be referred to in the transfer by reference to his or her corporate capacity as incumbent/bishop and not merely as an individual.
 - ◆ Whether the transferor is the incumbent or the bishop, (s)he should seal the transfer.
 - ◆ Where adjoining or neighbouring benefice land is being retained or where there is adjoining or neighbouring parochial or diocesan land, the benefice solicitor will wish to consider whether any **exceptions and reservations** should be included for the benefit of that adjoining or neighbouring land.

Suggested wording for 'standard' exceptions and reservations is set out below. This may be adapted and additional exceptions and reservations may be inserted to suit the circumstances of the particular transaction:

- ◆ *“full and free right and liberty without obtaining the consent of or making any compensation to the Transferee or other the owner or owners occupier or occupiers for the time being of the property to deal in any manner whatsoever with any of the land belonging to the Transferor [or to the..... Board of Finance] adjoining opposite or near to the property and to erect and maintain or suffer to be erected or maintained on such adjoining opposite or neighbouring land any buildings whatsoever whether such buildings shall or shall not affect or diminish the light or air which may now or at any time or times hereafter be enjoyed by or in respect of the property or any building for the time being thereon”;*
- ◆ *“the free flow of water and soil gas and electricity and other services to and from any adjoining or neighbouring land belonging to the Transferor [or to theBoard of*

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Finance] through any drains sewers watercourses pipes wires cables conduits or other conducting media now existing in upon under or over the property or substituted therefor by the Transferee.”

5. Where the property being transferred adjoins or is near to a church or churchyard, the following covenant **must** be given by the transferee to the incumbent for the benefit of that church or churchyard:

- ◆ *“That no act deed matter or thing shall at any time be done suffered or permitted in or upon the property or any part thereof which may be or become a nuisance annoyance or disturbance to the Minister for the time being conducting or the congregation attending divine service in the Church of.....or in the churchyard surrounding the same.”*

Likewise, the benefice solicitor may feel it appropriate to require the purchaser to enter into other covenants for the benefit of adjoining or neighbouring land. Suggested wording is given below. Where such covenants are required, it is for the benefice solicitor to decide whether to require separate covenants with the DBF and/or (regardless of whether he is acting as the transferor during a vacancy) the bishop in his corporate capacity:

- ◆ *“that the Transferee will not at any time hereafter call or designate the messuage or dwellinghouse erected on the property or permit the same to be called or designated by any name which might suggest that the same is owned or occupied by the incumbent for the time being of the said benefice”;*
- ◆ *“that neither the property or any part thereof nor any existing or future building thereon or on any part thereof shall at any time hereafter be used as or for a place of amusement hotel tavern inn or public house nor shall any spirituous or fermented liquors at any time be sold in or upon the same or any part thereof and that no act deed matter or thing shall at any time be done suffered or permitted in or upon the property or any part thereof which may be or become a nuisance annoyance or disturbance to the incumbent for the time being of the said benefice or his successors [or the Board or its successors in title] or which may tend to depreciate or lessen the value of the adjoining or neighbouring property belonging to the incumbent for the time being of the said benefice] [or to the Board]”.*

6. It is quite common for additional covenants to be imposed such as a restriction on building in the grounds of a parsonage or restricting the use of the house to that of a single private residence. Until 1984 it was also usual for the conveyance to include identical but separate covenants with the Commissioners. The intention was that these could then be enforced by the Commissioners during a vacancy in the benefice. However, as the Commissioners themselves usually own no land which benefits, these covenants were generally unenforceable (except as a matter of contract between the original parties). Since 1984 separate covenants have instead been made with the Bishop.

N.B. Volume 13(2) of the Encyclopaedia of Forms and Precedents published by Halsbury contains draft forms of transfer.

Glebe

7. DBFs will often wish to include covenants of a positive or restrictive nature to protect adjoining glebe or benefice property in sales of diocesan glebe. Where such restrictive covenants have been imposed it is for the owners of the benefiting property, who may include the DBF as current owners of the adjoining glebe or the incumbent as the owner of the churchyard or parsonage land, to consider their variation or release. Until 1978 (when glebe transferred to diocesan ownership) it was customary for the Commissioners to be separate covenantees in the original conveyance and they are therefore involved in varying or releasing restrictive covenants in such transactions. The Board's solicitor will want to consider the generality of 4. and 5. above in terms of covenants, exceptions and reservations.
8. Section 22 of the Endowments and Glebe Measure enables DBFs to enforce restrictive covenants imposed since 1 April 1978 for the benefit of church or parsonage land in conveyances for the sale, exchange or lease of glebe, as if the Board owned that church or parsonage land. This is a 'belt and braces' clause to give the covenants some teeth.

Releasing or varying restrictive covenants

9. The party (or parties) benefiting from a covenant may agree to release or vary it for a consideration in compensation for the loss of amenity or relaxation of use. Quite large sums may be paid, especially where there is a covenant against building. The owner of the land restricted by a covenant may ask the Lands Tribunal to discharge it or modify it on the grounds that it is obsolete or obtrusive or where there is agreement or where no loss would be suffered. This can be time consuming in practice and the owner will often prefer to pay an agreed sum to obtain a deed of release more quickly. Even where the original vendor no longer owns any of the land which benefits from the existence of the restrictive covenant it will often still have a nuisance value which a subsequent purchaser will pay a consideration to have extinguished. This is especially so where the original vendor is a corporate body or a corporation sole such as an incumbent.

The procedures

10. If approached direct the Commissioners will pass any initial enquiries from the owners of land affected by covenants or their solicitors to the diocese concerned. All such enquiries (whether received via the Commissioners or not) should be considered by the diocese's professional advisers who will act for the benefice and/or diocese in any subsequent negotiations.
11. Some of the main points to consider include:
 - ◆ *Should the covenant(s) be released or varied at all?*

The primary reason for imposing covenants in the first place is to protect the amenities of remaining land or to reaffirm the value of land disposed of and the terms under which it was sold. Although payments for release or variation are a welcome and relatively frequent source of additional capital, they should not for example be sought at the expense of the incumbent's well being.

Section 4.1 Restrictive Covenants

◆ *Who should release or vary the covenant(s)?*

The covenants should be released or varied by the owners of all the land which benefits from them which will not always include the vendor of the land which was sold. The incumbent may need to join in as the owner of either churchyard or parsonage land and the DBF as the owner of diocesan glebe. The Bishop will also need to be a party if separate covenants were made with him (or his predecessors) and likewise the Commissioners. Where the Commissioners are separate covenantees, they will release, rather than vary, their interest in those covenants so that they will not need to be a party to any subsequent variation or release.

If part of the land which benefits has been sold on to a third party that person also has the benefit of the covenants. The incumbent and any other church body will generally only release or vary the covenants "in so far as they are able" (covenant law is notoriously nebulous and this protects the Church from charges of "excess of jurisdiction") and it is the responsibility of the person seeking the release or variation to ensure that third parties join in or execute a separate deed.

If the church no longer owns any of the land which benefited when the covenant was originally imposed or there never was any benefiting land, the covenant has only nuisance value and all the parties to the original deed should join in its release.

◆ *How should the covenant(s) be released or varied and what consents are needed?*

If the land which benefits in full or in part is:

- (i) **parsonage land** - treat the release or variation as a disposal under the Parsonages Measures. [See Section 1.4 'Parsonage Disposal' for details of the procedures \(including consents and notices\) involved.](#) **Forms 1 and 2 of the Schedule to the Parsonages Measure (Amendment) Rules 2007 may be used to serve notice of the proposal and the application of any proceeds on the PCC(s) and patron(s). Alternatively, Form 5 may be used where shortened procedure is appropriate;**
- (ii) **glebe land** – treat the release or variation as a disposal under Section 20 of the Endowments and Glebe Measure. [See Section 2.3 'Glebe Disposal' for details of the procedures \(including consents and notices\) involved;](#)
- (iii) **churchyard** – consult the Diocesan Chancellor over the need for a faculty.

Applying for the Commissioners' consent

12. The Commissioners should be approached for their consent only if:

- (i) they were separate covenantees in the original conveyance (normally pre 1978 for glebe and pre 1984 for parsonages); and/or
- (ii) they are otherwise requested to enter into a deed where they were only a party to the original transaction (and not a separate covenantee) and/or

Section 4.1 Restrictive Covenants

- (iii) the matter cannot be certified as one not needing their consent.

Where the Commissioners' consent is required, the diocese should complete and submit an application form ([Form R](#)), provide full details of the proposal (including copies of the conveyance in which the covenant occurs and a report from the diocese's professional adviser on the transaction and, in the case of covenants benefitting parsonage land enclose copies of any objections. The application should not normally be submitted until the expiry date for representations has passed or confirmation received that none of those on whom notice has been served has an objection. Please also send the Commissioners a copy of the notice served. On no account should any transaction be agreed until such time as the Commissioners have informed the diocese of their decision on the proposal, having considered the background to the proposal and any objections. [See Section 5 'The Role of the Church Commissioners' Mission and Pastoral Committee's in relation to Parsonages and Glebe matters'](#).

Where only a temporary relaxation of covenants is involved, the matter may be simply agreed by an exchange of letters.

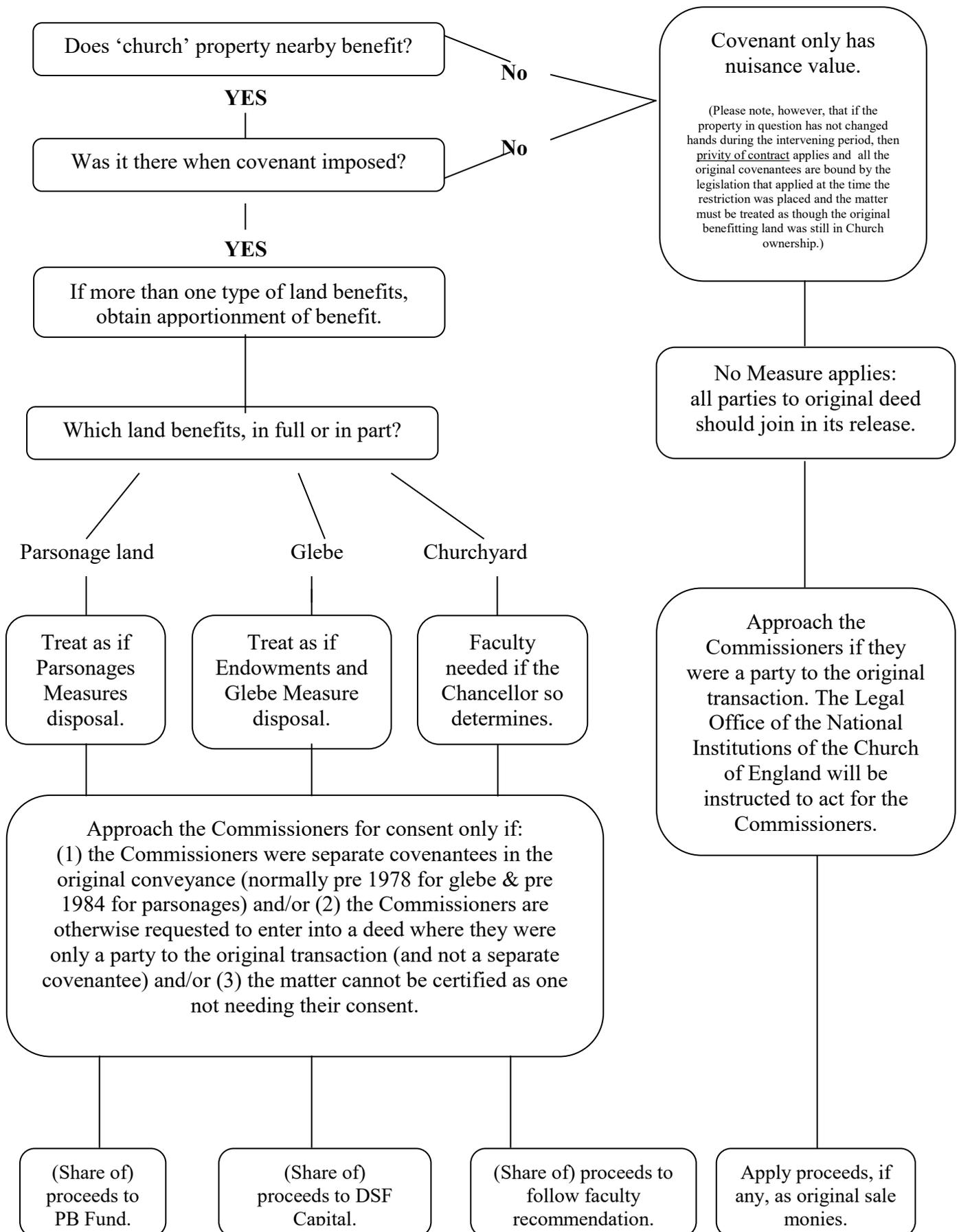
Application of proceeds

13. Where there is land which benefits from the covenants any consideration should be treated in the same way as other sale proceeds arising under the appropriate Measure. If more than one sort of land benefits the diocese should agree any apportionment of the proceeds after consultation with those concerned locally (e.g. incumbent and PCC). Where parsonage land benefits, the proceeds (or a share of the proceeds) must be *credited to a Parsonage Building Fund now held on the benefice's behalf by the Board* for the benefice concerned. If churchyard land benefits any faculty will specify how that part of the proceeds should be applied. Where there is no retained land which benefits, any consideration money should be treated as if it is additional proceeds arising from the original sale.

General

14. The attached flow-chart is a summary of the steps to follow when considering any proposal for the release or variation of a restrictive covenant over former parsonage or glebe land. It is emphasised that where the church still owns land which benefits from a restrictive covenant, the procedure to follow is that which relates to the benefiting land (i.e. parsonage, glebe or churchyard) before agreeing to any variation or release of the covenant(s) in the conveyance of the sold land.

Releasing a Restrictive Covenant



Church Commissioners

**Parsonages Measures 1938 & 1947
Endowments and Glebe Measure 1976**

Application for Consent to Release or vary a Restrictive Covenant

where the Commissioners' Consent is Required

1.	<p>(a) Diocese:</p> <p>(b) Benefice:</p> <p>(c) Commissioners' Reference No:</p> <p>(d) Name and address of Incumbent (if any): </p>	
		<i>Please answer Yes/No and/or tick boxes as appropriate.</i>
2.	<p>(a) Nature of the proposal:</p> <p>(i) Release/variation* of covenant benefiting parsonage land;</p> <p>(ii) Release/variation* of covenant benefiting glebe land;</p> <p>(iii) Release/variation* of covenant benefiting church/churchyard;</p> <p>(iv) Release/variation* of covenant where no benefiting church property remains.</p> <p><i>* delete as appropriate</i></p> <p>(b) Name & address of the party seeking the release/variation of the covenant(s): </p> <p>(c) Name & address/DX No. of the solicitor acting for the party at (b) above: </p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
3.	<p>Please give brief details of the background to the application. <i>(Further details may be included in a covering letter):</i></p>	

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4.	<p>Please indicate why the Commissioners' consent to the release/variation of restrictive covenant(s) is required:</p> <ol style="list-style-type: none"> 1. the Commissioners were separate covenantees in the original conveyance; and/or 2. the Commissioners are otherwise requested to enter into a deed where they were only a party to the original transaction (and not a separate covenantee); and/or 3. the matter cannot be certified as not needing their consent. 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
5.	<p>(i) Does 'church' property nearby benefit from the covenant?</p> <p>Yes <input type="checkbox"/></p> <hr/> <p>(ii) Was the land in church ownership when the covenant was imposed?</p> <p>Yes <input type="checkbox"/></p> <p>(iii) Please indicate which land benefits:</p> <p>Parsonage land <input type="checkbox"/> (<i>Parsonages Measures disposal</i>)</p> <p>Glebe <input type="checkbox"/> (<i>S. 20 Endowments & Glebe Measure disposal</i>)</p> <p>Churchyard <input type="checkbox"/> (<i>Consult Diocesan Chancellor over need for a faculty</i>)</p> <hr/> <p>(iv) Consideration for releasing/varying the covenant (if any):</p> <p>£</p> <p>(v) If more than one type of land benefits, please give details of how the proceeds will be apportioned:</p> <p>£ Share of proceeds to be applied to:</p> <p>Parsonage land PB Fund for the benefice*</p> <p>Glebe DSF Capital Account</p> <p>Churchyard as recommended in faculty</p> <p><small>*the net proceeds will be held by the Diocesan Board of Finance concerned as a credit to a PB Fund for the affected benefice unless the notices served also provided for the application of such proceeds.</small></p>	<p>No <input type="checkbox"/> Covenant only has nuisance value. (No Measure applies: all parties to original deed should join in the release/variation.)</p> <hr/> <p>No <input type="checkbox"/> Covenant only has nuisance value. (No Measure applies: all parties to original deed should join in the release/variation.)</p> <div style="text-align: center;">  </div> <p>Any consideration to be applied as the original sale proceeds – <i>see left.</i></p>

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6.	<p>If the land which benefits in full or in part from the covenant is:</p> <p>PARSONAGE LAND</p> <p>A. Please confirm that the following consents to the proposal(s) have been obtained:</p> <p>(i) the incumbent (or Bishop in a vacancy);</p> <p>(ii) the Bishop (where he is not acting);</p> <p>(iii) the Diocesan Parsonages Board;</p> <p>(iv) where a team ministry has been established for the benefice, any member of the team living in the parsonage house.</p> <p>B. <u>Either</u>:</p> <p>Please give the date on which the Parsonages Measures notice (Form 1 and/or Form 2) was served on the patron(s) and PCC(s) (or churchwardens where there is no PCC) and attach a copy of the notice.</p> <p><i>(N.B. The application should not be submitted until <u>after</u> the expiry date for making representations has passed or confirmation received that none of those on whom notice has been served has an objection. However, copies of any objections should be forwarded to the Commissioners within five working days of receipt.)</i></p> <p><u>Or</u>:</p> <p>If the matter is urgent and the patron(s) and PCC(s) (or churchwardens where there is no PCC) have consented to the adoption of Shortened Procedure, please attach signed copies of the recommended Form 5 (or equivalent forms).</p> <p>C. Has the patron(s) and/or the PCC(s) objected to the proposal(s)?</p> <p>IF YES, PLEASE ATTACH COPIES OF ANY OBJECTIONS WHICH HAVE NOT ALREADY BEEN FORWARDED TO THE COMMISSIONERS</p> <p>D. Is the patronage of the benefice exercised at least in part by the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster?</p> <p>If yes, please attach a copy of their written consent to the proposal(s).</p> <p>E. Please confirm that where a team ministry has been established for the benefice, all the members of the team have been consulted about the proposal and their views taken into account.</p> <p><i>N.B. If glebe land and/or churchyard benefits from the covenant(s), please complete 7. and 8. overleaf.</i></p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>Date:</p> <p>.....</p> <p>Copy attached:</p> <p><input type="checkbox"/></p> <p>Copies attached:</p> <p><input type="checkbox"/></p> <p>Yes/No</p> <p>Copies attached:</p> <p><input type="checkbox"/></p> <p>Yes/No</p> <p>Copy attached:</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
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7.	<p>If the land which benefits in full or in part from the covenant is:</p> <p>GLEBE</p> <p>A. Please confirm that notice of the proposal(s) under Section 20(5) of the Endowments and Glebe Measure was served on the following:</p> <p>(a) the incumbent of the benefice in which the glebe is situated (if the benefice is full); <i>or</i></p> <p>(b) the priest-in-charge (if presentation to the benefice has been suspended under Section 85 of the Mission and Pastoral Measure 2011 and a priest-in-charge has been appointed); <i>or</i></p> <p>(c) the churchwardens of the parish in which the glebe is situated (if presentation to the benefice has not been suspended);</p> <p><i>And:</i></p> <p>(d) the Parochial Church Council of the parish in which the glebe is situated (irrespective of whether the benefice is vacant)</p> <p><i>And:</i></p> <p>if a team ministry has been established for the benefice:</p> <p>(e) every team vicar;</p> <p>(f) a member of a team ministry (other than a team vicar) occupying a glebe house which benefits from the covenant.</p> <p>B. Please give the date on which the notice of the proposal(s) under Section 20(5) was served and attach a copy of the notice.</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p>Date:</p> <p>..... Copy attached: <input type="checkbox"/></p>
8.	<p>If the land which benefits in full or in part from the covenant is:</p> <p>CHURCHYARD</p> <p>Please confirm that the Diocesan Chancellor has been consulted over the need for a faculty.</p>	<p><input type="checkbox"/></p>
9.	<p>Please confirm that all other parties to the deed containing the covenant have agreed to join in its release or variation.</p>	<p><input type="checkbox"/></p>

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10.	<p>Please attach:</p> <p>(i) a copy of the relevant conveyance or other deed containing the covenant(s); and</p> <p>(ii) a copy of the report on the transaction from the diocese’s professional adviser.</p> <p>If such a report has not been obtained, please explain why:</p>	<p>Copy attached: <input type="checkbox"/></p> <p>Copy attached: <input type="checkbox"/></p>
11.	<p>Name and address (or DX No.) of solicitor acting on behalf of the benefice/diocese:</p> <p>.....</p> <p>.....</p> <p>.....</p>	

(Signed)

Date:

Authorised Signatory

FOR CHURCH COMMISSIONERS’ USE ONLY			
NAME:	REF:	DATE:	C/S NO:
The Commissioners have approved this/these proposal(s).			
(Signed).....		Date:.....	
<input type="checkbox"/> LETTER <input type="checkbox"/> INSTRUCT LEGAL (<i>WHERE NECESSARY</i>)			

Church Commissioners
 Church House, Great Smith Street, London, SW1P 3AZ
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Section 5

Management Schemes made under the Repair of Benefice Buildings
Measure 1972 and Endowments and Glebe Measure 1976

Parsonage Management Schemes under Section 1 of the Repair of Benefice Buildings Measure 1972

Changes since 2000

1. *Principal amendment in the Church of England (Miscellaneous Provisions) Measure 2000:*
 - The Commissioners' approval is no longer required for amendments to Management Schemes for parsonages under the Measure but a copy of any new Scheme made under the Measure should be sent to the Commissioners.
2. [A skeleton Management Scheme made under the RBBM is attached.](#)

Glebe Management Schemes under Section 19 of the Endowments and Glebe Measure 1976

Changes since 2000

1. *Principal amendment in the Church of England (Miscellaneous Provisions) Measure 2000:*
 - Glebe Management Schemes prepared by Diocesan Boards of Finance under the Endowments and Glebe Measure 1976 may, subject to the Commissioners' approval, provide for the setting up of a wholly owned subsidiary or subsidiaries to hold glebe on the same trusts as above.
2. The Commissioners' consent is *STILL* required to any amendments to glebe management schemes.
3. [A skeleton Management Scheme made under the Endowments and Glebe Measure is attached.](#)

Management Scheme

Repair of Benefice Buildings Measure 1972

Diocese of _____

Scheme under the Measure

A: Where a separate Board is to be appointed

Appointment of Diocesan Parsonages Board

1. A Board (“the Board”) to be known as “the Parsonages Board for the diocese of” is hereby established for the purpose of the furtherance of the work of the Church of England by the exercise of its functions under the Repair of Benefice Buildings Measure 1972 (“the Measure”).

Membership of the Board

2. *Here the diocese should give details of the composition of the Board including powers to co-opt members, for example clergy spouses. All the archdeacons must be ex-officio members and not less than one-third of the remaining members should be clergy elected by the beneficed, and, if the Scheme so provides, the licensed clergy of the diocese, and not less than one-third shall be lay persons. Otherwise, the membership of the Board and the method of election or appointment and term of office of its members (other than ex-officio members) needs to be prescribed here.*

Constitution and Procedure of the Board

3. Subject to the provisions of the Measure and of the preceding paragraphs of this Scheme, the constitution and procedure of the Board shall be as prescribed in Schedule 1 to this Scheme.

Appointment of Secretary

4. A Secretary to the Board shall be appointed byand the Secretary’s remuneration and terms of service shall be determined from time to time by

OPTIONAL

Management of Parsonages Fund

The powers of the Board in respect of the management of the Parsonages Fund for the diocese opened pursuant to the Measure and the receipt of moneys payable into that Fund shall be exercised by the Diocesan Board of Finance on behalf of the Board and the Board shall execute all such documents and do all such things as are necessary from time to time in the exercise by the Board of Finance of the said powers of management.

B: Where the Diocesan Board of Finance is designated as the Board

Designation of Parsonages Board

5. The Diocesan Board of Finance is hereby designated as the Parsonages Board for the diocese of for the purposes of the furtherance of the work of the Church of England by the exercise of its functions under the Repair of Benefice Buildings Measure 1972 (“the Measure”) and references in this scheme to “the Board” shall be construed as referring to the Diocesan Board of Finance in the exercise of such functions.

Delegation of the Board’s Functions

6. The functions of the Board under the Measure shall be delegated to a Committee/Committees of the Diocesan Board of Finance constituted as provided in Schedule 2 hereto and such Committee(s) may include persons other than members of the Board.

C: All Schemes

Appointment of Diocesan Surveyors

7. The Board shall appoint such number of fit persons to be surveyors for the purposes of the Measure as it shall from time to time determine and the remuneration and terms of service of such surveyors shall be determined from time to time by

Annual Estimates of Expenditure

8. The Board shall submit to the Diocesan Synod annual estimates of the expenditure of the Board for the ensuing year together with proposals for meeting that expenditure.

[Add if there is an independent Parsonages Board - Before submitting the estimates to the Synod the Board shall consult the Diocesan Board of Finance].

OPTIONAL

Extension of the Functions of the Board

9. (1) The Board may execute works of interior decoration of parsonage houses by agreement with the incumbent.
- (2) The Board may execute works of improvement, demolition or erection of parsonage houses in pursuance of the powers conferred by Sections 1, 2 and 2A of the Parsonages Measure 1938 by agreement with the persons on whom those powers are conferred.

- (3) The Board may request a diocesan surveyor to inspect any building (other than a parsonage house) in the diocese used as a residence by any clergyman or lay worker of the Church of England serving in the diocese and to report to the Board on such inspection.
- (4) The Board may execute works of repair, interior decoration, improvement, demolition or erection of any buildings in the diocese held for charitable purposes connected with the Church of England, by agreement with the persons having the management or control of such buildings.
- (5) Except in regard to the cost of repairs to the residence of an incumbent not being a parsonage house and the cost of inspections relating thereto, the cost of any works mentioned in this paragraph of this Scheme and the cost of the inspections and reports mentioned in subsection (3) thereof, including any administrative cost attributable to such works, inspections and reports, shall not be met out of the Diocesan Parsonages Fund, and before taking any steps in connection with such works, inspections and reports the Board shall satisfy itself that funds are available to meet the cost thereof from sources other than the Diocesan Parsonages Fund.
- (6) In this paragraph of this scheme references to parsonage houses and to buildings used or held for certain purposes shall include references, where appropriate, to buildings intended to be used as parsonage houses or to be used or held for such purposes.
- (7) In connection with the exercise of the powers contained in this paragraph of this Scheme(here may be inserted any other necessary provisions relating to the administration of the functions authorised by this paragraph).

OPTIONAL **Regulation of Inspections, Reports and Repairs**

10. The Board may at any time publish Regulations concerning:-
 - (a) inspections of buildings of a benefice by diocesan surveyors and the making of reports following on such inspections;
 - (b) the execution of repairs to buildings of a benefice, including the supervision thereof by diocesan surveyors and otherwise and any other matters required for ensuring efficiency and economy in such execution;

but such Regulations shall not be effective unless and until they have been laid before and approved by the Diocesan Synod.

Payments by Parochial Church Councils

OPTIONAL

11. *Here the Scheme may provide for the other financial provisions relating to parochial contributions set out in Section 19 of the Measure The broad range is as follows:*

(a) for payment by parochial church councils of parishes in the diocese of such annual contributions towards the estimated expenditure of the Board as may be determined in accordance with the Scheme, but not exceeding in any year a total amount approved by the Synod; or

(b) for the direct payment by such parochial church councils of the whole or part of the cost of repairs to the parsonage houses of their own parishes, and for excluding that cost or part thereof from the annual estimates of the Board; or

(c) for a combination of such contributions and direct payments as aforesaid; and

(d) for refunding to any parochial church council any part of a contribution not required by the Board.

It is suggested that, in the interests of flexibility, most dioceses will want to set out the whole range, rather than limit themselves to a particular option. In the latter case, an amending Scheme would be needed to introduce other options.

Please note that payments made by Parochial Church Councils in this respect cannot be used for capital purposes e.g. demolition, purchase, building or improvements. These works need to be funded by other means e.g. Diocesan Pastoral Account and/or the Diocesan Stipends Fund Capital Account.

Interpretation

12. In this Scheme, unless the context otherwise requires, the expressions to which meanings are assigned by Section 31(1) of the Measure shall have the meanings thereby respectively assigned to them.

Operative Date of Scheme

13. The provisions of this Scheme shall come into operation onand the Scheme made by the Diocesan Synod of the diocese ofon shall thereupon be revoked.

This Scheme is made by the Diocesan Synod of the diocese of at a meeting held on

In witness thereof it has been signed by, Chairman of the meeting duly authorised to that end by resolution of the said meeting.

Signed:

Date

Schedule 1

Constitution and Procedure of Board

Here provision can be made, according to each diocese's requirements, for such matters as:-

Date, place and frequency of meetings

Appointment or election of chairman and vice-chairman

Quorum

Notice of meetings and special meetings

Keeping of minutes

Custody of seal and rules of affixing thereof

How questions are to be determined (e.g. by simple majority)

Powers of delegation

Appointment of committees and the exercise of their functions

Opening of banking accounts and powers to draw thereon

Decisions concerning investments

Appointment of officers and other staff (e.g. auditors) and their remuneration and terms of service

Power to enter contracts

Power to hold property

Power to borrow money

Power to execute works

Ancillary matters

Etc. – This list is not intended to be exhaustive.

Schedule 2

Constitution and Procedure of Committee(S) to exercise the Functions of the Board

Here provision may be made for the membership of the Committee(s) and for its/their constitution and procedures based on the relevant elements of Schedule 1 hereto. Regard shall be had to the need for adequate representation of the clergy and laity.

Management Scheme

Endowments and Glebe Measure 1976

Diocese of _____

Scheme under the Measure

Constitution of Diocesan Glebe Committee

1. Provision for persons/Committee(s) to be the Diocesan Glebe Committee. This may be the Diocesan Parsonages Board (or the Committee of the DBF set up for that purpose) or any other Diocesan Committee designated or established for that purpose.

Duties of the Diocesan Glebe Committee

2. The Diocesan Glebe Committee shall be responsible to the Diocesan Board of Finance for the management of the Diocesan Glebe for the benefit of the Diocesan Stipends Fund, including the negotiation of leases and tenancies and of rent reviews, the collection of rents, the payment of outgoings, the carrying out of repairs and improvements, and the making of recommendations to the Diocesan Board of Finance for sales and purchases when desirable. In carrying out these functions the Committee shall comply with any directions which may from time to time be given to them by the Diocesan Board of Finance, shall observe all provisions of the Endowments and Glebe Measure and shall obtain such consents as are required.

Diocesan Glebe Committee to Report to Diocesan Board of Finance

3. The Diocesan Glebe Committee shall make a report of its work to the Diocesan Board of Finance at least once a year or at such other intervals as the said Board may from time to time require.

Employment of Agents

4. The Diocesan Glebe Committee may appoint one or more firms of surveyors to act as agents for them in dealings relating to the Diocesan Glebe. Such firms must have experience in respect of properties of the type concerned. The agents shall be required to obtain the prior approval of the Committee (subject to such delegation as the Committee agrees) to all transactions and to comply with the principles of management set out below.

Principles of Management

5. The Diocesan Glebe shall be managed exclusively for the benefit of the Diocesan Stipends Fund, except in circumstances where the Endowments and Glebe Measure 1976 expressly permits otherwise.

The following principles of management shall be observed:

A. Agricultural lettings

- i) All new lettings shall be made after proper advertisement and the consideration of all suitable applicants for a term deemed appropriate in the circumstances, mindful of the management of the estate.
- ii) The rent in the case of a new letting shall be the best open market rent consistent with the quality of the land, and best practice.
- iii) The rents shall be reviewed to an open market level at such intervals as are permitted by law and agreed between the parties or in the absence of agreement by arbitration.

B. Residential Properties

- i) Upon the termination of the tenancy of any residential property, consideration shall be given to the advisability of its sale.
- ii) If a residential property is re-let other than on a long lease with a premium and ground rent, it should be on an assured short hold tenancy for a term of at least six months and should be renewed on terms as appropriate at a market rent.

C. Commercial properties

All lettings shall be at the best rent obtainable and all leases of commercial properties, except in the case of properties leased at a premium and a ground rent, shall provide for rental review at periods not exceeding five years.

D. Subsidiaries of the Diocesan Board of Finance

The Diocesan Board of Finance may set up a wholly owned subsidiary or subsidiaries which shall have the same powers and duties as the Diocesan Board of Finance with respect to holding, managing and dealing with diocesan glebe [as is specified in this scheme] [as the Board may from time to time determine].

Note: The above principles are entirely illustrative and based largely on the advice given by the Commissioners at the time of the implementation of the Measure in 1978 and, in amending their existing schemes, dioceses will wish carefully to review their principles of management and to take their Agents' advice on the same.

Expenses of Management

6. All fees for professional management and related costs, charges and expenses may be met in accordance with Section 25 (3) and (4) of the Endowments and Glebe Measure 1976.

This Scheme is prepared by the Diocesan Board of Finance of the Diocese of [] in replacement of a Scheme approved by the Church Commissioners on the [].

In Witness whereof it has been signed by [] Secretary to the [] Diocesan Board of Finance.

Signed: Date

N.B. The Commissioners' approval is needed to amend any existing Scheme

Section 6

[The Church Commissioners' Mission and Pastoral Committee's role in relation to Parsonages and Glebe matters and Personal Interests of Members of Diocesan Boards/Committees \(with representation procedures flowchart\)](#)

The Commissioners' Mission and Pastoral Committee's role in relation to Parsonages, Glebe and Ecclesiastical Office holders' places of residence and Personal Interests of Members of Diocesan Boards/Committees

Introduction

1. The Mission and Pastoral Committee is one of the Standing Committees of the Church Commissioners' Board of Governors and acts for the Board in matters relating primarily to pastoral reorganisation, parsonages, other ecclesiastical office holders' housing and diocesan glebe. The Committee comprises the Third Church Estates Commissioner (chair), two Diocesan Bishops, four other clergy, and four lay people and any such additional members as the Board shall from time to time appoint. The Pastoral and Closed Churches Secretary acts as Secretary to the Committee and is, in turn, supported by the staff of the Pastoral Division. The Committee has three main functions in relation to parsonages, other ecclesiastical office-holders' housing and glebe:
 - (i) **Quasi-judicial:** i.e. to consider representations against proposals under the Parsonages Measures or the Ecclesiastical Offices (Terms of Service) Measure and to decide whether to give consent to parsonage and glebe transactions where this is required.
 - (ii) **Financial:** i.e. to administer any Commissioners' schemes of grants or loans made available for clergy housing (there are no such grants or loans available at present except for those associated with deserted clergy spouses); and
 - (iii) **Advisory:** i.e. where relevant, to consider new legislation and any matters of general policy, including the recommended standards for new parsonage houses (the Parsonages Design Guide).
2. This note deals with the Committee's quasi-judicial function in respect of parsonages, other ecclesiastical officers' housing and glebe proposals and explains the legal basis on which it must operate. The flowchart attached to this Note summarises the procedures followed by the Commissioners when adverse representations are received.

The Parsonages Measures

3. The Parsonages Measures 1938 and 1947 set out procedures for selling, purchasing, building, dividing and improving parsonage houses. Whilst the Mission and Pastoral Measure is the normal legislation for permitting the disposal of a parsonage house which becomes surplus to requirements as a result of pastoral reorganisation, the Parsonages

Measures are usually the appropriate legislation to use where what is proposed will not otherwise affect the benefice (e.g. the sale and replacement of a parsonage house).

Diocesan proposals and the rights of third parties

4. S.1(1) of the Measure provides that, where a parsonage house is "inconveniently situated or too large, or where for other good and sufficient reasons it shall be thought advisable to sell or dispose of the same", the incumbent (or bishop in a vacancy) shall have power to sell the house. The patron(s) and PCC(s) have the right of objection to the Commissioners, whose decision is final. There is no right of appeal.
5. S.2(1) of the Measure allows the incumbent or bishop to purchase or build a parsonage house on the basis that it is "suitable for the residence and occupation of the incumbent of the benefice". Again, the patron(s) and PCC(s) have the right of objection to the Commissioners, whose decision is final. There is no right of appeal.
6. S.2A(1) of the Measure allows the sequestrators (during a vacancy) to divide or improve a parsonage house. The rights of objection are as above.
7. S.7 of the Measure requires the DBF to serve notice of the proposed disposition of parsonage sale proceeds from Parsonages Building Fund accounts held by the dioceses for other purposes on the PCC(s) and patron(s). There is a right of representation to the Commissioners, whose decision is final.

The consideration of cases by the Commissioners

8. Where there are no objections, cases involving the sale/purchase/building etc of parsonages are no longer referred to the Commissioners unless (a) the transaction is with a "connected person"; (b) a surveyor has not been used; (c) the transaction has not been advertised as recommended by the surveyor; or (d) the surveyor is unable to recommend the terms of the transaction.
9. Where the matter is referred to the Commissioners under (8) above and the case is brought to the Committee, the Committee has to decide whether the transaction in question is in the best interests of the benefice, bearing in mind the reason that the case was referred to the Commissioners as well as financial considerations. It can take into account (as appropriate) the suitability of the property in question in relation to the Parsonages Design Guide ("the Green Guide") and any pastoral considerations. Such considerations need to be applied flexibly, bearing in mind for example that the Green Guide primarily addresses the recommended standards for new, purpose built parsonages.
10. If there are objections that are not resolved and the case is not otherwise referred to the Commissioners under (8) above, the Committee has to determine the matter, having considered those objections and the issues arising directly therefrom. General jurisdiction does not pass to the Commissioners because there are objections and the Committee is advised against querying aspects of the transaction that are unconnected with the objections unless the case is also referred under (8) above. However, relevant considerations from (9) above can be taken into account.

11. Whatever the reason for the matter being brought to the Committee it may exchange views with the diocesan authorities (in this case the Diocesan Parsonages Board) but it cannot require the diocese to follow a particular course of action. Again, there are two ultimate choices:

- (1) to consent to the proposal, in which case it may proceed; or
- (2) not to consent to the proposal, in which case it may not proceed.

Cogent reasons for the Committee's decision must be given. A Judicial Review could be sought.

The Endowments and Glebe Measure

Principal glebe management requirements

12. Glebe land became vested in individual Diocesan Boards of Finance on 1 April 1978 when the Endowments and Glebe Measure 1976 ("EGM") came into effect. Prior to that, glebe formed part of the endowment of individual benefices. Amongst the principal management requirements are:

- (a) glebe property has to be held, managed and dealt with for the benefit of the Diocesan Stipends Fund (S.19(1) of the EGM); and
- (b) dioceses (acting as trustees as outlined above) may dispose of glebe property on terms which are the best that can be reasonably obtained.

Other considerations

13. There are two main exceptions to these requirements:-

- (a) if the amenities of church land will be affected by the proposed transaction, the diocese may deal with glebe land on "such terms safeguarding those amenities as having regard to the circumstances they consider reasonable and proper" (S.20(1) of the EGM);
- (b) when glebe is proposed to be used for other church purposes (Ss. 23(1) & (2)); and when glebe is occupied by team vicars, curates etc (S.24) there is no requirement to seek "best terms".

14. Under S.32 of the EGM, the Bishop may be asked by the diocesan authorities to transfer parsonage land to glebe ownership. The Bishop has to be satisfied that such land "is not necessary for the convenient occupation of the incumbent" (e.g. an overlarge garden with development potential) or, in the case of a house, "is not required as the residence house of the benefice".

The rights of third parties

15. The Commissioners are only involved where (a) the proposed transaction involves a "connected person" or, other than in the limited circumstances set out in (13) and (14) above, (b) a surveyor has not been used; (c) the transaction has not been advertised as recommended by the surveyor; (d) the surveyor instructed by the diocese is unable to recommend the terms of the transaction or e) if there are objections to a proposed s.32 Order.
16. Under Section 32 of the Endowments and Glebe Measure, parsonage land considered by the diocese no longer necessary for parsonages purposes may be transferred to glebe. The Board must notify the incumbent (if the benefice is full) or sequestrators (if it is vacant) of its intention to proceed with an Order under Section 32. All the Parochial Church Councils must be notified and, if there is a team ministry, every member of the team. The notice must give a period of one month for written representations to be made to the Commissioners with respect to the proposed transfer.

The consideration of cases by the Commissioners

17. Where a matter is referred to the Commissioners it is the Committee's duty to consider whether the transaction meets the basic criteria laid down by the EGM (e.g. whether a sale is on "reasonable and proper" terms or whether parsonage property is "not necessary for the convenient occupation of the incumbent" or "not required as the residence house of the benefice") and to decide whether or not to consent to the transaction. When considering any such matter, the Committee will be given details of the proposed transaction, together (in most cases) with confirmation that it is supported by a qualified surveyor acting on behalf of the diocese.
18. The primary test for the Committee is whether the transaction is in the best interests of the beneficiaries of the Diocesan Stipends Fund. Such "best interests" will usually, but not always, involve disposing of the property for the best possible price. However, the diocese and the Committee may take appropriate account of pastoral considerations, and specifically where church land may be affected by a particular transaction. The potential effect on the incumbent's ministry by opting for one course of action instead of another could be a relevant pastoral consideration.
19. As when matters are considered under the Parsonages Measures, the Committee cannot require the diocese to take a particular course of action other than that proposed, and it again has the two ultimate choices of either consenting to the proposal or declining to do so. Its decision is final (there is no right of appeal), and cogent reasons for it must be given. In particular the Committee must have cogent reasons for substituting its judgement for that of the diocese in relation to the financial and pastoral aspects of a proposed sale and the balance between them. A Judicial Review of its decision could be sought.

Ecclesiastical Offices (Terms of Service) Measure 2009

20. The Ecclesiastical Offices (Terms of Service) Measure 2009 sets out procedures for selling, exchanging, demolishing, enlarging, reducing, improving or altering houses provided as

official residences of ecclesiastical office holders. In respect of such transactions the occupier of the house in question has a right to object to the housing provider, in accordance with Regulation 16 of the Ecclesiastical Offices (Terms of Service) Regulations 2009 and have their representation considered by the Commissioners, or if they are the housing provider or their consent is otherwise required to the transaction, by the Archbishops' Council, unless the housing provider decided not to proceed after considering the objection.

21. Where the objections are considered by the Commissioners they are required to consider the grounds of the objection and all relevant circumstances and may only direct that the transaction should proceed if the housing provider satisfies them that the objections should not be upheld. The primary consideration for the Commissioners would be whether the transaction would result in the provision of accommodation reasonably suitable for the purposes of the office as required by s. 4(1) of the Measure.

Administrative Law/Judicial Review

22. In considering matters under any of the above Measures, the Commissioners have a duty to the public. Judicial Review is not concerned with the merits of a decision (unless it is irrational), but the process by which the decision was made. The grounds for an action have been classified as illegality, irrationality and procedural impropriety. The Human Rights Act is now also a factor, with any Court being under a positive duty to give effect to the European Convention on Human Rights.

Illegality

24. The decision makers must understand correctly the law that regulates their decision and must give effect to it. An action claimed to be *ultra vires* or an abuse of power would provide material for a review.

Irrationality

- 25 This is the test of reasonableness. A review could only succeed on this count if it could be demonstrated that the decision was one which no reasonable tribunal could have reached on the information before it.

Procedural Impropriety

- 26 This covers a variety of cases, most importantly those which involve a breach of "natural justice". There is no universal definition of this expression, but it is generally understood to mean a duty to act fairly - that is to arrive at a decision fairly, not necessarily to arrive at a fair decision. This would include the principles of listening to both sides of the arguments and not being a judge of one's own cause. The "right to a fair trial" under the Human Rights Act reinforces this.

Personal Interests of Members of Diocesan Committees

27. Where any member of the Diocesan Parsonages Board/Glebe Committee has a personal interest (direct or indirect) in any matter which comes before the Board/Committee, including a connection with an area or with any member of the clergy affected by a proposal, that member

should declare his or her interest and the minutes should be noted accordingly. Where the interest is a substantial one (either pecuniary or non-pecuniary) the member concerned should withdraw from the meeting for the duration of the agenda item and the minutes should so record that. One test of a substantial interest is whether the interest is such that a third party might reasonably be concerned at the member's involvement regardless of whether the individual feels that his or her judgement on the case might be prejudiced by the connection. This could include a situation where the rest of the Board/Committee would feel inhibited by his or her continued presence.

28. For the avoidance of doubt the interest of a member's spouse (or civil partner) should be treated in the same way as the member's own and the member should also consider his or her position when the personal interest of a close relative, friend or associate is concerned. The interest of a bishop, archdeacon, rural dean or deanery lay chairman in their see, archdeaconry or deanery respectively does not constitute a personal interest. Patrons or members of a patronage trust which is patron of a benefice under discussion (for either parsonage or glebe purposes) have a substantial personal interest and should withdraw. The Board/Committee should consider and adopt a code to cover these matters to which the Secretary could draw members' attention if necessary. Diocesan Boards/Committee may find it helpful to see the attached Code of Conduct which has been adopted for use by the Commissioners' Board and Committees.
29. In considering whether their connection with an area or a person is a substantial one, members of Diocesan Boards/Committees may find it helpful to know that the Commissioners advise that, where one of the following is entering into a disposition under the Parsonages Measure 1938 or the Endowments and Glebe Measure 1976 the Ecclesiastical Offices (Terms of Service) Measure 2009 or the Mission and Pastoral Measure 2011 as the other party (e.g. the person or body acquiring a former parsonage house), then as a matter of law and best practice the case should be referred to them for consideration :
 - (a) any bishop in the diocese;
 - (b) the incumbent or priest-in-charge of the benefice in question or any of its parishes;
 - (c) any patron of the benefice;
 - (d) any member, officer, agent or employee of any Parochial Church Council within the benefice in question;
 - (e) any member, officer, agent or employee of the Diocesan Board of Finance or (as appropriate) the Diocesan Parsonages Board/Committee, the Diocesan Mission and Pastoral Committee or the Diocesan Glebe Committee;
 - (f) the spouse, civil partner, child, parent, grandchild, grandparent, brother or sister of any of the above.
30. If members of a diocesan board/committee are any of those referred to in 27(b), (c) and (d) above (incumbents, priests-in-charge, patrons, PCC members etc.) when a transaction affecting that benefice or parish is under discussion, they should declare that interest and leave the room for the duration of the agenda item. If they are related to any of these persons they should declare that interest and, if they judge it substantial, withdraw.
31. Finally, the Commissioners suggest that it is best practice for "Declarations of Interest" to appear as an agenda item at diocesan parsonages/glebe meetings.

Church Commissioners for England

Code of Conduct

**for Commissioners and others who serve as
Members of the Board of Governors and its Committees**

Introduction

The Church Commissioners work on behalf of the Church of England and are an integral part of Her Christian witness to the nation. Living out this witness implies that:

1. Members of the Board of Governors and its Committees ('members') must at all times
 - observe the highest standards of impartiality, integrity and objectivity in relation to the business and management of the Church Commissioners for England; and
 - be accountable to the General Synod and Parliament, and to the Church and public more generally for the activities of the Church Commissioners and for the standards of service it provides.

Standards in Public Life

2. All members must:
 - follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (as annexed);
 - comply with this Code of Conduct, and ensure that they understand their duties, rights and responsibilities, and that they are familiar with the function and role of the Board of Governors and/or of any of its Committees on which they serve;
 - not misuse information gained in the course of their service to the Church and public for personal gain, nor seek to use the opportunity of such service to promote their private interests or those of connected persons, bodies or other groups or organisations to which they belong.

Role of Members

3. Members have collective responsibility for the activities and decisions of the Board of Governors and/or the Committees on which they serve. They must engage fully in collective consideration of the issues, taking account of the full range of factors, including the statutory and other powers under which they operate and, in the case of Committees, any guidance issued by the Board of Governors. They must abide by the decisions reached.
4. Members will receive much information that has not yet been made public and is still confidential for proper reasons (e.g. matters awaiting final decision by the Board or a

committee). Some members will receive information that must always remain confidential for proper reasons (e.g. commercial terms). Members must not breach such confidences.

Handling Conflicts of Interest

5. The purpose of these provisions is to avoid any danger of members being influenced, or appearing to be influenced, by their private interests (or the interests of those persons or bodies they are closely connected with) in the exercise of their duties as a member.

Registration of Interests

6. All members should register in the Members' Register of Interests any personal interest which might influence their judgement or which could be perceived (by a reasonable member of the public) to do so.
7. In particular, members should register:
 - a) relevant personal direct and indirect pecuniary interests;
 - b) relevant direct and indirect pecuniary interests of close family members of which members could reasonably be expected to be aware; and
 - c) relevant personal non-pecuniary interests, including those which arise from membership of Church, and other bodies, groups or organisations.

In this paragraph:

“relevant” interest, whether pecuniary or non-pecuniary, and whether direct or indirect, means any such interest which might influence the judgement of a member, or which could be perceived (by a reasonable member of the public) to influence his or her judgement, in the exercise of his or her duties;

“indirect pecuniary interest” means an interest which arises from connection with bodies which have a direct pecuniary interest; and

“close family members” include spouses, civil partners, parents, children (adult and minor), brothers, sisters and the civil partners of any of these.

8. The Members' Register of Interests should be kept up-to-date and be open to public inspection (and such availability be publicised at least annually).

Oral declaration of interests

9. An oral declaration of a relevant interest should be made at any meeting of the Board of Governors or of its Committees (and notwithstanding its inclusion in the Members' Register of Interests) if it relates specifically to a particular issue under consideration and should be recorded in the minutes of the meeting.

Withdrawal from meetings

10. If the outcome of any discussion at a meeting of the Board of Governors or of any of its Committees could have an effect on any relevant pecuniary interest of a member or person or body connected to a member, or an effect on a non-pecuniary interest that is more than the generality of those affected, that member should not participate in the discussion or determination of the matters that might affect that interest and should withdraw from the meeting.

Lobbying of other members

11. A member should not seek to lobby fellow members about a matter in which he or she (or a connected person or body) has a relevant interest.

Gifts and Hospitality

12. Members must treat with great care any offer or gift, favour or hospitality that is made personally and in connection with their service as a member. Members should only accept gifts of nominal value.
13. Members should only accept hospitality in connection with their service as a member where it is commensurate with the style, presentation and value which it would be appropriate for a public body to provide on a reciprocal basis when acting as host.

Adopted by the Board of Governors on 25 May 2000

The Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands this.

Honesty

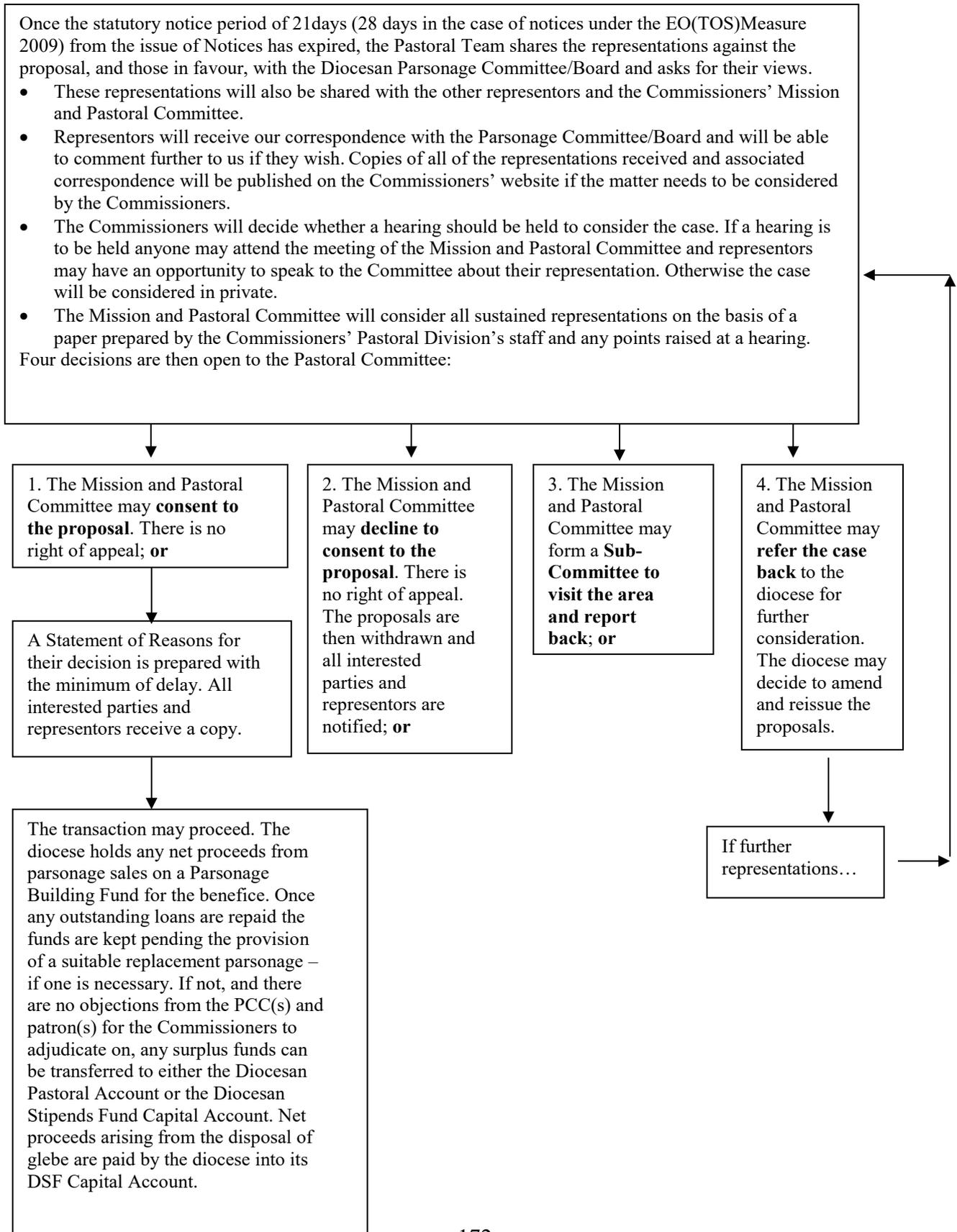
Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Procedures followed by Pastoral Division upon receipt of representation(s) against the sale, purchase, building, division or improvement of parsonages or their grounds, or other ecclesiastical office holders' places of residence

For more information about the procedure please see ccpastoral.org/reps



Section 7

[Deed and Other Enquiries relating to Parsonages and Glebe](#)

Deed and Other Enquiries relating to Parsonages and Glebe

Changes since 2000

1. *Principal amendments in the Church of England (Miscellaneous Provisions) Measure 2000:*
 - The Commissioners are no longer a party to deeds relating to the sale, purchase or exchange of parsonages and parsonage deeds completed after 1 January 2001 should no longer be deposited with them.

What deeds are held?

2. The Commissioners hold copies or otherwise maintain a record of all deeds to which they were a party at the [Church of England Record Centre](#).⁽¹⁾ These include deeds to which Queen Anne's Bounty, the Church Building Commissioners, the Ecclesiastical Commissioners and the Church Commissioners were party, together with other deeds (mainly pre-purchase deeds) to which none of them were party. Deeds resulting from benefice property transactions are for the most part recorded in date order on individual benefice record cards. These include deeds for:
 - (i) parsonage houses;
 - (ii) glebe acquired and disposed of before the Endowments and Glebe Measure took effect on 1 April 1978 (when glebe was transferred from incumbents to Diocesan Boards of Finance and the Commissioners were no longer a party to the deeds); and
 - (iii) church buildings and churchyards (and church halls in some cases where the site has an ecclesiastical source).
3. An annotated copy of a typical benefice record card is annexed to this note. Three types of deed appear on the card:
 - (i) **CB Papers:** these are numbered bundles of papers relating to land acquired by the Church Building Commissioners and, later, by the Ecclesiastical Commissioners. They usually include copy conveyances and may relate to parsonage and glebe sites, as well as church sites. Often a single large site was acquired for a benefice and later divided between church, churchyard, parsonage and glebe.
 - (ii) **CD Numbers:** these relate to hand-written copy deeds relating to corporate and benefice property which were placed in bound volumes in numerical order by the Ecclesiastical Commissioners in the nineteenth and early twentieth centuries. The benefice deeds are mostly copies of conveyances, the drafts of which are among the CB papers or copies of conveyances for sales of glebe.
 - (iii) **Numbered deeds:** these refer to actual deeds or copies of deeds which are kept individually. All recent deeds are kept this way. In recent decades, other

documents such as Orders in Council and Pastoral Orders have also been included in this series. Work is currently in hand to put all the information on this material onto a computer database. All numbered documents from about 1970 to date are now recorded on this system.

Deed enquiries

4. All enquiries (including property boundary enquiries) about the ownership of parsonages or glebe (before 1 April 1978) should be addressed to the Record Centre in the first instance if local researches have not clarified the matter in hand. Enquiries may centre on land certificates, conveyances, transfers, deeds of exchange and deeds of grant and the transactions to which they relate such as sales, purchases, free gifts, easements and wayleaves. Copies of relevant benefice record cards can be obtained from the Record Centre and the deeds themselves may be loaned to diocesan officials on request and are supplied automatically in cases of parsonages sold under the Parsonages Measures or transferred to Diocesan Boards of Finance under the Mission and Pastoral Measure 2011. Copies of whole deeds, excerpts and plans are also supplied, and attention is usually drawn to relevant clauses, plans and plan markings. It is the policy of the Record Centre to respond to requests from dioceses and other church bodies for information from the Commissioners' records within five days of receipt.
5. The Record Centre will also supply information to diocesan auditors about deeds to parsonages and glebe. There is a charge for this service, details of which can be obtained on request.

Other information held

6. Files

General papers retained by the Commissioners concerning parsonages and glebe transactions since 2000 are stored on the 'NB' range of files. Papers about representation cases date back to 1995. Some other information about parsonages and glebe before 1948 will be found on the 'EC' and 'QAB' ranges. Please note that these files are not made available on loan (some are still in use) but the Record Centre will examine them on request and provide photocopies where possible:

- (i) **'NB' files:** this series was created for each benefice in 1948 and include copies of the benefice returns of 1832, 1887 and 1921, which may contain basic information about parsonage and glebe holdings, as well as copies of all Pastoral Schemes affecting the parishes. As indicated in the introduction to this section some detailed papers on recent parsonage and glebe transactions are held on these files.
- (ii) **'EC' files:** Ecclesiastical Commissioners' files relating to such matters as glebe, parsonages, churches, new ecclesiastical districts before 1948 and the augmentation of benefice income. Files are catalogued by a 5-number sequence which may have been recorded on the benefice record card, if any deeds were completed. It can otherwise be found from other file cards held at the Record Centre.

- (iii) **‘QAB’ files:** these former Queen Anne’s Bounty files relate to parsonages and glebe. The most common are **‘K’** bundles which contain information about the purchase of houses or sites by QAB. A few **‘E’** files remain relating to parsonages and often contain detailed drawings, but the series is incomplete as some files have been destroyed and others have been transferred to diocesan record offices.
7. The following file series may provide more general information concerning dioceses’ management of parsonages and glebe:
- (i) **‘BP232/Diocesan Number’:** these files (one per diocese) contain papers relating to the Repair of Benefice Buildings Measure 1972 and copies of dioceses’ schemes governing the membership, constitution and function of Diocesan Parsonages Boards. Copies of all diocesan schemes are kept on file P/HOU/25.
 - (ii) **‘BP389/Diocesan Number’:** these files (one per diocese) contain papers relating to the Endowments and Glebe Measure 1976 and copies of dioceses’ Glebe Management Schemes. Copies of all diocesan schemes are kept on file P/HOU/28.

Glebe Terriers

8. When glebe was transferred from incumbents to Diocesan Boards of Finance in 1978 the dioceses provided the Commissioners with a list of their glebe holdings on the transfer date. While this list is not conclusive proof that an area of land is or is not glebe, it may still be a useful tool in cases of uncertainty. The Glebe Terriers are deposited in the CERC. Earlier glebe terriers, sometimes from the sixteenth century, are to be found among diocesan archives and parochial records at diocesan record offices.

Depositing parsonages deeds

9. The Parsonages Measures no longer require the Commissioners to be a party to deeds relating to parsonage purchases, exchanges or sales and such deeds should no longer be deposited with them. However, the Commissioners will still be a party to deeds of release or variation of covenants in Parsonages Measures transactions where they were a party to the original deed and/or there is a separate covenant with the Commissioners.

New Parishes Measure transactions

10. Copies of deeds relating to intra-church transfers under the New Parishes Measure 1943, where land was acquired or disposed of via the Commissioners prior to 1 September 2010, are also held in the Record Centre.

Notes

Section 7 Deed Enquiries

⁽¹⁾ The Church of England Record Centre
 15 Galleywall Road
 South Bermondsey
 London, SE16 3PB

Tel: 020 7898 1030

Fax: 020 7394 7018

Email for enquiries: archivist@churchofengland.org

Example of a Benefice Record Card

BROUGHTON ASTLEY AND CROFT WITH STONEY STANTON			DIO: LEICESTER	SIDE 1	19/33B
	C.B.12728		Add to endowment	S.Stanton	84913
	C.B.13594		Add burial grnd	Croft	86881
	C.B.13833		Add burial grnd	S.Stanton	90056
	C.D.36865		J W Bruce	Croft	79878
	C.D.38509		Mrs H C Deacon	Croft	79878
	C.D.40283		E.E. Benford	Broughton Astley	58927
	C.D.43854		H.S.Pochin	Croft	79878
4 Mar 1920	335010	Conveyance	Sale 4126sq.yds. in psh	Croft	79878
6 Oct 1932	517193	Conveyance	Purchase of cottage & $\frac{1}{2}$ a. as add		
			to PH gdn	Broughton Astley	K10322
31 Dec 1932	380094	Conveyance	Sale 2a.	Broughton Astley	58927
10 May 1933	381216	Conveyance	Sale 423sq.yds. in psh	Croft	79878
28 Nov 1941	414891	Conveyance	Purchase 68.027a. in Hamcote psh		
	(414869/91)			Croft	76869
29 May 1942	416462	Dupl Conveyance	Sale 1670sq.yds. in psh	S.Stanton	70613
14 Jan 1952	466745	Dupl Conveyance	Sale 2.784a. Sappcote	S.Stanton	PG632
5 Jun 1956	519705	Conveyance	Sale glebe farm & 127.553a.	S.Stanton	PG632
27 Aug 1958	548101	Copy Conveyance Sal	Sale P.H.	Broughton Astley	P5268
5 Oct 1962	579999	Dupl Conveyance	Sale 39sq.yds Soar Bridge	Croft	G19/49
13 Jul 1964	587858	Dupl Conveyance	Sale of psg & .73a.	S.Stanton	P19/202
26 Mar 1968	599379	Dupl Conveyance	Sale OS 1(pts 5-7) 8-15. 85.8885a.		
			Glene Farm Stoney Stanton		G19/202

* A Duplicate Conveyance is a legal deed in its own right, a Copy Conveyance is not.

Section 8

New Parishes Measure (As Revised)

- 8.1 [New Parishes Measure](#)
- 8.2 [Application Form H/NPM/ACQ \(NPM and Parsonages Act Acquisition\)](#)
- 8.3 [Application Form H/NPM/DISP \(NPM Disposal\)](#)

New Parishes Measure 1943 (as revised)

Effect of the Church of England (Miscellaneous Provisions) Measure 2010 on:

(i) acquisitions: the diocesan board of finance concerned is now be the acquiring body under the Measure (i.e. no longer the Commissioners). The Commissioners' consent will only be required where the transaction is with a connected person and /or where a written report on the proposed transaction from a qualified surveyor acting exclusively for the person or body purchasing the subject buildings or land has not been obtained or considered to state that the terms on which the transaction are proposed are the best that can reasonably be obtained for that person or body;

(ii) disposals: again the Commissioners' consent is not required unless the transaction is with a connected person and/or where a written report on the proposed transaction from a qualified surveyor acting exclusively for the person or body disposing of the subject buildings or land has not been obtained or considered to state that the terms on which the transaction are proposed are the best that can reasonably be obtained for that person or body.

Please note that the New Parishes Measure route must never be used to bypass the rights of any of the interested parties that would normally need to consent to a transaction or otherwise have a right of representation in a case if it could otherwise be carried out under the primary legislation.

Introduction

1. The New Parishes Measure 1943 (NPM) was passed by the former Church Assembly to consolidate and update earlier legislation dealing with the formation of new parishes and property acquired for church purposes. The provisions regarding the creation of new parishes have been repealed and are now to be found in the Mission and Pastoral Measure 2011. The "property" provisions of the Measure have, however, been retained and the details have been amended on several occasions over the years.
2. The NPM is normally used to acquire land for parochial purposes (e.g. for enlarging a churchyard) or dispose of such land when it is no longer required for those purposes. It can also change the ownership, or vesting, of land which is already in 'Church ownership' (i.e. churchyard, parsonage, glebe, parish and DBF corporate property) without the need for money to change hands if all the parties involved agree. For the purposes of the NPM, the word "land" includes an easement (such as a right of way or drainage).

3. The incumbent may be a party to any transfer where the benefice acquires or disposes of land under the NPM. The PCC will also need to be a party in some cases, e.g. where it is paying the purchase price in the case of an acquisition of land or where the vendor or donor requires it to enter into covenants (to erect or maintain boundary fences for instance). Incumbents and PCCs will need to appoint their own solicitors to advise them and they will need to pay their own legal costs.
4. This note deals primarily with the procedures involved when the NPM is used for the acquisition and disposal of parsonage and glebe land. **However, it is the Commissioners' view that the NPM should never be used to by-pass the rights of any of the interested parties that would normally need to consent to a transaction or otherwise have a right of representation in a case if it could otherwise be carried out under the primary legislation, i.e. the Parsonages Measures 1938 & 1947, the Endowments and Glebe Measure 1976 and the Ecclesiastical Offices (Terms of Service) Measure 2009.** It is for this reason that the Commissioners require written confirmation from the diocese that the interested parties under the relevant primary legislation are content for a proposal to proceed under the NPM where a matter is referred to them for their approval. Where such agreement cannot be obtained and the diocese still wishes to proceed with the transaction, notice should be served by the relevant Diocesan Board/Committee on the interested parties under the primary Measure and any adverse representations that may be received with respect to the proposal would be considered by the Commissioners in accordance with their duties under the Parsonages Measures/Terms of Service Measure. Please bear in mind however that a transaction under the Parsonages Measures must be for a monetary consideration, if only for a nominal sum of £1.

ACQUISITION

5. Under Section 13 of the NPM the Diocesan Board/Committee can acquire (by gift or purchase) land or property for parsonage purposes. Local funding for a purchase (e.g. the Diocesan Pastoral Account) would be required. Although the DBF acts as the acquiring agency, on completion of the acquisition the property automatically vests in the incumbent of the benefice by virtue of section 16 of the Measure. Section 14 allows charity trustees to give land (or sell it at less than full value) for parsonage purposes without the consent of the Charity Commissioners, unless the trustees do not act for an exempt charity under the Charities Act 2011 (in which case the Charity Commissioners' consent is needed⁽¹⁾).
6. See also Part B of Section 1.2 'Parsonage Acquisition' for further information concerning the use of the New Parishes Measure when acquiring the following categories of land for parsonage purposes:
 - ◆ Diocesan Board of Finance corporate property;
 - ◆ PCC property (held in trust by the DBF);
 - ◆ unconsecrated church site;

*Section 8.2 New Parishes Measure & Parsonages Act Acquisition
Application Form H/NPM/ACQ*

- ◆ glebe (under Section 23(1)(d) of the Endowments and Glebe Measure). – matter still needs to be referred to the Commissioners in all instances.

Application for the Commissioners' consent – *only required when the proposed transaction is with a connected person and/or the 'report' requirements have not been met.*

7. Where an acquisition under the NPM is proposed **requiring the Commissioners' approval**, the diocese should complete and submit an application form (FORM H/NPM/ACQ) and provide full details of the proposal including:
 - (i) the terms agreed for the transaction, e.g. the consideration (if any); and any covenants to be imposed and/or rights to be reserved in favour of retained land;
 - (ii) confirmation that the incumbent (or bishop in a vacancy), patron(s) and PCC(s) of the benefice are content with the proposal. Where a team ministry has been established for the benefice, confirmation should also be given that each member of the team is content;
 - (iii) a plan of the land concerned (prepared in accordance with the Land Registry requirements – see Annex H) and, where necessary, for registering title with the Land Registry. It should show the boundaries in relation to the adjoining land, and should be based on (or accompanied by a second plan based on) an Ordnance Survey map on a scale 1:2500 or larger;
 - (iv) the full name and address of the vendor/donor and the name, address, DX number (if relevant), telephone number and reference of his or her solicitor;
 - (v) the full name and address of the incumbent (if the benefice is full) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the benefice;
 - (vi) confirmation that the benefice has agreed to any covenants required by the donor or vendor, e.g. the construction of boundary fences;
 - (vii) confirmation (where necessary) that planning permission authorising change of use of the land and, if necessary, the erection of any new buildings has been obtained.

DISPOSAL

Benefice solicitors should refer to Annex I for further details about the procedure.

Parsonage land

8. Section 14 of the New Parishes Measure and Section 92(2) of the Mission and Pastoral Measure 2011 empowers an incumbent (or the Bishop during a vacancy) to convey parsonage land (with or without a consideration) for the following purposes as defined by Section 13 of the New Parishes Measure, subject to the consent of the Diocesan Parsonages Board:

*Section 8.2 New Parishes Measure & Parsonages Act Acquisition
Application Form H/NPM/ACQ*

- (i) as a site for a church, churchyard or burial ground *or* enlarging the site of an existing church, churchyard or burial ground;
- (ii) to provide access to or improve the amenities of a church, churchyard or burial ground;
- (iii) as a site for a place of worship, church hall or to improve the amenities of the same;
- (iv) provide vehicle parking space in connection with any of the above uses.

In the case of (i) and (ii) above the land vests in the incumbent; in the case of (iii) the land vests in the Diocesan Board of Finance in trust for the Parochial Church Council. In the case of (iv) the property can be vested in either. Any sale proceeds must be credited to a Parsonage Building Fund now held on the benefice's behalf by the Board. In order to transfer these funds to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (or a combination of the two) the diocese must serve notice on the patron(s) and PCC(s) in the usual way.

Application for the Commissioners' consent – *only required where the proposed transaction is with a connected person and/or the 'report' requirements have not been met or where glebe land is being transferred to them under s.23 of the Endowments and Glebe Measure*

9. In the case of a disposal of parsonage land under 8. above **requiring the Commissioners' approval** the diocese should complete and submit an application form (FORM H/NPM/DISP) and provide full details of the proposal including:
- (i) the terms agreed for the transaction, e.g. the consideration (if any); and any covenants to be imposed and/or rights to be reserved in favour of retained land;
 - (ii) confirmation that the incumbent (or bishop in a vacancy), patron(s) and PCC(s) of the benefice are content with the proposal. Where a team ministry has been established for the benefice, confirmation should also be given that each member of the team is content;
 - (iii) the full name and address of the transferee (where this is not the incumbent) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the transferee;
 - (iv) the full name and address of the incumbent (if the benefice is full) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the benefice;
 - (v) in cases where the land in question was acquired by way of gift or for a nominal consideration and is to be disposed of for no consideration, please provide evidence that the original donor of the land (or his/her successors where practicable) has consented to the disposal.

Glebe

10. Under s.23 of the Endowments and Glebe Measure 1976 a Diocesan Board of Finance can appropriate glebe land to itself (with or without consideration) for the purposes of s.13 of the New Parishes Measure.
11. Any sale proceeds are paid into the DSF Capital Account.

Notes

- I. ⁽¹⁾Generally speaking the disposal of “church” land is regulated by one of two regimes, either that overseen by the Church Commissioners where certain conditions are triggered in relation to benefice or glebe property or that overseen by the Charity Commissioners in relation to corporate and trust property. When disposing of diocesan corporate or trust property DBFs are not exempt ordinarily from following the procedure laid down in Section 119 of the Charities Act 2011 which in broad terms means that they need the Charity Commissioners’ consent if any transfer is less than market value, or if it is to a connected person as defined in the Act or if professional advice is not being followed. PCCs are similarly not exempt when disposing of parochial property. However, the requirements of Section 119 do not have to be met in respect of any disposition for which general or special authority is expressly given by any statutory provision contained in or having effect under an Act of Parliament or by any legally established scheme. In this respect Section 92 of the Mission and Pastoral Measure 2011 (insofar as it relates to the New Parishes Measure 1943) and Section 4 of the Parsonages Act 1865 would normally provide sufficient statutory authority for a property vested in a diocesan authority on behalf of a PCC to be transferred to an incumbent as a parsonage house without observing the usual requirements of Section 119.
- II. The New Parishes Measure defines a “qualified surveyor” as a person who is a member of the Royal Institution of Chartered Surveyors reasonably believed by the person or body in whom or which the buildings or land are or is to vest to have ability in, and experience of, the valuation of property of the particular kind, and in the particular area, concerned.

Church Commissioners

New Parishes Measure 1943 Parsonages Act 1865

Application for the Commissioners' Consent to the Acquisition of Land or Property for Parsonage Purposes – only required under the NPM where the proposed transaction is with a connected person and/or the 'report' requirements have not been met

New Parishes Measure

1. The New Parishes Measure 1943 (NPM) was passed by the former Church Assembly to consolidate and update earlier legislation dealing with the formation of new parishes and property acquired for church purposes. The provisions regarding the creation of new parishes have been repealed and are now to be found in the Mission and Pastoral Measure 2011. The “property” provisions of the Measure have, however, been retained and the details have been amended on several occasions over the years.
2. The NPM is normally used to acquire land for parochial purposes (e.g. for enlarging a churchyard) or dispose of such land when it is no longer required for those purposes. It can also change the ownership, or vesting, of land which is already in 'Church ownership' (i.e. churchyard, parsonage, glebe, parish and DBF corporate property) without the need for money to change hands if all the parties involved agree. For the purposes of the NPM, the word “land” includes an easement (such as a right of way or drainage) over neighbouring land for the benefit of a church, churchyard, burial ground or parsonage house. However, easements for the benefit of a parsonage house would normally be acquired under the Church Property (Miscellaneous Provisions) Measure 1960 and not under the NPM, unless rights of access over consecrated churchyard were needed, in which case a faculty would be required.
3. The incumbent may be a party to any transfer where the benefice acquires or disposes of land under the NPM. The PCC will also need to be a party in some cases, e.g. where it is paying the purchase price in the case of an acquisition of land or where the vendor or donor requires it to enter into covenants (to erect or maintain boundary fences for instance). Incumbents and PCCs will need to appoint their own solicitors to advise them and they will need to pay their own legal costs.
4. Under Section 13 of the NPM the Diocesan Board/Committee can acquire (by gift or purchase) land or property for parsonage purposes. Local funding for a purchase (e.g. the Diocesan Pastoral Account) would be required. Although the DBF acts as the acquiring agency, on completion of the acquisition the property automatically vests in the incumbent of the benefice by virtue of section 16 of the Measure. Section 14 allows charity trustees to give land (or sell it at less than full value) for parsonage purposes without the consent of the Charity Commissioners, unless the trustees do not act for an exempt charity under the Charities Act 2011 (in which case the Charity Commissioners' consent is needed). Dioceses

*Section 8.2 New Parishes Measure & Parsonages Act Acquisition
Application Form H/NPM/ACQ*

are exempt in this respect by virtue of Section 92 of the Mission and Pastoral Measure 2011.

5. Upon completion the DBF's solicitor deposits the deeds in the diocesan registry, sends a copy of the transfer in the Church of England Record Centre, 15 Galleywall Road, South Bermondsey, London SE16 3PB and supplying one copy to the incumbent for the parish records.

Parsonages Act 1865

6. Under Section 4 public and charitable bodies, as well as private individuals, can sell or give land or property to the Commissioners for parsonage purposes. Local funding for the acquisition (e.g. the Diocesan Pastoral Account) would be required. Unless sold for its market value, the property must not exceed one acre. The Charity Commissioners have agreed that the restrictions on dealings with land by charity trustees (contained in Section 119 of the Charities Act 2011) do not apply to transactions under this Act. This is significant because it means that charities do not need to obtain the full value if disposing of land or property for parsonage purposes.
7. Where a benefice is full, the property transfers direct under this Act to the incumbent. Where a benefice is vacant, the property transfers direct to the Commissioners, but a special clause is added to the deed stating that the property shall be "annexed to the benefice" (i.e. it vests in the incumbent) in accordance with the power contained in Section 21 of the Queen Anne's Bounty Act 1714.

Application for the Commissioners' consent – *only required where the proposed transaction is with a connected person and/or the 'report' requirements have not been met*

8. **It is the Commissioners' view that the NPM and Parsonages Act 1865 should never be used to by-pass the rights of any of the interested parties that would normally need to consent to a transaction or otherwise have a right of representation in a case if it could otherwise be carried out under the primary legislation, i.e. the Parsonages Measures 1938 & 1947 and the Endowments and Glebe Measure 1976.** It is for this reason that the Commissioners require written confirmation from the diocese that the interested parties under the relevant primary legislation are content for a proposal to proceed under the NPM or Parsonages Act 1865 where a matter is referred to them for their approval. Where such agreement cannot be obtained and the diocese still wishes to proceed with the transaction, notice should be served by the relevant Diocesan Board/Committee on the interested parties under the primary Measure and any adverse representations that may be received with respect to the proposal would be considered by the Commissioners in accordance with their duties under the Parsonages Measures. Please bear in mind however that an acquisition under the Parsonages Measures must be for a monetary consideration, if only for a nominal sum of £1.

Section 8.2 New Parishes Measure & Parsonages Act Acquisition
Application Form H/NPM/ACQ

To enable the Commissioners to consider any proposal for the purchase of land or buildings under the NPM or Parsonages Act 1865, they require certain information and confirmations which are set out in the following annex.

N.B. See Form H/NPM/DISP for the disposal of parsonage land and glebe under the New Parishes Measure.

Church House, Great Smith Street, London, SW1P 3AZ

Tel: 020 7898 1000

Fax: 020 7898 1873

Email: pastoral@churchofengland.org

June 2018

Where an acquisition under the New Parishes Measure or the Parsonages Act 1865 is proposed where the Commissioners’ consent is required, the diocese should provide full details of the proposal including:

	Information and confirmations required	Checklist
1.	Please indicate whether the proposed acquisition is to take place under (a) the New Parishes Measure or (b) the Parsonages Act 1865.	(a) NPM <input type="checkbox"/> (b) PA <input type="checkbox"/>
2.	The address of the property including postcode and a good quality plan of the land concerned suitable for use in the deed of transfer or grant of easement based on (or accompanied by a second plan based on) an Ordnance Survey map on scale 1:1250 or larger. It should show the boundaries in relation to the adjoining land and give the hectarage or route of wayleave/easement . Architectural and/or engineering drawings are generally inappropriate for conveyancing purposes, unless supplemented by a proper location plan.	
3.	Confirmation that the incumbent (or bishop in a vacancy), patron(s) and PCC(s) of the benefice are content with the proposal. Where a team ministry has been established for the benefice, confirmation should also be given that each member of the team is content.	
4.	Confirmation that the benefice has agreed to any covenants required by the vendor or donor, e.g. the construction of boundary fencing.	
5.	The full name and address of the vendor/donor, and the name, address, DX number (if relevant), telephone number and reference of his solicitor.	
6.	The full name and address of the incumbent (if the benefice is full) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the benefice.	
7.	Full details of the terms provisionally agreed for the transaction, e.g. the price, any covenants to be imposed and/or rights to be reserved in favour of retained land.	
8.	Confirmation (where necessary) that planning permission authorising change of use of the land and, if necessary, the erection of any new buildings has been obtained.	

(Signed)

Date:

Authorised Signatory

Church Commissioners

New Parishes Measure 1943

Application for the Commissioners' Consent to the Disposal of Parsonage Land– *only required when the proposed transaction is with a connected person and/or the 'report' requirements have not been met*

Background

1. The New Parishes Measure 1943 (NPM) was passed by the former Church Assembly to consolidate and update earlier legislation dealing with the formation of new parishes and property acquired for church purposes. The provisions regarding the creation of new parishes have been repealed and are now to be found in the Mission and Pastoral Measure 2011. The “property” provisions of the Measure have, however, been retained and the details have been amended on several occasions over the years.
2. The NPM is normally used to acquire land for parochial purposes (e.g. for enlarging a churchyard) or dispose of such land when it is no longer required for those purposes. It can also change the ownership, or vesting, of land which is already in 'Church ownership' (i.e. churchyard, parsonage, glebe, parish and DBF corporate property) without the need for money to change hands if all the parties involved agree. For the purposes of the NPM, the word “land” includes an easement (such as a right of way or drainage). However, easements for the benefit of a parsonage house would normally be acquired under the Church Property (Miscellaneous Provisions) Measure 1960 and not under the NPM unless the rights of access over consecrated churchyard were needed, in which case a faculty would be required.
3. Unless the benefice is vacant the incumbent will normally be a party to any transfer where the benefice acquires or disposes of land under the NPM. The PCC will also need to be a party in some cases, e.g. where it is paying the purchase price in the case of an acquisition of land or where the vendor or donor requires it to enter into covenants (to erect or maintain boundary fences for instance). Incumbents and PCCs will need to appoint solicitors to advise them.
4. **It is the Commissioners' view that the NPM should never be used to by-pass the rights of any of the interested parties that would normally need to consent to a transaction or otherwise have a right of representation in a case if it could otherwise be carried out under the primary legislation, i.e. the Parsonages Measures 1938 & 1947 the Endowments and Glebe Measure 1976 or the Ecclesiastical Offices (Terms of Service) Measure 2009.** It is for this reason that the Commissioners require written confirmation from the diocese that the interested parties under the relevant primary legislation are content for a proposal to proceed under the NPM where a matter is referred to them for their approval. Where such agreement cannot be obtained and the diocese still wishes to proceed with the transaction, notice should be served by the relevant Diocesan Board/Committee

on the interested parties under the primary Measure and any adverse representations that may be received with respect to the proposal would be considered by the Commissioners in accordance with their duties under the Parsonages Measures/Endowments and Glebe Measure. Please bear in mind however that a disposal under the Parsonages Measures must be for a monetary consideration, if only for a nominal sum of £1.

Disposal

Benefice solicitors should refer to Annex I for further details about the procedure.

Parsonage land

5. Section 14 of the New Parishes Measure and Section 92(2) of the Mission and Pastoral Measure 2011 empowers an incumbent (or the Bishop during a vacancy) to convey parsonage land (with or without a consideration) for the following purposes as defined by Section 13 of the New Parishes Measure, subject to the consent of the Diocesan Parsonages Board:
 - (i) as a site for a church, churchyard or burial ground *or* enlarging the site of an existing church, churchyard or burial ground;
 - (ii) to provide access to or improve the amenities of a church, churchyard or burial ground;
 - (iii) as a site for a place of worship, church hall or to improve the amenities of the same;
 - (iv) provide vehicle parking space in connection with any of the above uses.

6. In the case of (i) and (ii) above the land vests in the incumbent; in the case of (iii) the land vests in the Diocesan Board of Finance in trust for the Parochial Church Council. In the case of (iv) the property can be vested in either and depends on the wording of the transfer deed. The general rule is that the property should vest in the same owners as that of the property to be served by the parking space. Any sale proceeds should be forwarded to the DBF (net of all legal and other costs arising from the disposal) to be credited to a Parsonage Building Fund now held on the benefice's behalf by the Board for the benefice concerned. In order to credit to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (or a combination of the two) the diocese must serve notice on the patron(s) and PCC(s) in the usual way. This involves writing to the patron(s) and PCC(s) in accordance with the procedure laid down in Section 1.4, A11.

Glebe

7. Under s.23 of the Endowments and Glebe Measure 1976 a Diocesan Board of Finance can grant glebe (with or without a consideration) to the Commissioners for any of the purposes of Section 13 of the New Parishes Measure, but in order for the land to vest in the appropriate party it is necessary for the Commissioners to make a back to back grant of the land to the DBF under s. 14 of the New Parishes Measure. The draft Church of England (Miscellaneous Provisions) Measure which is currently making its way through the Synodical process includes a provision amending s.23 to allow the DBF to appropriate glebe land to itself for the purposes of s.13 of the New Parishes Measure Without the need for an intermediate grant to the Commissioners (this is to correct a drafting oversight in the 2010 Miscellaneous Provisions Measure).

To enable the Commissioners to consider any proposal for the disposal of parsonage or glebe land under the NPM, they require certain information and confirmations which are set out in the following annexes.

N.B. See Form H/NPM/ACQ for the acquisition of land or property for parsonage purposes under the New Parishes Measure or Parsonages Act 1865.

Church House, Great Smith Street, London, SW1P 3AZ
Tel: 020 7898 1000
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September 2010

Annex A: Parsonage

Where a disposal of parsonage land under the New Parishes Measure is proposed where the Commissioners' consent is required the diocese should provide full details of the proposal including:

	Information and confirmations required	<u>Checklist</u>
1.	The terms agreed for the transaction, e.g. the consideration (if any); and any covenants to be imposed and/or rights to be reserved in favour of retained land.	
2.	Confirmation that the incumbent (or bishop in a vacancy), patron(s) and PCC(s) of the benefice are content with the proposal. Where a team ministry has been established for the benefice, confirmation should also be given that each member of the team is content.	
3.	Confirmation (where relevant) that the PCC or some other local body has agreed to meet any costs that may be incurred if there are insufficient or no sale proceeds for this purpose.	
4.	a transfer including a plan of the land concerned (prepared in accordance with the Land Registry requirements) which should show the boundaries in relation to the adjoining land, and should be based on (or accompanied by a second plan based on) an Ordnance Survey map on a scale 1:2500 or larger.	
5.	The full name and address of the transferee (where this is not the incumbent) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the transferee.	
6.	The full name and address of the incumbent (if the benefice is full) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the benefice.	
7.	In cases where the land in question was acquired by way of gift or for a nominal consideration and is to be disposed of for no consideration, please provide evidence that the original donor of the land (or his/her successors where practicable) has consented to the disposal.	

(Signed)

Date:

Authorised Signatory

Annex B: Glebe

Where a grant of glebe under Section 23(1) of the **Endowments and Glebe Measure is proposed the diocese should provide full details of the proposal including:**

	Information and confirmations required	<u>Checklist</u>
1.	The terms agreed for the transaction, e.g. the consideration (if any); and any covenants to be imposed and/or rights to be reserved in favour of retained land.	
2.	Where glebe is to be transferred for parsonage purposes, confirmation that the incumbent (or bishop in a vacancy), patron(s) and PCC(s) of the benefice are content with the proposal. Where a team ministry has been established for the benefice, confirmation should also be given that any team member living in the property to be transferred has consented to the transaction and that all other team members have been consulted.	
3.	Where glebe is to be transferred for any other “church” purpose, confirmation that the incumbent (or bishop in a vacancy) and PCC (where relevant) are content with the proposal. Where there is a team ministry, it should also be established that the team vicars and any other team member living in the subject property are content.	
4.	a transfer including a plan of the land concerned (prepared in accordance with the Land Registry requirements) which should show the boundaries in relation to the adjoining land, and should be based on (or accompanied by a second plan based on) an Ordnance Survey map on a scale 1:2500 or larger.	
5.	The name, address, DX number (if relevant), telephone number and reference of the solicitor acting for the DBF as owners of the glebe.	
6.	The full name and address of the incumbent (if the benefice is full) and the name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the benefice.	

(Signed)

Date:

Authorised Signatory

Section 9

Value Linked Loans

- 9.1 [Value Linked Loan Scheme](#)
- 9.2 [Application Form VLL3 \(Housing Assistance in Clergy Marriage Breakdown\)](#)
- 9.3 [Notes VLL4 \(Terms & Conditions of Clergy Marriage Breakdown Scheme\)](#)
- 9.4 [Notes VLL5 \(Summary of Clergy Marriage Breakdown Scheme\)](#)

Value Linked Loan Scheme

The basic principles

1. The Value Linked Loan Scheme is a means of assisting with the long-term provision of housing for clergy spouses whose marriages have broken down (with effect from 1 January 2009 the Commissioners no longer give loans for housing assistance for assistant clergy). The Scheme helps to provide accommodation normally held by a DBF as part of its corporate portfolio and such property cannot therefore be in benefice or glebe ownership. Funds for the Scheme are limited and loans are made solely under the Commissioners' general investment powers and form part of their investment portfolio. The term "value-linked" means a sharing of the value of the property for which the loan is advanced. In other words, the repayment of the loan is made in equivalent proportion to the original amounts advanced. For example, a house is bought for £100,000. The Commissioners provide a Value Linked Loan (VLL) of £50,000 (50%). It is sold for £150,000 net. The Commissioners' 50% share has increased to £75,000, and that is the sum repaid. Interest is currently charged on VLLs at an initial rate of 4%. These starting rates are determined by the Commissioners and varied from time to time at their discretion but the interest on loans once made to dioceses is increased each year in line with increases in the Retail Price Index. The Scheme is not suitable for short term housing requirements which are best met via the rental market or other temporary arrangements.

Notes, terms and conditions of the Scheme

2. Full details of the Scheme (including specimen application forms) are set out in the attached notes.

Supplementary guidelines to the Scheme

3. (i) Unforced losses

The Scheme is not intended to be used to buy and sell houses which had already been purchased for a particular deserted clergy spouse with or without the assistance of a VLL. If, exceptionally, the Commissioners were to approve a new loan in a situation where they had already advanced a VLL and a loss would be incurred on the sale of the existing house (i.e. an "unforced" loss), then their approval would be conditional on:

- (a) their loss being made good from other sources on sale; or
- (b) their loss being added to their equity in the replacement property; and/or
- (c) the new loan being repaid in full (as a minimum) when the replacement property was no longer required for its purpose.

In addition, the Commissioners would not expect to bear their proportion of the costs of the sale (i.e. agents' or solicitors' fees) when the first property was sold. They would however bear their share of any such costs when the next property was sold.

(ii) Letting between appointments (**relevant on existing Assistant Clergy loans only**)

When an occupant vacates a house purchased with the assistance of a VLL, the Commissioners are generally willing to allow the property to be let for a maximum period of one year provided the Bishop can confirm in writing that a new qualifying person under the Scheme will be appointed within that period. The Commissioners would **not** however be prepared to allow a property to be held indefinitely in the vague hope that a successor to the vacant post would be appointed at some indeterminate point in the future. Each case would be considered on its merits and the diocese should contact the Commissioners as soon as there is any proposal to let a property in these circumstances. The Commissioners' consent to any such letting must be obtained in advance as should the arrangements concerning any necessary apportionment and payment of rental income. The Commissioners expect to receive the rental income in proportion to their equity stake in lieu of the usual interest for the duration of the letting **or** the interest on the loan, whichever is the greater.

Clergy Marriage Breakdown

The Commissioners are always willing to consider the merits of individual cases but there is normally a maximum limit of £150,000 on a Commissioners' loan to a diocese in respect of providing assistance for housing in the case of a clergy marriage breakdown. The aim of the VLL Scheme is to assist in the purchase of a suitable property rather than finance it outright and, since the Scheme has always encouraged equity sharing, there are many cases where dioceses or spouses themselves have taken a share in the ownership of the property purchased, even where the purchase price was well within the loan ceiling. It is **not** intended that the Commissioners will automatically take 100% of the equity in each case and dioceses are therefore expected to consider making suitable arrangements for equity to be shared wherever possible. Where the Commissioners are asked to make a loan in **excess** of the normal maximum, this may be justified in exceptional cases provided the diocese has given full consideration to ways of sharing the equity, including the DBF taking a formal view on investing its own funds. There may, for example, be a need to provide a property which is larger than the recommended normal maximum of a three bedroom semi-detached house in order to accommodate a family with several children of different ages and/or sexes.

The Commissioners have, since January 2009, taken a charge on these properties.

Pastoral Division, Church Commissioners, Church House, Great Smith Street, London SW1P 3AZ
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Email: pastoral@churchofengland.org

May 2010

Housing Assistance for Assistant Staff

Notes, Terms and Conditions for Value Linked Loans from the Church Commissioners for Housing Assistant Clergy, Deaconesses and Licensed Lay Workers

The Commissioners no longer give loans for the purposes listed above (w.e.f. 1/1/2009) and these notes relate to the loans previously given and not yet redeemed.

1. Background

These VLLs (formerly Equity Sharing Loans) were introduced in June 1986 in order to offer loans to dioceses on sufficiently attractive terms to enable the flexible deployment of assistant clergy, deaconesses, licensed layworkers and some sector ministers, placing them where they were pastorally required rather than just where local finance (normally from parishes) was available to house them. The scheme was not suitable for short term housing requirements, which were best met via the rental market or other temporary arrangements.

The only basis on which loans were advanced was under the Commissioners' general investment powers. Therefore VLLs had to satisfy both pastoral and investment criteria. The maximum loan was restricted to £50,000.

2. Principal criteria

The following principal criteria applied:

- (i) Loans were intended to help dioceses to provide houses where none had previously been provided (from any source) or to meet deficits in providing improved houses;
- (ii) They could not be used to re-finance existing houses nor to provide bridging finance;
- (iii) Where a house was already provided for a particular eligible post and a replacement was sought, a loan could only cover the net deficit on such a scheme. Even if the existing property was glebe, diocesan corporate or parish owned (where sale proceeds would have gone to the DSF capital account or a diocesan corporate/parish account), the diocese or parish was expected to use those proceeds (or an equivalent amount in the case of proceeds credited to the DSF capital account) to purchase an equity share in the new property with the VLL element covering only the balance.
- (iv) In cases of sale where there is already a VLL and top-up finance in the form of a repayable loan from the Commissioners at Variable Debit Rate (VDR) the net proceeds of disposal must be sent to the Commissioners. The first call on the

proceeds will be to clear/reduce the initial VLL and the remainder (if any) will be put towards clearing/reducing the outstanding VDR loan. Any outstanding VDR will still be repayable

- (v) The diocese took on the financial and administrative responsibility for the management and maintenance of the property and the repayment of the loan and the interest thereon.

3. The basic principles of VLLs

The scheme was funded from the Commissioners' investment capital. Although the house was required for pastoral purposes the Commissioners could only assist if the property was a sound investment.

The description "value linked" means a sharing of the value of the property for which the loan was advanced. In other words, the repayment of the loan is made in equivalent proportion to the original amount advanced. E.g. a house is bought for £100,000. The Commissioners provide a VLL of £50,000 (50%). It is sold for £150,000 net. The Commissioners' 50% share has increased to £75,000, and that is the sum repaid.

At present, and except where a planned sale and replacement of a property will result in an "unforced" loss, the Commissioners will also generally share any loss in value of a property, the loss to be borne proportionately by those with a share in the equity.

It is a condition of the loan that the diocese will maintain the house properly and, on disposal, make every effort to obtain the best possible price, having taken professional advice on the timing and method of marketing. The price achieved is expected to reflect not only any improvements carried out since the purchase, but also a good level of maintenance and repair, which is the primary responsibility of the DBF. If there is any diminution in the value of the property due to a perceived lack of proper maintenance, the Commissioners reserve the right to ask the diocese to make good the loss that they suffer on disposal. Any repairs/works, whether covered by insurance or not, must be carried out without delay. Adequate insurance cover for the building must be effective from the date of purchase and is the responsibility of the DBF. Insurance cover for the contents is a matter for the occupants.

The DBF is responsible to the Commissioners for these matters irrespective of how far they are devolved to PCCs or occupant.

4. Linked to capital values

All loan applications were supported by an independent qualified surveyor's valuation, i.e. the surveyor should not have been an employee of the diocese. This is because the loans are related to the capital values of properties in the ownership of the DBF and in which the Commissioners would have an equity share and neither the Commissioners nor the diocese should be prevented in any way from claiming against the surveyor in the event that a report and valuation should subsequently prove unsatisfactory. There is no fixed term for repayment and the capital is only repayable when the property is sold. Interest is paid at a discounted rate; the initial rate is currently 5% and is adjusted annually during the life of the loan in line with the Retail Price Index.

In the case of ingoing works or improvements, the size of the loan has to be determined by the extent to which those works increase the capital value of the property.

*** Subsequent improvements to properties purchased through the scheme should not be undertaken without the Commissioners' prior consent.**

* NB. The cost of such works will seldom be fully reflected in any consequent increase in the value of the property.

5. Eligibility

- (i) Loans were available to Diocesan Boards of Finance only. The property must be corporate property of the Diocesan Board of Finance or held by the Board in trust for the PCC.
- (ii) The occupant must not be of incumbent status or above. He/she may be an assistant curate, a deaconess, a licensed lay worker or a sector minister (not of incumbent status) and must be engaged full time in diocesan and/or parochial duties.
- (iii) The occupant must be paid wholly or in part through the diocesan stipends fund.

If any of these conditions cease to be fulfilled the Commissioners would ordinarily expect the loan to be repaid at the relevant percentage of the current valuation (even if the house itself is not being sold). They reserve the right however not to insist on this.

6. Application

By the Diocesan Secretary and other authorised officer of the Diocesan Board of Finance to the Commissioners' Pastoral Division, confirming that the Diocesan Board of Finance agrees to abide by the Commissioners' terms and conditions prevailing at the time of the application.

7. Property

Most kinds of well-built and maintained properties were considered, subject to a normal maximum VLL of £50,000.

8. Suitability

The final decision on suitability rested with the Commissioners. This was primarily an investment decision, and the Commissioners retained the right to decline an application if there were doubts about the property. In all cases, PCCs seeking properties for purchase via the scheme must have involved their diocese (usually via the Diocesan Surveyor) in the search for a suitable property as ultimately the property is in the ownership of the DBF which is responsible for fulfilling its loan commitments to the Commissioners.

9. Details of loan (new loans are no longer available)

(i) Capital advanced

Between 10% and 100% of the purchase price or the valuation of the property, whichever was the less. On investment grounds the Commissioners could not lend above valuation. Ingoing works may have qualify for a loan, but only to the extent that they increased the capital value of the property.

(ii) Capital and equity adjustments

Nil. There is no fixed term for repayment, and no capital is repayable until the property is sold or, generally, if it ceases to be occupied on more than a short-term basis by a qualifying person, but repayment may be made at any time. If the loan is repaid without selling the property, the DBF must first obtain an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor along with a RICS valuation from a surveyor from a different firm. The same applies to partial repayments which may be made, but instalments of less than 10% of the value of the property are discouraged, not only on administrative grounds, but also because they are often disadvantageous to the borrower. Partial repayment can include the diocese (or, through them, the parish) purchasing an element or a further element (a minimum of 10% of the open market value of the property with no maximum) of the equity of the property after the DBF has first obtained an independent report as set out in S.119 of the Charities Act prepared by a qualified surveyor along with a RICS valuation from a surveyor from a different firm, subject to the agreement of the Commissioners. The purchase of a share of the equity in this way will be noted via an exchange of letters. It is the DBF's responsibility to assume financial and administrative responsibility for the repayment of the loan to the Commissioners.

The Commissioners should be consulted before a VLL property is put on the market – all planned disposals will require the DBF to first obtain an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor along with a valuation from a local estate agent – the costs for getting the S.119 Report to be split based on the equity stakes held in the property at the point of redemption. [Where the DBF is buying out the Commissioners' interest the DBF will need to obtain an independent S.119 Report prepared by a qualified surveyor together with a RICS valuation from a surveyor from a different firm – the costs for getting the same to be split based on the equity stakes held in the property at the point of redemption.] They reserve the right not to insist on or agree to the sale and vacation of the property and the redemption of the loan or otherwise not to agree to the redemption of the loan (if the property is not being sold), especially in circumstances where the property has been purchased with their help within the last two years. The Commissioners have found that sales of houses purchased in the recent past leave them with a negative return of their VLL portfolio and that is why the scheme is not suitable for short term housing requirements.

VLL properties are subject to the Charities Act and dioceses must therefore obtain reports before sale from an independent qualified surveyor as set out in S.119 of the Charities Act 2011.

In cases where a house is sold at a loss after a short period of ownership, the Commissioners expect some at least of their loss to be made good by the DBF.

This is especially so if a house in a parish is being sold at a loss to be replaced by another house in the same area. In such a case they will expect their loss to be added to their equity in the replacement property or otherwise made good.

Any questions in this respect should be referred to the Commissioners' Pastoral Division.

(iii) Interest payments

Payable by dioceses quarterly in arrears. 5% per annum initially, varied each 1 January thereafter, in line with the Retail Price Index. It is a condition of the scheme that Diocesan Boards of Finance will underwrite the interest payments in the event of the PCC being unable to meet any related commitment to the DBF. Late payment will cause interest to be charged at the Commissioners' Variable Debit Rate.

(iv) Redemption

Normally on sale – the DBF must first obtain an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor along with a valuation from a local estate agent to enable the Commissioners to consider the request. The sum repayable will generally represent that proportion of the net sale proceeds after deduction of professional fees e.g. legal, surveyor's and estate agent's fees (or an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor together with a RICS valuation from a surveyor from a different firm if the property is not being sold – the costs for getting the same to be split based on the equity stakes held in the property at the point of redemption), equal to the proportion which the capital advanced bore to the original valuation (or to any subsequent valuation if a partial repayment or further advance has been made). If however a VLL property is being sold and replaced in the same benefice by another VLL property, the Commissioners will generally require their due proportion of the gross sale proceeds of the first property and will only be able to bear their share of the fees arising from the subsequent sale of the second property. Sale proceeds should be remitted to the Commissioners' Property Finance Department with a statement of account (see (ii) above).

(v) Duration of loan

There is no specific term, but the loan will be reviewed every five years by the Commissioners' Pastoral Division, when the DBF is required to certify that the property is still occupied by a qualifying person. Should the need for accommodation cease or should it be occupied on more than a short term basis by a non-qualifying person, the loan should be repaid without delay. This will normally require the sale and vacation of the property. (See (ii) above.)

(vi) Loan Security

There was not be a legal charge on the property. The loan is to the DBF, and rests on correspondence between the Commissioners and the Board. A copy of the transfer deed must have been sent to the Commissioners when a loan was

advanced/repaid.

10. Legal and surveyors' fees and Stamp duty

(i) Purchase

The responsibility of the DBF. If PCCs were in a financial position to contribute towards these costs, it was a matter for the DBF whether to seek such a contribution.

It is thought that most dioceses bear these costs as a contribution towards the purchase. The Commissioners did not meet these costs.

(ii) Sale

These are a prior charge on the proceeds of sale. The Commissioners therefore generally bear their share of these in accordance with their equity share (see 9(iv) above).

11. Water rates, property insurance, maintenance and other specified outgoings

The responsibility of the DBF as owner (these costs, and the interest payments to the Commissioners, would be met, in full or in part, from the charges made by the DBF to the occupier).

12. Quinquennial inspection/Improvements

DBFs are required to arrange quinquennial inspections on all properties acquired under the scheme and to ensure that remedial action is taken in order to protect the value of the investment. The Commissioners' Pastoral Division should be sent a copy of each quinquennial inspection report together with proposals for remedial action. They reserve the right to ask that reasonable additional action should be taken. No improvement work should be undertaken without the Commissioners' Pastoral Division's prior approval, and valuations before and after the works are undertaken are required, in order to confirm any changes in equity.

13. Terms of occupation

This is solely a diocesan matter. A "House for Duty" licence should include express provision for a tenancy coming to an end if the Bishop's permission to officiate is withdrawn. Any such licence should avoid giving any security of tenure under the Housing Acts. Otherwise, a letting via an Assured Shorthold Tenancy under the Housing Act 1988 should protect the diocese's ability to regain possession of the property at the end of the tenancy, should the need for housing change. Dioceses should take appropriate professional advice about the terms to be offered to a prospective occupant who, if not occupying the property under licence, will normally enjoy the status of a tenant under the Housing Act 1988. It is the Commissioners' understanding that the Landlord and Tenant Act 1985 prohibits a landlord under a periodic tenancy (e.g. monthly) or licence or for a fixed term of less than seven years from passing on to the tenant the responsibility for the maintenance of the building's structure and its apparatus for space and water heating

and for the supply of gas and electricity etc. The rent need not necessarily equate to the housing or interest costs - that is a matter between the diocese and occupant(s). The diocese's obligation to the Commissioners is to ensure that the interest charge is met.

14. Servicing and repayment of Value Linked Loans

The Commissioners' Property Finance Department handles the financial administration of this side of these loans. The details of each loan are likely to vary in accordance with the circumstances of the particular case: so dioceses are advised to contact the Commissioners' Property Finance Department (020 7898 1412 or e-mail: property.finance@churchofengland.org) if they have any queries about a particular loan. Otherwise, Pastoral Division deals with all questions relating to the property itself and its maintenance.

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May 2010

CONFIDENTIAL
Church Commissioners

**Application by the Bishop of _____ for VLL to Diocesan Board of Finance
for Housing in Connection with Clergy Marriage Breakdown**

These loans are available to assist with the housing of spouses of those stipendiary clergy, deaconesses and licensed lay workers engaged in full-time parochial or diocesan work, who before the marriage breakdown were in tied accommodation provided by the Church *and where all other possibilities for providing accommodation have been exhausted*. [Before completing this application please refer to Notes VLL4.](#)

- (a) **Address of property for which loan is required** _____

- (b) **Freehold/Leasehold (min 90 years)** _____ years
- (c) **Purchase price £** _____
- (d) **An independent valuation of the property prepared by a qualified surveyor (before and *after* any proposed works) £ _____ along with a valuation provided by a local estate agent not involved in marketing the property £ _____ (- if the valuations do not support the price agreed it should be re-negotiated before any funding is approved).**
- (e) **Amount of Value Linked Loan requested (not exceeding (c) above and up to a maximum £150,000)**
£ _____

THE PERCENTAGE OF EQUITY SECURED BY THE COMMISSIONERS is the percentage of the value of the property which the Commissioners' value linked loan represents, i.e. (e) / (c) or (d) (whichever is the less) x 100

This will be recalculated if the amount of the loan is altered more than 3 months after the initial loan was advanced (using a new valuation figure).

On behalf of the Diocesan Board of Finance I confirm that these particulars are agreed, that all other possibilities have been exhausted, that the Board agrees to abide by the terms and conditions of the scheme and that the Bishop of _____ has accepted pastoral responsibility for the spouse.

Secretary to the Diocesan Board of Finance

Date

For use in the Commissioners' office

Commissioners' ref:

Initial Loan: £

Date of Initial Loan:

Accounts Section

Set up/amended on VDU

Adjustment to Initial Loan (+/-) £

Date of Adjustment:

Further Adjustment to Loan (+/-) £

Date of Further Adjustment:

Date of Redemption:

Signed _____ Date _____

This application must be accompanied by an independent valuation prepared by a qualified surveyor (with details of necessary works and valuation before and after works) <u>along</u> with a valuation provided by a local estate agent not involved in marketing the property.		
(a)	Please state how the property will be vested	(i) DBF Corporate property (ii) Other (please specify)
(b)	Name of proposed occupant	
(c)	Name of spouse	
(d)	Present ecclesiastical position held by spouse	
(e)	Is proposed occupant presently living in tied accommodation provided by the Church?	
(f)	Estimated proceeds of existing property (if any)	= £ Gross/Net
(g)	Total financial input of proposed occupant (if any)	= £
(h)	Purchase price	(a) £
(i)	Current valuation (<i>before</i> ingoing works/improvements)	(b) £
(j)	Estimated cost of works (inclusive of VAT)	(c) £
N.B. Surveyors'/architects' and legal fees are the liability of the diocese and cannot form part of the VLL.		

For use in the Commissioners' Office

<ul style="list-style-type: none"> • CC Equity • Letter • Set up QIR • Finance 	<div style="border: 1px solid black; display: inline-block; padding: 5px;"> % </div>
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Church Commissioners
 Pastoral Division
 Telephone: 020 7898 1000
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 Email: pastoral@churchofengland.org

Housing Assistance for Clergy Marriage Breakdowns

Notes, Terms and Conditions for Value Linked Loans for Housing from the Church Commissioners in connection with Clergy Marriage Breakdowns

1. Background

These VLLs (formerly Equity Sharing Loans) were introduced in June 1986, with the backing of the House of Bishops, in order to assist with the housing of clergy spouses whose marriages had broken down. It was recognised from the outset that diocesan bishops had responsibility for these spouses and that it was therefore primarily the responsibility of the home diocese to help. The scheme was set up as a "safety net" to be used in those cases where other avenues of support (including renting a house) had been exhausted and on the understanding that the bishop responsible could vouch for the need of the particular individual. The scheme is not suitable for short term housing requirements, which are best met via the rental market or other temporary arrangements.

The only basis on which loans can be advanced is under the Commissioners' general investment powers. Therefore VLLs have to satisfy both pastoral and investment criteria and be operated on a wholly commercial basis. The maximum loan is restricted to £150,000.

Dioceses are asked to ensure that spouses are fully aware of the terms of the scheme.

2. Principal criteria

While the scheme will be administered with an appropriate degree of discretion, the following criteria should normally apply:

- (i) A need to vacate the tied accommodation for a new occupant;
- (ii) A response to pastoral and financial need;
- (iii) Immediacy, i.e. assistance geared to current cases of marital breakdown, with retrospective help considered in exceptional circumstances where there is no alternative and a proven need;
- (iv) **LAST RESORT:** the diocese must have made exhaustive attempts to resolve the problem before turning to the Commissioners for assistance;
- (v) The application must come with the support of the diocesan bishop on the basis that he accepts pastoral responsibility for the spouse. As part of this, it is understood that he will review the continuing need for such assistance as an adjunct to the Commissioners' formal review every five years;
- (vi) The diocese will take on the financial and administrative responsibility for the management and maintenance of the property and the repayment of the loan and

(vii) interest thereon;

(viii) Normally, the spouse would live within his/her sponsoring diocese, but in cases where he/she chose to live elsewhere, the bishop of the sponsoring diocese would still exercise pastoral oversight, and the diocesan office of that sponsoring diocese would handle the administration of the loan (including the actual purchase). Diocesan management of the property and support of the spouse is however made much easier if the spouse lives in the sponsoring diocese.

3. The basic principles of VLLs

The scheme is funded from the Commissioners' investment capital. Although the house will be required for pastoral purposes the Commissioners can only help if the property is a sound investment.

The description "value linked" means a sharing of the value of the property for which the loan is advanced. In other words, the repayment of the loan is made in equivalent proportion to the original amounts advanced. E.g. a house is bought for £200,000. The Commissioners provide a VLL of £100,000 (50%). It is sold for £300,000 net. The Commissioners' 50% share has increased to £150,000, and that is the sum repaid.

At present, the Commissioners will also generally share any loss in value of a property, the loss to be borne proportionately by those with a share in the equity.

It is a condition of the loan that the diocese will maintain the house properly and, on disposal, make every effort to obtain the best possible price, having taken professional advice on the timing and method of marketing. The price achieved is expected to reflect not only any improvements carried out since the purchase, but also a good level of maintenance and repair, which is the primary responsibility of the DBF. If there is any diminution of the value of the property due to a perceived lack of proper maintenance the Commissioners reserve the right to ask the diocese to make good the loss that they suffer on disposal. Any repairs/works, whether covered by insurance or not, must be carried out without delay. Adequate insurance cover for the building must be effective from the date of purchase and is the responsibility of the DBF. Insurance cover for the contents is a matter for the spouse.

4. Linked to capital values

All loan applications have to be supported by an independent valuation prepared by a qualified surveyor (i.e. the surveyor should not be an employee of the diocese) along with a valuation provided by a local estate agent not involved in marketing the property. This is because the loans are related to the capital values of properties in the ownership of the DBF and in which the Commissioners would have an equity share and neither the Commissioners nor the diocese should be prevented in any way from claiming against the surveyor in the event that a report and valuation should subsequently prove unsatisfactory. There is no fixed term for repayment and the capital is only repayable when the property is sold. Interest is currently paid at an initial rate of 4% and is adjusted annually during the life of the loan in line with the Retail Price Index.

In the case of ingoing works or improvements, the size of the loan has to be determined by the extent to which those works increase the capital value of the property.

*** Subsequent improvements to properties purchased through the scheme should not be undertaken without the Commissioners' prior consent.**

* NB. The cost of such works will seldom be fully reflected in any consequent increase in value of the property.

5. Eligibility

Loans are available to diocesan boards of finance for housing the deserted spouses of those stipendiary clergy, deaconesses and licensed lay workers presently engaged in full-time church work who, immediately before the marriage breakdown, lived in tied accommodation provided by the Church.

6. Application

By the Diocesan Secretary to the Commissioners' Pastoral Division, assuring the Commissioners that (a) all other possibilities for providing accommodation have been pursued, (b) that no other proper course is open to the Church, (c) that the bishop has accepted pastoral responsibility for the spouse and (d) that the DBF's arrangements with the occupier will accord with these guidance notes.

7. Property

Most kinds of modest, well-built and maintained properties will be considered, subject to a normal maximum loan of £150,000 as a contribution towards the cost of acquiring a semi-detached property (or property of equivalent size and value). Supplementary finance is the responsibility of the sponsoring diocese or spouse, who thereby take a stake in the equity. The Commissioners are naturally content to lend money for the acquisition of smaller properties if, in the opinion of the DBF, such a property provides sufficient accommodation for the spouse and his or her dependants. Freehold properties are preferred, otherwise a leasehold interest with at least 90 years unexpired will be acceptable. Reports and valuations prepared by two independent qualified surveyors must accompany the application. In the case of a leasehold flat consideration should be given to the purchase of the freehold of the property if the opportunity arises in order to protect the investment value of the property. Top-up finance up to the normal maximum loan is available for this from the Commissioners if the freehold purchase is independently valued as viable.

8. Suitability

The final decision on suitability rests with the Commissioners. This is primarily an investment decision, and the Commissioners retain the right to decline an application if there are doubts about the property. In all cases, spouses seeking properties for purchase must involve their sponsoring diocese (usually via the Diocesan Surveyor) in the search for a suitable property as ultimately the property is in the ownership of the DBF which is responsible for fulfilling its loan commitments to the Commissioners. Once a spouse and the sponsoring diocese have identified a suitable property for purchase, negotiations with the vendors or their Agents should be undertaken by the diocese.

9. Details of loan

(i) Capital advanced

Between 10% and 100% of the purchase price or the valuation of the property, whichever is the less. On investment grounds the Commissioners cannot lend above valuation. Ingoing works may qualify for a loan, but only to the extent that they increase the capital value of the property.

(ii) Capital and equity adjustments

Nil. There is no fixed term for repayment, and no capital is repayable until the property is sold or ceases to be occupied by the clergy spouse, but repayment may be made at any time. If the loan is repaid without selling the property, the DBF must first obtain an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor along with a RICS valuation from a surveyor from a different firm, unless repayment is within three months of the initial advance. The same applies to partial repayments which may be made, but instalments of less than 10% of the value of the property are discouraged, not only on administrative grounds, but also because they are often disadvantageous to the borrower. Partial repayment can include the spouse purchasing an element (a minimum of 10% of the open market value of the property with no maximum) of the equity of the property after an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor obtained at the spouse's expense along with a RICS valuation from a surveyor from a different firm, subject to the agreement of the Commissioners and the DBF. The purchase of a share of the equity in this way will be noted via an exchange of letters. It is the DBF's responsibility to assume financial and administrative responsibility for the repayment of the loan to the Commissioners.

The Commissioners should be consulted before any VLL property is put on the market - all planned disposals will require the DBF to first obtain an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor along with a valuation from a local estate agent – the costs for getting the S.119 Report to be split based on the equity stakes held in the property at the point of redemption. [Where the DBF (or spouse) is buying out the Commissioners' interest the DBF will need to obtain an independent S.119 Report prepared by a qualified surveyor together with a RICS valuation from a surveyor from a different firm – the costs for getting the same to be split based on the equity stakes held in the property at the point of redemption.] They reserve the right not to insist on or agree to the sale and vacation of the property and the redemption of the loan or otherwise not to agree to the redemption of the loan (if the property is not being sold), especially in circumstances where the property has been purchased with their help within the last two years.

VLL properties are subject to the Charities Act and dioceses must obtain reports before sale from an independent qualified surveyor as set out in S.119 of the Charities Act 2011.

In cases where a house is sold at a loss after a short period of ownership, the Commissioners expect some at least of their loss to be made good by the DBF. This is especially so if a house is being sold at a loss to be replaced by another house in the same area. In such a case they will expect their loss to be added to their equity in the replacement property or otherwise made good.

Any questions in this respect should be referred to the Commissioners' Pastoral Division.

(iii) Interest payments

Payable by dioceses quarterly in arrears. 4% per annum initially, varied each 1 January thereafter, in line with the Retail Price Index. It is a condition of the scheme that diocesan boards of finance will underwrite the interest payments in the event of the spouse being unable to meet any related commitment to the DBF. Late payment will cause interest to be charged at the Commissioners' Variable Debit Rate.

(iv) Redemption

Normally on sale - the DBF must first obtain an independent report as set out in S.119 of the Charities Act 2011 prepared by a qualified surveyor along with a valuation from a local estate agent to enable the Commissioners to consider the request. The sum repayable will generally represent that proportion of the net sale proceeds after deduction of professional fees e.g. legal, surveyor's and estate agent's fees (or current market value if the property is not being sold), equal to the proportion which the capital advanced bore to the original valuation (or to any subsequent valuation if a partial repayment or further advance has been made). If however a VLL property is being sold and replaced for the same occupant by another VLL property, the Commissioners will generally require their due proportion of the gross sale proceeds of the first property and will only be able to bear their share of the fees arising from the subsequent sale of the second property. Sale proceeds should be remitted to the Commissioners' Property Finance Department with a statement of account (see (ii) above).

(v) Duration of loan

There is no specific term, but the loan will be reviewed every five years by the Commissioners' Pastoral Division, when the DBF is required to certify that the property is still occupied by the deserted spouse and that his or her circumstances have not materially changed. Should the need for accommodation cease through a permanent change in the circumstances of the spouse or family the loan should be repaid without delay. This will normally require the sale and vacation of the property, unless the spouse can purchase it at open market value (subject to (ii) above).

(vi) Loan Security

The loan is to the DBF, and there will be a legal charge on the property. The Commissioners will therefore need to be a party to the transfer deed which must

be sent to the Commissioners for sealing by them when a loan is advanced or wholly or partially repaid.

10. Legal and surveyors' fees on purchase and sale

(i) Purchase

The responsibility of the DBF. If clergy spouses are in a financial position to contribute towards these costs, it is a matter for the DBF whether to seek such a contribution. It is thought that most dioceses bear these costs as a contribution towards the purchase. The Commissioners do not meet these costs.

(ii) Sale

These are generally a prior charge on the proceeds of sale. The Commissioners therefore bear their share of these in accordance with their equity share (see 9(iv) above).

11. Water rates, property insurance, maintenance and other specified outgoings

The responsibility of the DBF as owner (these costs (which would need to be clearly specified) and the interest payments to the Commissioners would be met, in full or in part, from the charges made by the DBF to the occupier).

12. Quinquennial inspection/Improvements

DBFs are required to arrange quinquennial inspections on all properties acquired under the scheme and to ensure that remedial action is taken, if required, in order to protect the value of the investment. The Commissioners' Pastoral Division should be sent a copy of each quinquennial inspection report together with proposals for remedial action. They reserve the right to ask that reasonable additional action should be taken. No improvement work should be undertaken without the Commissioners' Pastoral Division's prior approval, and valuations before and after the works are undertaken are required, in order to confirm any changes in equity.

13. Terms of occupation

The responsibility for fixing the terms of occupation is a diocesan responsibility but, in order to avoid very different practices being adopted by different dioceses and a consequent wide range of benefit for the deserted clergy spouse, the Commissioners offer the following guidance:

First, in every situation the terms of the spouse's occupation need to be detailed in writing and agreed between the Diocesan Office and the spouse at the earliest possible stage.

There are two principal forms of occupation. The first arise under a Licence to Occupy, similar to that used for a curate to occupy a curate's house, or an elderly person to occupy an almshouse. The point about such a Licence is that it does not record a Landlord and Tenant relationship, but it has a different dimension so that, for example, it may only run

while the applicant's circumstances on the breakdown of his or her marriage remain unchanged.

The other form of occupation right is a basic tenancy where the prospective occupant will enjoy the status and freedom of a tenant under an Assured Tenancy Agreement. Such a letting under the Housing Act 1988 should protect the diocese's ability to regain possession of the property at the end of the tenancy, should the spouse's need for housing change.

The diocese will want to take the spouse's financial circumstances into account in settling the terms of occupation. The scope of possibilities for this may range from:-

- (i) The "market rent" which would ordinarily be expected to meet all the DBF's outgoings on the property. It is likely that Housing Benefit will be available to spouses whose income is below a certain level and, with this support, it should mean that spouses can pay DBF's sums equating to the market level for rents in respect of the properties occupied; and
- (ii) A slightly or significantly discounted rate, if the sponsoring Bishop and the DBF is content with such a subsidised arrangement. Where Housing Benefit is not available, for whatever reason, but a spouse still has limited financial means, dioceses will have to subsidise the costs of occupation of the property to an agreed degree, on a temporary basis at least.

Concern has been expressed by some Bishop's Visitors and Broken Rites that there are wide discrepancies between dioceses as to the terms of occupation offered to spouses. Some dioceses meet the costs of property insurance, Council Tax, water rates and repairs direct. Others charge a lesser level for occupation but pass on these outgoings to spouses. Generally, the level of rent is likely to reflect the responsibility for these outgoings. It is recommended that spouses should pay sums for occupation on a reimbursement basis to the dioceses which meet diocesan outgoings on the property (including loan interest) and this should always be the aim if the occupiers can reasonably afford to do so, with or without Housing Benefit. A subsidised rate of occupation would normally only apply where the spouse could not afford to meet normal outgoings, and did not qualify for Housing Benefit. It will be to the advantage of the DBF if help is given to the spouse in applying for such benefit and assisting with the completion of benefit application forms. It may also be possible for such benefit to be paid direct to the DBF as landlord.

Dioceses should take appropriate professional advice about the terms to be offered to a prospective occupant. It is the Commissioners' understanding that the Landlord and Tenant Act 1985 prohibits a landlord under a periodic tenancy (e.g. monthly) or for a fixed term of less than seven years from passing on to the tenant the responsibility for the maintenance of the building's structure and its apparatus for space and water heating and for the supply of gas and electricity etc. The rent need not necessarily equate to the housing or interest costs - that is a matter between the diocese and occupant(s). The diocese's obligation to the Commissioners is to ensure that the interest charge is met.

14. Removal and resettlement costs

These are normally the responsibility of the spouse, although certain charities (notably

the Corporation of the Sons of the Clergy and the Friends of the Clergy Corporation) can help with these. The Bishop's Visitor for each diocese will have information about the financial help that Charities can offer, both to meet immediate rehousing costs and thereafter.

15. Servicing and repayment of Value Linked Loans

The Commissioners' Property Finance Department handles the financial administration of this side of these loans. The details of each loan are likely to vary in accordance with the circumstances of the particular case: so dioceses are advised to contact the Commissioners' Property Finance Department (020 7898 1412 or e-mail: property.finance@churchofengland.org) if they have any queries about a particular loan. Otherwise, Pastoral Division deals with all questions relating to the property itself and its maintenance.

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May 2010

Housing Assistance for Clergy Marriage Breakdowns

Summary of the Housing Loans Scheme of the Church Commissioners

1. Background

With the backing of the House of Bishops the Commissioners introduced a scheme in 1986 to assist with the housing of clergy spouses whose marriages had broken down. The scheme is not designed to meet short-term housing needs, which are best met via the rental market or other temporary arrangements.

2. The Scheme

If other avenues of support have been explored without success, the sponsoring diocese can apply to the Commissioners for a loan up to a present maximum of £150,000 to provide part or all of the cost of a modest property (normally not exceeding the size and value of a semi-detached property and less in many cases depending on the spouse's circumstances). The DBF or spouse must normally contribute the balance of capital required. The Commissioners take a share in the equity (i.e. the value) of the property purchased by linking it proportionately to the amount of their loan, which is made to the Diocesan Board of Finance, which becomes the owner of the property. This proportion can be up to 100%. The initial rate of interest charged is currently 4% (revised at the beginning of each year in accordance with the Retail Price Index).

3. Principal Criteria

We administer the scheme with due flexibility having regard to the overriding need to ensure that deserted spouses (and their families) are properly housed at a time of great stress and anxiety. Among the criteria for a loan which normally apply are:

- (i) A response to pastoral and financial need;
- (ii) Immediacy i.e. our help is intended for current cases of marital breakdown;
- (iii) Housing is intended for deserted spouses of stipendiary clergy, deaconesses and licensed lay workers presently engaged in full time church work who, immediately before the marriage breakdown, lived in tied accommodation provided by the church;
- (iv) Applications come from the sponsoring diocese which takes on responsibility for the interest payments on the loan.

4. Property

Spouses must involve their sponsoring diocese in the search for a suitable property (normally via the Diocesan Surveyor). Having identified a suitable property negotiations for the purchase should be undertaken by the diocese. Most dioceses meet the legal and

Section 9.6 Summary of VLL Clergy Marriage Breakdown Scheme

surveyors' fees connected with the purchase. The Commissioners' loan cannot meet these costs.

5. Terms of Occupation

These are a matter for the diocese and the spouse. The spouse would normally be a licensee or tenant of the diocese under terms of occupation which are designed to offer security of tenure so long as the spouse's personal housing needs remain unchanged. Dioceses take the spouse's financial circumstances into account in settling the terms of occupation. The licence fee or rent to be paid to the diocese may range from (a) the "market rent" which might be expected to cover the diocese's property outgoings (including structural repairs etc) and interest payments to the Commissioners and which the spouse is able to meet from salary or other income to (b) a discounted licence fee or rent in the light of the spouse's financial circumstances. Housing and other benefits may be available to the spouse and the diocese will normally help with appropriate applications. The spouse would be responsible normally for Council Tax payments and other utility payments and, because of the circumstances in which the occupation rights arise, the spouse would be unable normally to share the house, save with own children, nor sub-let it. Some spouses may wish to take in lodgers (who would not acquire any tenancy rights). Authority to do so on each occasion must be sought from the appropriate diocesan officer.

6. Capital repayments

There are none unless and until the property is sold. In certain circumstances, a spouse can purchase a share (or indeed all) of the equity of the property based on a current open market valuation.

7. Removal Costs

These are normally the responsibility of the spouse, although certain Church charities can help with them. The Bishop's Visitor will have information about these charities and can help with applications.

7. Duration of Loan

The Commissioners review their loans every five years with the dioceses. Should the need for accommodation cease (through re-marriage or changed financial circumstances for example) then a loan would normally be repaid. As indicated above, it is open to the spouse to buy a property from the diocese at that time.

Full details of this scheme are available from the Diocesan Office or the Commissioners' Pastoral Division.

Church Commissioners
Pastoral Division
Telephone: 020 7898 1000
Fax: 020 7898 1873
Email: pastoral@churchofengland.org

May 2010

Section 10

The Construction (Design and Management) Regulations 1994

The Construction (Design and Management) Regulations 1994

The Construction (Design and Management) Regulations came into effect on 31 March 1995. The Regulations cover most forms of construction work, including repairs, maintenance and demolition. Their intention is to extend the consideration of health and safety issues from construction itself back to the design process and on to future maintenance of the building.

Attached is a copy of an aide memoire prepared by the Commissioners' Architects' Department in January 1996 and a copy of a Guide to the Regulations prepared by the Health & Safety Executive and issued by the Churches Main Committee in December 1995 which may also be helpful. Neither document is exhaustive and, for further details, you should consult "Managing Construction for Health and Safety-Approved Code of Practice" and "A Guide to Managing Health and Safety in Construction." Both of those publications are available from HMSO (Tel: 0870 6005522). The Guide sets out where the Regulations apply to construction work. In simple terms, this is when work is:

- (i) *notifiable* to the HSE, i.e. lasting more than 30 days or involving more than 500 man days of work;
- (ii) *non-notifiable* but involving 5 or more people on site at any one time;
- (iii) involving demolition.

In addition, the Regulations also apply to any design work (e.g. a specification for repairs drawn up by an architect or detailed drawings for a new building) irrespective of how long the work lasts and how many workers are involved on site.

All forms of clergy housing and other tied accommodation (e.g. house for duty), whatever the ownership, are covered by the Regulations. The HSE has confirmed that the Regulations should be deemed to apply in such cases and that the limited exemptions for domestic premises do not affect parsonages and other tied church property for a variety of reasons including business use. This view was supported at the meeting of the Diocesan Surveyors Sub-Committee of the Ecclesiastical Architects and Surveyors Association in October 1995, given particularly the main intention of the Regulations to promote safety and best practice.

Where the Regulations apply, they identify the key parties involved and establish their respective duties. The most significant role so far as dioceses are concerned will be that of "client". The client (or client's agent) is required in particular to be "reasonably satisfied" that those appointed to the formal roles of "Planning Supervisor" and "principal contractor" are competent to be so appointed. The client must be similarly satisfied that arrangements for the appointment of a "designer" (if any) and other "contractors" will ensure that they are similarly competent. The role of Planning Supervisor has specific responsibilities for health and safety matters. The role is normally taken on by existing professional advisers, such as architects or surveyors. It is understood that both the Planning Supervisor and principal contractor may also act as designer. In our limited experience thus far, additional fees of around 1% are being sought by designers and supervisors. Care would of course be necessary where one individual is to be responsible for more than one of these new posts. It has been found that some architects have already declined to take on planning supervision where they have acted as designer. The

Section 10 Construction (Design and Management) Regulations 1994

Guide summarises the primary duties of the various parties (taken from the Code of Practice). Whilst such appointments are formal ones, no separate notification need be served on the HSE.

Finally, it should be noted that the client's agent is also a formal appointment under the Regulations and again the client is required to be satisfied of competence. The appointment involves either a declaration in writing by the person to act as agent to be sent to the HSE who issue a notice of confirmation, or else the extent of the agent's responsibility rests on the contract or relationship between client and agent. The latter will presumably apply where a full-time diocesan official is acting on behalf of a DBF.

**Aide Memoire produced by
The Church Commissioners' former Architects Department covering the
Construction (Design and Management) Regulations 1994**

1. Introduction

These Regulations, intended to improve safety, are a legal requirement upon those who commission, design and construct, alter, maintain or demolish buildings, structures or temporary works. There are sanctions up to and including imprisonment upon those who fail to comply.

2. Application

Whether or not a particular project is subject to the CDM Regulations is determined by a number of factors, and the most important but not the only one of these is the scale of the work. The attached flow chart is a useful guide.

3. Responsibilities

Responsibility for day-to-day safety on the site remains where it has always been, i.e. with the main contractor (or “principal contractor” as (s)he is called in the CDM Regulations). The Regulations are mainly intended to ensure that everything reasonably possible is done during the planning of a project to ensure health and safety during its life, and its subsequent maintenance and possible eventual alteration or demolition. The Regulations formalise the Health and Safety roles and responsibilities of individual members of the team. These members are as follows:

3(i) The Client (e.g. the Church)

If competent the client can discharge the Health and Safety duties imposed upon him or her by the Regulations. If not competent the client must appoint a competent agent. The client's or client's agent's responsibilities are:

- To appoint a Planning Supervisor and a principal contractor (regs. 6(1), 6(3), 6(4));
- To ensure that the posts remain filled (reg. 6(5));
- When appointing, to ensure that:
 1. The principal contractor is a contractor (reg. 6(2)) and complies with the definition of a contractor (reg.2);
 2. The Planning Supervisor, designers and contractors have adequate resources (regs. 9(1), 9(2) and 9(3)).
- To ensure that the Health & Safety plan exists before work starts on site (reg. 10);
- To ensure that the Planning Supervisor has information about the condition of the premises including buildings, land, plant and structures (reg. 11(1));
- To ensure that the Health & Safety file is available (reg. 12(1));

- To pass on the Health & Safety file to anyone acquiring an entire interest in the property (reg. 12(2)).

3(ii) The Planning Supervisor

The Planning Supervisor's role may be undertaken by the client, the client's agent, the designer, the principal contractor or an independent individual or organisation - all subject to their competence and resources.

The Planning Supervisor's responsibilities are:

- To ensure that the Health & Safety Executive is notified of the project (reg. 7(1));
- To ensure that designers do their duties under the CDM Regs. (reg. 14(a));
- To ensure that designers co-operate on site safety matters (reg. 14(b));
- To ensure that a Health & Safety plan is prepared at the right time (reg. 15);
- To ensure that a Health & Safety file is prepared, amended as necessary and handed to the client on completion of construction work (reg. 14(d)); and to ensure that he or she is in a position to give the client adequate advice on appointments (reg. 14(c)).

3(iii) The Designer

The designer's responsibilities are:

- To tell the client what the client's duties are;
- To avoid or reduce foreseeable risks to Health & Safety on site;
- To ensure that the design includes adequate information on Health & Safety; and
- To co-operate with the Planning Supervisor and with other designers.

3(iv) The Principal Contractor

The Principal Contractor's responsibilities are:

- To ensure co-operation between all contractors involved;
- To ensure that the rules in the Health & Safety plan are complied with;
- To exclude unauthorised persons from the site;
- To ensure that site particulars under Regulation 7 are clearly displayed on site;
- To provide the Planning Supervisor with any relevant Health & Safety information;
- To exercise, where appropriate, those rules with which he is empowered under the Regulations.

4. Conclusion

This guidance note is a brief summary only of the requirements, and readers are directed to the following documents:

- 1) "Managing Construction for Health and Safety, Construction (Design and Management) Regulations 1994 - Approved Code of Practice;"

Section 10 Construction (Design and Management) Regulations 1994

Compliance with the above document is essential.

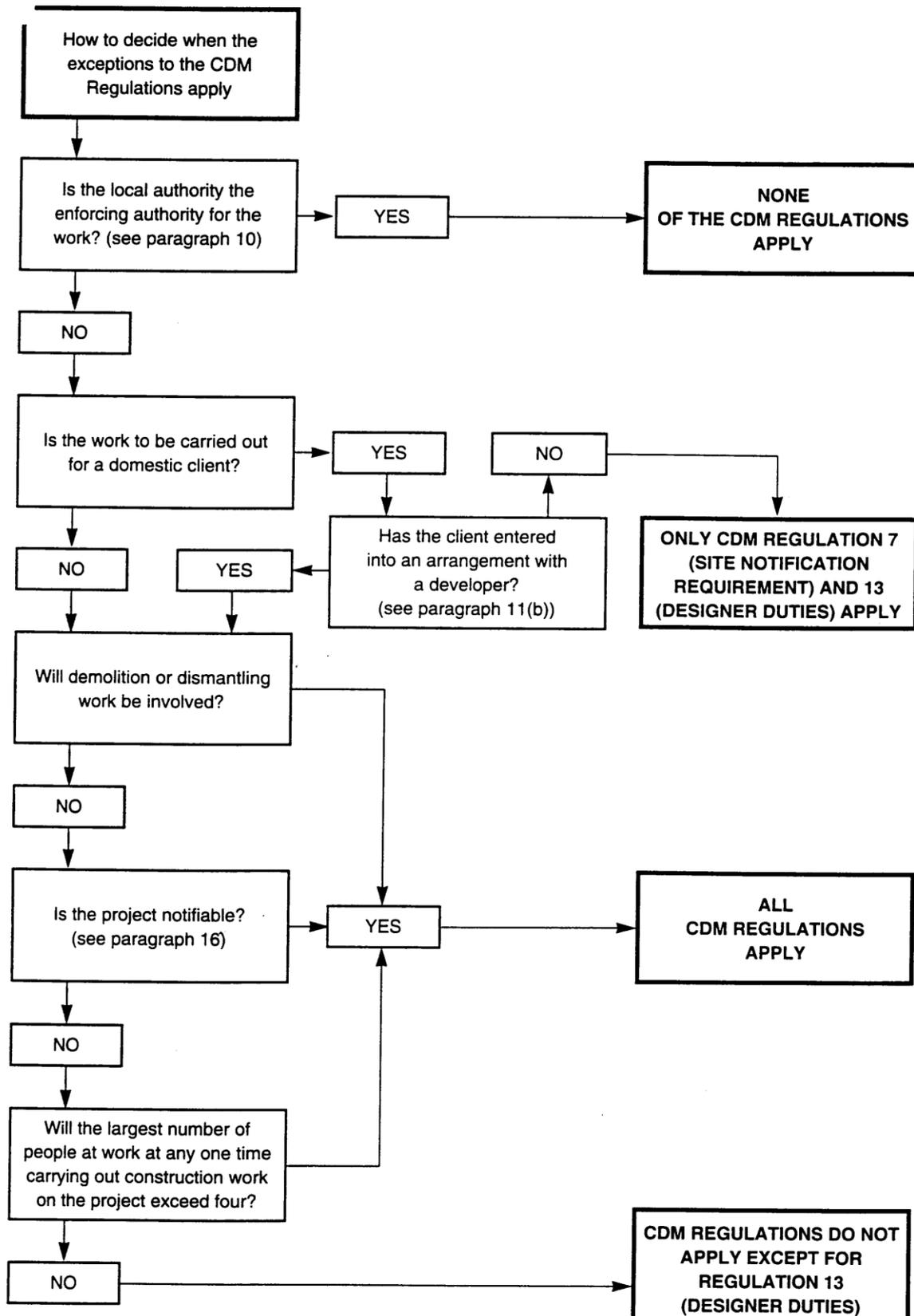
2) “A Guide to Managing Health & Safety in Construction.”

Both of the above documents are available from HMSO.

In the event of doubt as to whether a particular project is subject to all or part of the Regulations, those commissioning work must seek a formal written advice from:

- The Diocesan Surveyor or
- the local office of the Health & Safety Executive.

Church Commissioners' Architects Department
(First Published January 1996)



Guide to the Construction (Design and Management) Regulations 1994 **Prepared by the Health and Safety Executive**

Introduction

In March 1995, a new set of Regulations came into force called The Construction (Design and Management) Regulations 1994. These regulations were brought in to implement a European Community Directive, although, after extensive consultation, they were tailored to the UK's particular needs. The intention of the regulations is to change the focus away from site activity per se. and to involve more directly those who procure and design construction and to look forward to future maintenance, repair, renovation and subsequent demolition of buildings and structures. The regulations cover all forms of construction work, and construction is given a very broad definition. There are few elements of construction work which do not fall within the regulations. However, whether the regulations need to be applied is dependent on criteria which the Health and Safety Commission recommended to Parliament following the consultation process.

Application

In order to consider whether construction works do fall within the application of the regulations it is necessary to approach the matter systematically. First it must be determined whether the Local Authority is the inspecting authority. If the Local Authority is normally the inspecting authority for construction works, that is, where the works are usually done by people normally employed within premises and involve works which do not need to be cordoned off, nor do they involve the repair or maintenance of the external structure, then the regulations do not apply.

Once it has been established that the LA do not enforce, then a number of further tests must be satisfied to see if the regulations apply.

If demolition is involved, and this means either substantial or total dismantling or demolition of a structure, then the regulations do apply.

If 5 or more persons are working on the project at any one time, during construction work, then the regulations do apply.

If the work lasts for more than 30 days, and this is irrespective of the numbers employed, then the regulations do apply.

If the work is notifiable then the regulations apply (see below for details of notification).

However the regulations do not apply where the client is a domestic householder, and the work is being undertaken on their own premises. There is one caveat to this, in that Regulation 13, which applies to the duties placed on designers, must still be complied with by that designer. For further information, see below under Designer Duties.

Where the work is being carried out on domestic premises, but is being carried out as part of the wide duties of an undertaking and the work is being carried out on behalf of a client who is

not the domestic householder himself, then the regulations would apply provided the questions of demolition, numbers employed and time of the work are satisfied. Therefore work on parsonage houses, manses etc. would fall within the regulations, when the work is being undertaken by the Church as part of its role in providing and maintaining property for the clergy.

Notification

In certain circumstances an advance notification is required by the Health and Safety Executive of the fact that a project is due to take place. This advance notice is required when the project will last more than 30 days or when it involves more than 500 person days. The advance notice must be given to the Health and Safety Executive at the office which covers the area where the work is being undertaken. The notification is given by the Planning Supervisor, and further details on this role are found below.

Purpose

The purpose of the new Regulations is to improve health and safety aspects within construction by improving the management of construction projects on the site, and to encourage the elimination of hazards and risks through better design at an earlier stage. The regulations are enforced by the Health and Safety Executive, and the Executive has provided guidance on the ways in which the regulations should be complied with. This is provided in an Approved Code of Practice to the Regulations “Managing Construction for Health and Safety” (ISBN 0-7176-0792-5), and in two general pieces of guidance “Designing for Health and Safety in Construction” (ISBN 0-7176-0807-7) and a Guide “Managing Health and Safety in Construction” (ISBN 0-7176-0755-0). These documents may be obtained from HSE Books, Dillons, or other book outlets. However, much of what is required by these regulations is little more than a codification of existing good practice.

Enforcement

The Health and Safety Executive has indicated, through press releases and at many seminars and workshops that it has attended, that during the first year or two of the introduction of these regulations what is most important is an understanding of their benefits and processes. It intends to take a reasonable and flexible approach in ensuring compliance with these regulations, and has indicated that it will only take enforcement action where gross breaches of the law have occurred. It is not the Health and Safety Executive’s intention to try to catch out people who have offended due to ignorance; the regulations are throughout qualified by reasonable practicability, which ensures further that risks and costs are adequately balanced.

However, the regulations do require certain changes to the way that construction is procured, designed and managed, and this will have an effect on the Church and its approaches to construction. The regulations place duties on clients (such as the Church), designers, principal contractors (who are the people who carry out construction work), and create a new duty holder, the Planning Supervisor. The regulations also place a duty on those involved in the construction process to produce documentation to ensure that health and safety is properly managed (a health and safety plan), and also the production of a document in which matters relevant to health and safety during future construction work can be stored for future reference (a health and safety file).

The Role of the Client

In many cases the Church will be acting as a client. It may be that those involved in a particular construction project do not believe that they have the necessary competence for delivery of the duties placed on the client. In this case they may appoint an agent. The agent carries out the duties as if they were the client, but must be formally appointed and must for practical purposes have sufficient delegation of power to undertake the role. The Church must not appoint any person to act as an agent unless it is reasonably satisfied that that person is competent to perform the duties required by the regulations. This will require some taking-up of references and some form of assessment process which might include an interview. However, this is likely to be done already by those procuring construction within the Church sector, and should not present any particular problems.

The client, either the Church or an agent that they appoint, must also appoint a Planning Supervisor and a principal contractor. In both cases the persons must be able to demonstrate competence with respect to health and safety and that they have sufficient resources to undertake the work. In both cases the appointment should be made as soon as is practicable.

The Planning Supervisor is a title covering a function rather than the indication of the appointment of an individual. The Planning Supervisor function may be undertaken by existing professionals such as architects, surveyors, engineers or project managers. In more complex projects, it is unlikely that one person could undertake the role, as a number of different skills will be needed. Therefore a team will undertake this work. However this work can usually be undertaken by existing professional teams working on the project, and no additional Planning Supervisor service as such needs to be provided. However the client may believe that an independent Planning Supervisor will improve the design process and the passage of information to the principal contractor, and will therefore choose to appoint an independent Planning Supervisor.

The principal contractor must be a contractor, which means that they are either involved in contracting work or the management of such work. The principal contractor can jointly carry out the work of the principal contractor or the Planning Supervisor, although it is important to ensure some form of “Chinese wall” to maintain independence. It is possible for the client himself to act as a Planning Supervisor, and in some circumstances that may be appropriate.

To undertake the design work the Church will also need a designer. It is not a formal appointment in the way the principal contractor and Planning Supervisor appointments are, but the designer’s duties are important and some assessment of their ability to deliver on their duties will be appropriate by the client; the Planning Supervisor can be a useful source of advice here.

Designer Duties

Designers must undertake the following duties:

- (1) They must take all reasonable steps to ensure that the client is informed of their responsibilities. Thus if the client is unclear of their duties, and is unclear about

their role as client, they may seek advice from the designer as to how to undertake this role. The designer is a useful source of advice.

- (2) They must ensure that any designs that they prepare take due regard of the principles of prevention and protection and avoid, control or manage risks. The designer has an important role in trying to eliminate risks at source, rather than leave them to the contractor to deal with later. However, this does not mean that the designer has to eliminate all risks, and certain residual risks will remain within the project. The most obvious example is that it is not possible to remove gravity, and therefore we will always need to take care when working at height. This can be controlled, but it cannot be eliminated.
- (3) The designer must produce adequate information on the design and co-operate with other designers who may be involved in the process, to ensure that risks are eliminated and controlled as far as reasonably practicable. The designer must also co-operate with the Planning Supervisor whose duty it is to bring the parties together to ensure that the designers are following their duties.

Planning Supervisor Duties

The Planning Supervisor has a role in coordinating health and safety aspects of design, and ensuring that the designers fulfil their function. They must:

- (1) Ensure that the general principles of prevention and protection are adopted by those undertaking the design work, and that these parties co-operate with each other.
- (2) Give advanced warning of the project to the Health and Safety Executive where such a notification is required.
- (3) Ensure that a health and safety plan is prepared for the purpose of passing on information from the client and designers to those undertaking the construction work. This plan forms the foundation of knowledge about health and safety matters within the project on which those undertaking construction work can tender. It should remain as concise and simple as is appropriate, considering the risks involved in the project, and where possible utilise existing sources such as the Bill of Materials or project brief. While it is important that these matters are highlighted by an index or separate letter, separate documentation can be unhelpful. It is important that the information contained in this “plan” is sufficiently detailed that those tendering can consider the costs involved, but it should not become just an exercise in passing on all pieces of information to those contractors who will already be able to demonstrate a degree of competence.
- (4) The Planning Supervisor must ensure that the health and safety file is compiled. This file will develop throughout the construction project, and will contain detailed information on the design work concerning the structure, the materials that were used, services provided within the structure, and other information which may affect those undertaking subsequent construction, maintenance, repair or demolition work. The file must be delivered to the client by the Planning Supervisor

at the end of the work. It is important that the principal contractor provides the Planning Supervisor with information throughout, and it is thus usual that some information is provided in the pre-tender health and safety plan to allow the contractor to know how the information should be delivered.

Principal Contractor

Under the Regulations the principal contractor has a number of duties, although largely these are the development of well known existing activities. The Principal Contractor:

- (1) must take reasonable steps to ensure co-operation between all contractors undertaking the work, so that risks are managed and controlled between different contractors throughout the lifetime of the project. This ensures that each contractor can comply with the requirement placed on them under these regulations. The principal contractor must prepare before construction work begins, a health and safety plan which will provide an outline of the management of the project, and cover not only risks but also the way in which those risks will be controlled and managed. This document is likely to be more extensive than the health and safety plan provided by the Planning Supervisor, and is designed for quite different purposes;
- (2) is entitled to make rules with respect to health and safety, which can then be enforced by that contractor. The rules would normally be contained in the health and safety plan, and would need to be brought to the attention of all those on site;
- (3) must also take reasonable steps to ensure that only authorised persons are allowed onto the premises or any part of the premises where construction work is being undertaken for the duration of that work. This may involve the erection of fences, the provision of information and in some cases providing security services;
- (4) also needs to co-operate with the Planning Supervisor to ensure that information is provided for the health and safety file such that the Planning Supervisor can deliver the file.
- (5) can provide reasonable directions to any contractors necessary to comply with these regulations, and this strengthens the controlling function of the principal contractor;
- (6) must also ensure that all those working on the project are able to consult and to give advice concerning health and safety and also that they are given information about health and safety matters which may affect their work.

Volunteer Projects

The Regulations are concerned with construction work, and are not concerned with the nature of employment. Therefore if a Church is undertaking the project with volunteer labour, the duties placed on the designer, and the appointment of a Planning Supervisor may still apply. As indicated above, the Health and Safety Executive takes a reasonable approach with respect

to such work, and to the extent to which these duties must be fulfilled by persons who are paid for this work; much will depend on the size of the project and its associated risks. It is important that it is understood that proportionality and reasonableness is applied throughout these regulations. However it is important that those who are to carry out the work are regarded as competent with respect to health and safety matters, and as a responsible client, the Church would wish to see that such responsibilities are being undertaken.

Fees

There is concern about the nature of payment for such services in the Church sector. It is not possible to give clear guidance on such fees. Some work is being undertaken by planning supervisors who are charging a specific fee for the work, in other cases the work is undertaken as part of the design or principal contractor duties by those undertaking the work, and is absorbed within their existing fees. In the end the fee arrangements must be a matter for individual projects, and individual church bodies. What is important is that the basis for payment is established early on within the work, and that it is directed towards ensuring the safety and health improvements within the project that the regulations are attempting to achieve. Clients must beware of the provision of large amounts of paperwork that do not actually highlight health and safety risks or help to manage them. This is not an area where success is weighted by the amount of paper produced, but by the highlighting of health and safety risks and their elimination or control.

Further Information

The Health and Safety Executive is keen to find out about people's experiences with these regulations, and to advise as appropriate in order to facilitate compliance with the regulations. Each of the 21 Area Offices within the Health and Safety Executive has a construction group who can advise on the matters concerning CDM., and their telephone numbers can be found in the local telephone directories. In addition a central advice point exists within the National Interest Group for Construction, which is based at 1 Long Lane, London, SE1 4PG (Tel no.020 7556 2100). Within their resources, the Construction NIG will be happy to answer queries, although where they refer to specific projects, they would prefer Churches to approach the local inspectors. Further information has also been provided in the form of a number of information sheets produced by the Health and Safety Executive (Construction Sheets Nos.38-44 which may be obtained from their offices).

Health & Safety Executive
December 1995

Section 11

Town and Country Planning Matters

Town and Country Planning Matters

1. Together with representatives of the Diocesan Surveyors' Group, the Commissioners meet from time to time with senior members of staff from the relevant Government Department(s) to discuss matters of mutual interest and concern. Among matters which have been brought to a successful conclusion are the following:

Material Planning Considerations

2. In 1997 the Department of the Environment (as it then was) accepted that the obligations of Canon Law (in summary those of the Bishop to provide a place of worship in every parish and for priests to live in their benefice for the care of all the people) with regard to the local provision of places of worship and clergy housing can be considered as material planning considerations and should be taken into account when planning applications are made or appeals considered.
3. This was in the context that amendments to Planning Policy Guidance Note 2 revised in January 1995 made it less likely that applications for the development of institutional sites (such as those owned by the Church) in the Green Belt would be considered appropriate and that very special circumstances would have to be demonstrated before any planning permission was granted. The requirements of Canon Law are now accepted as one of the sequential tests of whether there are very special circumstances.
4. All Planning Inspectors, Regional Directors and others working in regional Government Offices were informed of the situation but dioceses will want still to ensure that the requirements of Canon Law are raised at the earliest stage possible on any relevant planning application/appeal.
5. There is case law on the subject, whereby Sevenoaks District Council amended their Local Plan in 1998 (after objections) in respect of the chapter on Public Services. The Inspector was Mr Peter Robottom under Reference M/G2245/429/3. In effect, the Sevenoaks Plan provides for a sequential test to try to make provision for places of worship and parsonages within existing settlements and then go outside them if necessary.

Local Government Act 1972

6. We have also made progress on the General Disposal Consents Order which came into effect in December 1998 under the provisions of the 1972 Act.
7. Paragraphs 3(2) (ii) and (iii) of the 1998 Order provide that a place of worship (with or without recreational facilities) and housing accommodation for rectors/vicars residing in their benefices are no longer subject to a limitation on the amount of the permitted discount at which a Local Authority can dispose of its land. In its commentary on the new Order, the DETR drew attention to the requirements of Canon Law in this important respect. In the past, Local Authorities had been entitled to sell land to the Church at a maximum discount of 10% of its "unrestricted value", and then for places of worship only. Properties including, "recreational facilities" did not attract this discount, nor did land for clergy housing.

Local Plans etc

8. The Commissioners are statutory consultees on Local Development Plans and similar publications and it is our practice to pass these (without comment) to the diocese involved. Planning Policy Guidance Note 12 does urge Local Authorities to “consider the need” to consult, among others, DBFs on Local Development Plans affecting their area, but it must be accepted that this is different from a statutory requirement to do so. If they have not already done so, dioceses are therefore advised to contact their Local Authorities and ask that they should be on the circulation list for these Plans.

9. **General**

Please see www.ccpastoral.appeals for more information.

Section 12

The Gas Safety (Installation and Use) Regulations 1998

The Gas Safety (Installation and Use) Regulations 1998

The legal position

1. Paragraphs 1. and 2. of these notes are based primarily on advice received from the Legal Advisory Commission but it is emphasised that that the matter is a legally complex one given that liabilities under the Gas Safety (Installation and Use) Regulations can be imposed on a number of different parties in respect of parsonages and other types of clergy houses. Please note therefore that dioceses must consult their own legal advisers whenever there is any doubt over the interpretation of, or responsibilities imposed under, the Regulations. **The Commissioners cannot be held responsible for the content of this note which is not intended to be an exhaustive statement of either the requirements of the Regulations or their application in law.**
2. The Regulations re-enact, with certain changes, the Gas Safety (Installation and Use) Regulations 1994, introduced under the Health and Safety at Work Act 1974 (HSWA). They cover requirements for the safe installation and maintenance of gas appliances, flues, meters and pipe work etc.

There are three categories of person who are given duties under the Regulations:

(a) The “responsible person” for any premises

This is defined as either the occupier or, where there is no occupier or (s)he is away, the owner of the premises or any person authorised to take appropriate action in relation to any gas fitting. For a person to be an “occupier” it is not necessary for him or her to have a particular interest in the property concerned; rather it is a matter of his or her physical presence there. However, one or more persons other than the “occupier” may have power or be subject to a duty under other legislation to carry out repairs or other work to the gas fittings and this is generally likely to be the case in respect of church property.

Parsonage houses: in the case of a parsonage house, a “responsible person” could be the incumbent or priest-in-charge, the Diocesan Parsonages Board and/or, possibly, the benefice sequestrators. This is because under Section 2(1)(c) of the Repair of Benefice Buildings Measure 1972, the Diocesan Parsonages Board is authorised to carry out parsonage house repairs including, inter alia, “the installations...for the supply of water, gas and electricity” and “for space heating or heating water”. In practice therefore it is normally the Diocesan Parsonages Board which has to take appropriate action in relation to any gas fittings and associated responsibilities under the Regulations. Where the benefice is vacant, Section 2 of the Benefices (Sequestration) Measure 1933 also authorises the sequestrators to use the benefice income on work to the parsonage house which, with the Bishops’ approval, can extend to work to the gas fittings.

Glebe and diocesan corporate houses: apart from the occupier (which can include stipendiary and non-stipendiary clergy) the DBF is the “responsible person”.

PCC owned houses: the PCC is the “responsible person”.

(b) An employer or self-employed person who has a place of work under his or her control

What constitutes a “place of work” is not defined in the HSWA but it is generally held that domestic premises used by clergy are included within the definition. Clergy who are paid a stipend are considered to be self-employed, at least for the purposes of health and safety matters, on the grounds that they can be regarded as working for “gain or reward” for the purpose of the Regulations. On this basis therefore an incumbent or priest-in-charge is believed to have a duty under the Regulations in respect of parsonage houses on the grounds that (s)he works for reward.

(c) the landlord (including a licensor) of residential premises containing or served by a gas appliance (including the pipework connecting it to the main supply)

The term “landlord” can include a licensor. Liability for a gas appliance in any clergy house could therefore fall on a DBF, a PCC, an incumbent in relation to part of the parsonage house, or any other ecclesiastical body executing a lease or licence.

The responsibilities imposed

3. The duties under the Regulations supplement general safety requirements under the HSWA. Among the Regulations are the following requirements (please note this is not intended to be an exhaustive list):
 - ◆ all work to gas appliances and fittings to be carried out by a competent and suitably qualified engineer who is CORGI (Council for Registered Gas Installers) registered;
 - ◆ only 'room-sealed' appliances to be installed in a room used or intended to be used as a bathroom or shower room. Furthermore, appliances with a gross heat output of more than 14 kilowatts installed in a room used or intended to be used as sleeping accommodation must be room-sealed and those of 14 kW or less must either be a 'room-sealed' type or incorporate a safety control device designed to shut down the appliance if there is a build-up of combustion products in the room concerned;
 - ◆ no instantaneous water heater to be installed in any room, unless it is 'room-sealed' or fitted with a safety control device;
 - ◆ where the gas meter is installed in a lockable meter box, the installer should supply the consumer with a suitably labelled key to the box;
 - ◆ the installer or engineer must perform a defined series of safety checks and tests after carrying out any work on a gas appliance;
 - ◆ any person who installs a gas appliance in a property must leave manufacturer's instructions for the occupier of the premises;

Section 12 Gas Safety Regulations

- ◆ a person responsible for the premises must not use or permit to be used a gas appliance that is suspected or known to be faulty or incorrectly installed and a danger to any person;
- ◆ any person in control of any alteration to premises must ensure that the work does not adversely affect the safety of any gas fitting at the premises concerned, or bring it out of line with the Regulations. This includes assessing implications of any proposed work and carrying out subsequent checks, both in cases where implications for gas safety are obvious (e.g. changes to ventilation), and where risks are less apparent, such as the installation of double glazing which may include the removal or replacement of air bricks;
- ◆ a flue must not be installed other than in a safe position;
- ◆ where there is an escape of gas or emission of carbon monoxide (CO₁)* from a gas appliance, the person responsible for the premises (this is normally the occupier, but could be the landlord or agent if the property is empty) must take reasonable steps to prevent further escape (i.e. by closing an emergency control if safe to do so), and is obliged to inform the gas supplier immediately if the gas or CO₁ continues to escape after the supply has been cut off or the smell of gas persists.

***N.B. Carbon monoxide gas (CO₁) is invisible, odourless and tasteless. Without proper equipment it can go unnoticed and this may result in brain damage and even death. Where gas appliances are installed in clergy houses, the Commissioners strongly recommend the installation of CO₁ detectors in accordance with the manufacturers' instructions.**

4. The Commissioners recommend that dioceses and any other “responsible person” within the context of the Regulations should familiarise themselves with their duties both under the Gas Safety Regulations and the HSWA and, in particular, should:
 - ◆ ensure that all gas appliances in all “managed” properties have been checked within the last 12 months and implement a system of annual checks and ongoing maintenance for all gas appliances and flues;
 - ◆ maintain safety check records for all gas appliances and flues in each property, and issue a copy of this to each occupier/tenant;
 - ◆ check that any gas engineer or sub-contractor is CORGI registered and qualified to do the job;
 - ◆ ensure appliances/fittings are safe before the premises are re-occupied, and remove any unsafe appliance/fitting left by a previous occupier/tenant;
 - ◆ ensure close co-operation with occupiers/tenants, e.g. for reporting faulty gas appliances/flues and providing access for checks and maintenance work.
5. Dioceses are also recommended to:
 - ◆ ensure that instruction booklets are available at the property for all gas appliances; and

Section 12 Gas Safety Regulations

- ◆ avoid the installation of second-hand gas appliances. If second-hand appliances are installed, it is necessary that they are installed and checked and that any subsequent maintenance is carried out by a competent CORGI registered installer.

Section 12a

Control of Asbestos at Work Regulations 2002

Control of Asbestos at Work Regulations 2002

The Commissioners have not issued any guidance on this but the General Synod's Legal Advisory Commission has, and it is as follows:

Insofar as parsonages and other clergy houses of residence are occupied as private dwellings Regulation 4 (the duty to manage asbestos in non-domestic premises) does not apply to them. The question whether premises are so occupied is one of fact in each case. Since circumstances may vary from case to case, the following principles will assist in answering that question:

- (i) if the house is a single unit used exclusively for residential purposes it will be classified as domestic.
- (ii) where a building contains separate domestic and other elements (for instance a flat over a meeting room) the parts will be characterised separately as domestic or non-domestic for the purposes of the Regulations.
- (iii) a dwelling house subject to mixed uses, such as a parsonage with a study also used as an office, or a place for meetings, will not lose its character as domestic premises.
- (iv) some parsonage houses are designed with integral purpose-built offices or meeting rooms. Such a building is likely to be viewed as a single unit containing a material non-domestic element and therefore characterised as non-domestic.

Section 13

The Parsonages Design Guide Leaflets

- 13.1 [Note concerning the Parsonages Design Guide Leaflets](#)
- 13.2 [Procedures to be followed in the Sale, Demolition, Building, Purchase, Exchange, Division or Improvement of Parsonages](#)
- 13.3 [Sources of Finance available for Building, Purchasing or Improving Parsonages](#)
- 13.4 [Parsonage Security](#)
- 13.5 [Fire Precautions for Parsonages](#)
- 13.6 [Low maintenance and drought tolerant ground cover for parsonage gardens](#)

Parsonages Design Guide Leaflets

The Parsonages Design Guide (last published by the Commissioners in December 1998) was accompanied by the following separate leaflets, copies of which are annexed to this Note:

1. Procedures to be followed in the Sale, Demolition, Building, Purchase, Exchange, Division or Improvement of Parsonages;
2. Sources of Finance available for Building, Purchasing or Improving Parsonages;
3. Parsonage Security;
4. Fire Precautions for Parsonages;
5. Low maintenance and drought tolerant ground cover for parsonage gardens.

N.B. Leaflet 1 above has been revised in order to reflect the amendments to the legislation resulting from the Church of England (Miscellaneous Provisions) Measures 2000 and 2005. Further copies of any of the leaflets and of the Design Guide itself are available on our website at

www.ccpastoral.designguide.



Procedures to be followed in the Sale, Demolition, Building, Purchase, Exchange, Division or Improvement of Parsonages

Introduction

The term "parsonage house" means the property vested in the incumbent of a benefice which is his or her official residence, and includes any outbuildings or land included in the curtilage of any such property and any rights appertaining to it. This leaflet summarises the procedures to be followed when it is proposed to sell, demolish, build, purchase, exchange, divide or improve a parsonage house under the Parsonages Measures 1938 & 1947 or alter a house under the Repair of Benefice Buildings Measure 1972.

1. The legal position

- 1.1 Sections 1, 1A, 2 and 2A of the 1938 Measure authorises the incumbent as freeholder (or the Bishop in a vacancy of the benefice) to sell, demolish, build, purchase, exchange, divide or improve a parsonage. However, the incumbent cannot act independently. Under the Measure, the consents of the Bishop, Diocesan Parsonages Board and, in certain circumstances, the Commissioners are also required. Any non-incumbent member of a team ministry occupying the parsonage house in question also has to consent in most cases. The PCC(s) of the parish(es) and the patron(s) of the benefice have a right of representation to the Commissioners. In addition, where a parsonage house is that of a benefice for which a team ministry has been established, all the members of the team have a right to be consulted by the team rector (or the Bishop in a vacancy) and for their views to be taken into account before the rector or the Bishop takes action under the Measure. Any objections which are not otherwise resolved are considered by the Commissioners' Mission and Pastoral Committee whose decision is final. ([A summary of the legal position is attached to this Note.](#))
- 1.2 Notice of any proposals under the Parsonages Measures should be given on a recommended form which should be served on the patron(s) and all of the PCCs within the benefice by the Diocesan Parsonages Board on behalf of the incumbent (or Bishop). Where a parish has no PCC, the notice must be served on the churchwardens. The period within which any objections to the proposals may be made to the Diocesan Parsonages Board (for onward transmission to the Commissioners) is 21 days, commencing on the day after the date on which the notice has been given. Alternatively, if the patron(s) and

PCC(s) are willing to forgo their right to receive a formal notice in this way, they may agree to this "shortened procedure" in writing on a form recommended by the Commissioners. The notice should make it clear that any objections should be sent to the diocesan office in the first instance.

- 1.3 Where the Commissioners' consent is required, the diocese must complete and submit an application form and provide full details of the proposal and enclose copies of any objections for the Commissioners to consider. A copy of the notice served on the patron(s) and PCC(s) should also be sent to the Commissioners. In such cases the application should not normally be submitted until the expiry date for objections has passed or confirmation received that there are none. On no account should any transaction take place or project begin until such time as the Commissioners have informed the diocese of their decision on the proposal, having considered the background to the proposal and any objections. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.

2. Sale

- 2.1 The sale of a parsonage house may be proposed because it is considered (a) unsuitable and needs to be replaced or (b) pastorally redundant and it is desirable for practical reasons to dispose of it in advance of any formal Scheme for pastoral reorganisation under the Mission and Pastoral Measure 2011.

Parsonage house sales when pastoral reorganisation is expected

- 2.2 Where a sale is proposed on pastoral grounds and the house is not to be replaced, dioceses should consider carefully whether it would be more appropriate to deal with its disposal in the context of a Pastoral Scheme. This is because if pastoral reorganisation is expected it is important to ensure that immediately preceding sales (or transfers of sale proceeds) under the Parsonages Measures do not confuse or prejudice such reorganisation. If the pastoral reorganisation proposed is likely to be controversial, an early parsonage house sale under the Parsonages Measures might be prejudicial and sale should be deferred and proposed later under a Pastoral Scheme on the basis that the Scheme would be the test of whether a house was pastorally surplus to requirements. However, proper weight should be given to the general desirability of disposing of unsuitable houses and exercising good stewardship of resources in relation to houses which, for example, would otherwise be left empty for protracted periods.

The desirability of selling a parsonage house without replacement depends on the progress of any relevant pastoral proposals and whether the house is 'unsuitable' or 'suitable'. ***The Commissioners' advice should be sought where there is any doubt over the timing and manner of a sale in relation to anticipated pastoral reorganisation.***

The need or otherwise for the Commissioners' consent

- 2.3 The Commissioners' consent to a sale is not required unless:

Section 13.2 Parsonages Design Guide Leaflets: Procedures

- (a) the sale is made to a person who is a connected person or a trustee for, or nominee of, a connected person;
- (b) the requirements of 2.4 below have not been complied with in relation to it; or
- (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

2.4 Before entering into an agreement for the sale of a parsonage or parsonage land, the diocese on behalf of the incumbent (or Bishop in a vacancy) must:

- (a) obtain and consider a written report on the proposed sale from a qualified surveyor instructed by and acting exclusively for the benefice;
- (b) advertise the proposed sale for such period and in such manner as advised in the surveyor's report (unless (s)he has advised that it would not be in the best interests of the benefice to advertise the proposal); and
- (c) obtain the surveyor's recommendation of the terms of the transaction.

The surveyor's report

2.5 The surveyor's report should deal with the matters laid down in the Charities (Qualified Surveyors' Reports) Regulations 1992 and would normally include the following:

- (i) a description of the house and grounds, detailing the size and layout of the accommodation, running costs and present or future maintenance liabilities;
- (ii) whether the building is in good order and whether it would be in the best interests of the Church for repairs to be carried out before sale;
- (iii) a site plan (prepared in accordance with the Land Registry requirements – see [Annex H](#)) showing the property to be sold, any land to be retained (e.g. for building a replacement parsonage house) and any other nearby church property;
- (iv) development potential (if any);
- (v) details of any easements or rights of way to be reserved and restrictive covenants to be imposed;
- (vi) a valuation of the property.

N.B. Dioceses should additionally ask the surveyor to report to them on any other matters which may be relevant in the circumstances, or on which it is felt that advice is needed.

Method of sale

2.6 Subject to satisfying the criteria referred to in 2.3 and 2.4 above or after obtaining the Commissioners' consent where this is necessary, the diocese may arrange for the property to be placed on the market. The diocese, in conjunction with the surveyor, is responsible for settling the method of sale (normally on the open market, by auction, tender or private

treaty after an adequate period of advertisement). The surveyor should be asked to assess any offers received and to give a positive recommendation if (s)he believes that one offer represents the best obtainable in the circumstances. In some cases the surveyor may need, for instance, to give specific advice about the effect of a sale on the value of any adjoining church property to be retained. More than one report, at different stages of the transaction, may be necessary. If a house is put on the market for sale by private treaty and a firm asking price has been quoted, the first unconditional offer of that amount should normally be accepted. Subject to the surveyor's advice, it would therefore normally be better not to name a definite asking price in private treaty transactions so as not to preclude the acceptance of a higher offer.

Connected person

- 2.7 In order to establish that a proposed purchaser is not a connected person as defined under the Parsonages Measure 1938, the Commissioners recommend that the diocese obtain a written declaration to that effect – [a specimen of such a declaration is attached to this Note.](#) Where the property is to be sold by auction, the diocese cannot at that stage be sure that the purchaser will not be a connected person. The conditions of sale should therefore make it clear that, if the purchaser turns out to be a connected person, or a trustee for, or nominee of, a connected person (as would be evidenced by the purchaser being unable or unwilling to sign a written declaration to that effect), the sale would be conditional on the Commissioners' consent being obtained.

Proceeds of sale

- 2.8 On completion of the sale, the solicitor acting for the benefice must pay the proceeds to the Diocesan Parsonages Board to be held on behalf of the benefice by the diocese. Once any outstanding Commissioners' loans to the benefice have been repaid, the first call on the funds will be towards the provision and/or improvement of a replacement parsonage house - if one is necessary. Any funds not required for this purpose may be transferred to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund (or a combination of the two). However the Diocesan Parsonages Board must first serve the recommended notice (Form 2) of its proposals concerning the disposition of surplus sale proceeds on the patron(s) and the PCC(s). At this point the Board may wish to take the opportunity to explain its proposals concerning the application of funds in a covering letter. The period within which any objections to the proposals may be made to the Diocesan Parsonages Board is 21 days, commencing on the day after the date on which the notice has been given. Alternatively, if the patron(s) and PCC(s) are willing to forego their right to receive a formal notice in this way, they may agree to this "shortened procedure" in writing on a recommended form (Form 5). Once the period allowed for representations has passed, or the shortened procedure has been adopted, and providing there are no representations, the money may be transferred. If there are objections, the matter should be referred to the Commissioners for a decision with a completed Form H. Where the patron of the benefice is the Crown, the Lord Chancellor, the Duchy of Cornwall or the Duchy of Lancaster and none of these parties has objected, their written consent to the proposal must be attached to the application.
- 2.9 On completion of a sale under the Mission and Pastoral Measure 2011, the net proceeds (after repaying any loans) are applied directly in accordance with the provisions of the Pastoral Scheme (e.g. transfer to the

Diocesan Pastoral Account or the Diocesan Stipends Fund Capital Account or a combination of the two). The diocese does not have to serve any notices in this respect.

3. Demolition

- 3.1 Total demolition schemes are rare, but there are occasions when such a proposal may be advantageous, for instance: (i) an unsuitable house occupies a large site with development potential and demolition provides the opportunity for a new house on part of the site and the development of the rest; and (ii) the redevelopment of a combined church/parsonage site to provide new church plant.

Applying for the Commissioners' consent

- 3.2 The Commissioners' consent to the demolition of a parsonage is only required where there are objections to what is proposed. Where there are such objections and they cannot be resolved informally, the diocese must provide full and detailed reasons for the proposal and an application for the Commissioners' approval should be accompanied by a copy of a surveyor's report or feasibility study on which the proposal is based. All aspects of the project should be set out together with any alternative proposals which have been considered so that the Commissioners can satisfy themselves that the proposal is justified and supported by professional advice. The diocese should have checked with the Local Authority that demolition will be permitted (e.g. if the building is listed or in a conservation area listed building consent will be needed) and also that preliminary discussions have taken place with the planning authority about redevelopment.

4. Building

- 4.1 The Commissioners' Parsonages Design Guide's Design Brief gives detailed advice concerning the standards which should be followed in any parsonage building project. The Brief also gives advice on the choice of location.

The need or otherwise for the Commissioners' consent

- 4.2 The Commissioners' consent to the building is not required unless:
- (a) a person who is a connected person or a trustee for, or nominee of, a connected person is concerned with the building (e.g. the proposed architect or main contractor);
 - (b) the requirements of 4.3 below have not been complied with; or
 - (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

- 4.3 Before carrying out the building, the Diocesan Parsonages Board (on behalf of the incumbent or the Bishop in a vacancy) must:

- (a) obtain and consider a written report on the proposed building from a qualified surveyor, qualified architect or other suitably experienced person instructed exclusively on behalf of the benefice;
- (b) decide that it is satisfied, having considered the report, that the terms on which the building will be carried out are the best that can be reasonably obtained for the benefice; and
- (c) have regard to the standards and procedures recommended in the current edition of the Parsonages Design Guide.

N.B. For the purposes of building schemes (which are comparatively rare), the definition of ‘qualified surveyor’ is too narrow in terms of offering professional advice to the diocese. Hence the references above to qualified architects or other suitably experienced persons.

Connected person

- 4.4 In order to establish that the person proposed to carry out the building is not a connected person as defined under the Parsonages Measure 1938, the Commissioners recommend that the diocese obtain a written declaration to that effect ([see attached](#)).

5. Purchases and Exchanges

- 5.1 Replacing a parsonage house by purchasing or exchanging an existing house can often be a satisfactory way of providing a suitable parsonage, although it is unlikely to meet the standards recommended in the Parsonages Design Guide in every respect and some ingoing works may be required. Similarly, the purchase of a new house under construction by, for example, a developer may not always provide the ideal solution though in some cases the diocese may be able to influence the design at the outset.

Practical and pastoral considerations

- 5.2 Before the purchase or exchange of a parsonage proceeds some of the more important factors for the Diocesan Parsonages Board to consider are:
- (i) Is the proposed house broadly suitable, perhaps after alteration, for a parsonage house having regard to the Parsonages Design Guide?
 - (ii) In the case of the purchase of a site for building, has planning permission been obtained and are any easements for access or services required?
 - (iii) Is the house or site conveniently situated for the existing churches and local population and/or is pastoral reorganisation planned which would affect future clergy housing in the benefice? Where there are any proposals under the Mission and Pastoral Measure 2011 which may materially affect the proposed purchase or exchange, the Diocesan Parsonages Committee should consult the Diocesan Mission and Pastoral Committee to ensure that their respective proposals are consistent with each other and that the views of the patron(s) and

parochial church council(s) of other affected benefices are sought and taken into account.

The need or otherwise for the Commissioners' consent

- 5.3 The Commissioners' consent to a purchase or exchange is not required unless:
- (a) the owner of the property to be acquired or exchanged is a connected person or a trustee for, or nominee of, a connected person; or
 - (b) the requirements of 5.4 below have not been complied with; or
 - (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

- 5.4 Before the benefice enters into an agreement for the purchase or exchange of a parsonage or a site for a parsonage, the Diocesan Parsonages Board must:
- (a) obtain a written report from a qualified surveyor acting exclusively for the benefice;
 - (b) obtain the surveyor's recommendation of the terms of the transaction.

The surveyor's report

- 5.5 The surveyor's report on the property to be purchased or properties to be exchanged should include the following:
- (i) a description of the property(ies) and grounds, detailing the size and layout of the accommodation, actual or projected running costs and potential maintenance liabilities, and the estimated cost of any ingoing works (including fees);
 - (ii) whether the building is in good order and whether it would be in the best interests of the Church for repairs to be carried out;
 - (iii) a site plan (prepared in accordance with the Land Registry requirements – see [Annex H](#)) showing the location of the property(ies) in relation to the churches and local population;
 - (iv) confirmation that the property to be acquired is freehold or, if leasehold, that it has a marketable unexpired term, or that the freehold can be acquired at a later date;
 - (v) development potential of the property(ies);
 - (vi) details of any easements or rights of way to be reserved and restrictive covenants imposed in respect of the existing parsonage;

- (vii) a valuation of the property(ies). Any inequality of exchange should be addressed in the report and appropriate provision made for dealing with it.

N.B Dioceses should additionally ask the surveyor to report to them on any other matters which may be relevant in the circumstances, or on which it is felt that advice is needed.

Connected person

- 5.6 In order to establish that the owner of a property to be purchased or exchanged is not a connected person as defined under the Parsonages Measure 1938, the Commissioners recommend that the diocese obtain a written declaration to that effect ([see attached](#)).

Special situation

- 5.7 Where a property is being acquired from a non-exempt charity, the vendor must secure the Charity Commissioners' consent if the transfer is for less than market value, or it is from a 'connected person' as defined in the Charities Act 2011 or any of the other criteria set out in 5.4 above do not apply. In such circumstances it may be preferable for the benefice solicitor to proceed by way of the Parsonages Act 1865. It is also occasionally appropriate to use the New Parishes Measure 1943; e.g. for some gifts or where an incumbent vacates a benefice just before completion of a transaction originally approved under the Parsonages Measures. It is not possible for the benefice to accept a free gift under the Parsonages Measures - the Parsonages Act 1865 or the New Parishes Measure must be used instead.

6. Improvements (including division)

Major improvements to a parsonage house (more than £50,000) – Section 2 of the Measures

- 6.1 It is the Commissioners' view that 'improvement' includes dividing or enlarging a house. 6.1 to 6.4 of this leaflet apply to major improvement, division or enlargement schemes costing in excess of £50,000. Otherwise, the Parsonages Measures enable the Bishop to authorise sequestrators (i.e. the rural dean (or team vicars in a team ministry), the churchwardens of every parish in the benefice and such other persons as the Bishop may appoint) to act for the benefice in any proposals involving the (minor) improvement, division, or enlargement of a parsonage in a vacancy – [see 6.5 to 6.10 below](#).

The need or otherwise for the Commissioners' consent

- 6.2 The Commissioners' consent to the improvements is not required unless:
 - (a) a person who is a connected person or a trustee for, or nominee of, a connected person is concerned with the improvements (e.g. the proposed contractor);
 - (b) the requirements of 6.3 below have not been complied with; or
 - (c) an objection has been made by a patron or PCC in response to the statutory notice.

Best terms

- 6.3 Before carrying out any improvements, the Diocesan Parsonages Board (on behalf of the incumbent or the Bishop in a vacancy) must:
- (a) obtain and consider a written report on the proposed improvements from a qualified surveyor, qualified architect or other suitably experienced person instructed by and acting exclusively for the benefice; and
 - (b) decide that it is satisfied, having considered the report, that the terms on which the improvements will be carried out are the best that can be reasonably obtained for the benefice.

Connected person

- 6.4 In order to establish that a person (e.g. the contractor) proposed to carry out the improvements is not a connected person as defined under the Parsonages Measure 1938, the Commissioners recommend that the diocese obtain a written declaration to that effect ([see attached](#)).

Minor works in a vacancy (less than £50,000) – S.2(A) of the Measures

- 6.5 The Bishop can authorise the sequestrators to carry out minor schemes of improvement (i.e. less than £50,000) during a vacancy. The consents and notices and other procedures are as outlined in 1 above except that:
- (i) where the parsonage house is occupied by a member of the team in a team ministry, the sequestrators must obtain that member's consent;
 - (ii) the Commissioners are only involved where there are objections; and
 - (iii) there is no need for a full professional report and to investigate the involvement of connected persons.

The Commissioners understand that it is the practice of many Diocesan Parsonages Boards to carry out minor improvements to parsonages (irrespective of whether the benefice is vacant) under the provisions of the Repair of Benefice Buildings Measure 1972 – [see 6.11 and 6.12 below](#). Dioceses may prefer this simpler regime.

Dividing or enlarging a parsonage house in a vacancy – S.2(A) of the Measures

- 6.6 The Bishop can authorise the sequestrators to divide or enlarge a parsonage house during a vacancy. Division generally has two advantages:
- (a) it reduces the area occupied by the incumbent making it not only more convenient for parsonage use but also cheaper to run and maintain;
 - (b) the divided part can provide income and/or capital by being leased or sold.

6.7 However, this is often not an ideal solution as it tends to have corresponding disadvantages, for example:

- (a) houses suitable for division are often older properties where the part remaining as a parsonage may still have large rooms with high ceilings which are expensive to heat and where maintenance costs may remain relatively high;
- (b) there will be less privacy for the incumbent (and family) if the divided off part is in separate occupation and there may be disturbance from the other occupier, especially if the division is horizontal rather than vertical.

Division schemes can vary considerably in scope and complexity but are usually in essence an improvement scheme plus a disposal of the divided off part. The disposal of the divided off part often realises sufficient proceeds to make the improvement element self-financing. A freehold sale of the divided off part would take place under the Parsonages Measures and would be subject to the consents and notices referred to in 1. above. If the divided off part is to be retained, it should either be subject to a Section 11 Certificate by the Bishop under the Parsonages Measures (in order to determine that the retained part has the legal status of the parsonage with the remainder becoming an “excluded part”) or, more commonly, should be transferred to diocesan glebe by a Section 32 Order under the Endowments and Glebe Measure 1976.

6.8 A horizontal division of a house effectively rules out a freehold sale of the divided off part. This is because if the part of the freehold is vertically above another it becomes a “Flying Freehold” which creates problems in respect of shared maintenance responsibilities, e.g. for the roof. In these exceptional circumstances the freehold of the divided off part should always be transferred to the DBF as glebe and only a long leasehold interest sold. The diocese will then be in a position to control maintenance of the whole property. In any case, provision should clearly be made for a division of responsibility for the maintenance of the fabric, drainage, services and utilities.

6.9 In a division scheme it is usually necessary to carry out major improvements to the divided off part, as well as the retained part, in order to make the latter saleable or lettable. In most cases the aim would be for work carried out to the parsonage house element to be self-financing. Although in financial terms it may be desirable for the divided off part to be sold freehold or, perhaps, on a long lease for a premium in order to realise capital to fund improvement works, this may conflict with the desire to retain more control over the occupation of the divided off part by letting it only on a short term basis. It may therefore be appropriate for the DBF to pay a market value for a divided off part which is becoming diocesan glebe, especially if it is to be held for clergy housing or short term letting rather than immediately sold or let on a long lease. Works to the divided off part should, if it is to become glebe, be treated as glebe improvements and the cost should be strictly apportioned between the two parts. Any deficit arising on the divided off part should be met from glebe, not benefice, funds.

6.10 It is the Commissioners’ view that, for schemes of division or enlargement in a vacancy costing more than £50,000, Diocesan Parsonages Boards should obtain and consider reports from qualified surveyors, qualified architects or other suitably experienced persons

as outlined in [6.3 above](#) and establish whether a connected person is involved ([see 6.2\(a\)](#)). It is for the Diocesan Parsonages Board to decide whether to give its consent where a connected person is involved. Otherwise, the procedures are as outlined in [6.5 above](#).

Additions and alterations under the Repair of Benefice Buildings Measure 1972

The legal position

- 6.11 An incumbent (or the sequestrators where the benefice is vacant) can make additions or alterations to a parsonage house. This includes schemes of minor improvement (costing less than £50,000). In this connection, it is the Commissioners' view that "improvements" includes enlarging a house but not a scheme of division which should be carried out under the Parsonages Measures. The consent of the Diocesan Parsonages Board is required and the patron(s) has the right to be consulted, as does any member of a team ministry who lives in the parsonage house in question. Although not a statutory requirement, the Commissioners recommend that, in the case of a team ministry, every member of the team should also be consulted over the proposal. ([See the attached summary of the legal position attached to this Note.](#))

7. General

Definitions

- 7.1 For the purposes of parsonage transactions:

"Qualified surveyor" means a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (or member of a similar institution) reasonably believed by the incumbent or bishop, as the case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.

"Connected person" - see attached.

Diocesan staff and their professional advisers should refer to the Commissioners' Parsonages and Glebe Diocesan Manual for fuller details of the various procedures outlined in this note.

A separate leaflet on the sources of finance available for building, purchasing or improving parsonages is available on request from:

Pastoral Division
Church Commissioners
Church House
Great Smith Street
London SW1P 3AZ
Telephone: 020 7898 1000
Fax: 020 7898 1873

Declaration by a person or body entering into a contract under The Parsonages Measure 1938 or the Endowments and Glebe Measure 1976 or Ecclesiastical Offices (Terms of Service) Measure or the Mission and Pastoral Measure 2011

Email: pastoral@churchofengland.org

Section 13.2 Parsonages Design Guide Leaflets: Procedures

Benefice:

Diocese:

A. Parsonages Measure 1938

[sale] [exchange] [building] [purchase][site purchase] [division] [enlargement] [improvement]

B. Endowments & Glebe Measure 1976

[sale] [lease] [exchange]

C. Mission and Pastoral Measure 2011

[sale] [lease] [exchange]

D. Ecclesiastical Offices (Terms of Service) Measure

[sale] [exchange] [building] [division] [enlargement] [improvement]

1. I hereby confirm that I am not:

- the incumbent, priest-in-charge, bishop or a patron of the benefice in question; nor
- a member, officer, agent or employee of the parochial church council of any parish within the benefice in question ; nor
- a member of the diocesan board of finance or of [the diocesan parsonages board/committee] [the Diocesan Mission and Pastoral Committee] [the diocesan glebe committee]*.

2. I also confirm that to the best of my knowledge I am not:

- a spouse, civil partner, child, parent, grandchild, grandparent, brother or sister of any of the above persons.

*[*delete whichever Committees are not acting for the diocese in the matter.]*

Name (please print): _____

Signed: _____

Address: _____

Date: _____

Notes on ‘Connected Persons’

1. Where a person entering into a contract as the other party (e.g. the person or body acquiring a former parsonage house) under the Parsonages Measure 1938, the Endowments & Glebe Measure 1976, the Ecclesiastical Offices (Terms of Service) Measure 2009 or the Mission and

Insert description of transaction(s) as appropriate

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Pastoral Measure 2011 is unable to sign the declaration to the effect that they are not connected to any of the parties outlined in the declaration, the matter has to be referred to the Commissioners for approval irrespective of whether or not representations are received.

2. For the purposes of the declaration the Commissioners regard the scope of ‘connected persons’ as extending to the bishop; incumbent; priest-in-charge; patron(s); members, officers, agents or employees of the Parochial Church Council; individual members of the Diocesan Board of Finance; and (as appropriate) the Diocesan Parsonages Board/Committee, the Diocesan Mission and Pastoral Committee and the Diocesan Glebe Committee if they are involved as the other party in one of these transactions. The same applies to their close relatives. If the person entering into a contract was a ‘connected person’ at any point in the negotiations but is no longer such a person at the time the contract is made, then the diocese may wish to seek the Commissioners’ approval to the transaction. The diocese is not, however, obliged to do so.

3. In all cases the diocesan officer responsible should invite the other party to sign the declaration. If there is any doubt as to whether the other party should be regarded as ‘a connected person’ (or whether their connection is a significant one or not), we feel that it is best to err on the side of caution and either (a) formally refer the transaction to the Commissioners for approval or (b) seek their informal views. We recommend that our advice is always sought before proceeding with a transaction involving a connected person in a highly sensitive post (e.g. diocesan secretary or archdeacon) where the need for independent valuations may be particularly important.

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	PARSONAGES MEASURES 1938 AND 1947 SUMMARY OF LEGAL POSITION						REPAIR OF BENEFICE BUILDINGS MEASURE 1972
PROPOSAL	SALE, DEMOLITION	EXCHANGE	BUILD, PURCHASE, IMPROVEMENT	DIVISION, ENLARGEMENT, IMPROVEMENT (IN A VACANCY)	USE OF PROCEEDS FOR PARSONAGE PURPOSES	TRANSFER OF PROCEEDS TO DPA/DSF CAPITAL	ADDITION, ALTERATION
SECTION OF MEASURE	1	1(1A)	2	2A	7	7	21
A. <u>Person who acts:</u> a) Benefice Full b) Benefice Vacant	Incumbent Bishop	Incumbent Bishop	Incumbent Bishop	- Bishop authorises Sequestrators	Diocesan Parsonages Board	Diocesan Parsonages Board	Incumbent Sequestrators
B. <u>Consents required:</u> a) Church Commissioners b) Diocesan Parsonages Board c) Bishop d) Team Ministry member living in the house	See note 3 Y Y Y	See note 3 Y Y Y	See note 3 Y Y N	See note 4 Y N Y	See note 4 N N N	See note 4 N N N	N Y N N
C. <u>Notices to be served on:</u> a) Patron (s) b) PCC(s) [or Churchwardens where no PCC]	Y Y	Y Y	Y Y	Y Y	Y Y	Y Y	N N
D. <u>Additional consultations required:</u> b) Every member of a Team Ministry b) Team ministry member living in the house c) Patron(s) <i>See also note 6</i>	Y N N	Y N N	Y N N	Y N N	N N N	N N N	See note 5 Y Y

Notes:

1. Team Ministry members are (a) team rector; (b) team vicars; and (c) other people licensed by the Bishop to serve as members of the team (e.g. curates and lay readers). However, not all assistant staff licensed to a particular area will necessarily be additionally licensed as members of the team.
2. The consultative procedures carried out under D above are the responsibility of the incumbent (or Bishop or sequestrators in a vacancy). The party acting under A above has to have regard to the views of those consulted before taking any action on the proposal.
3. The Commissioners' consent is only required when the proposal does not meet certain criteria or where representations are received from the patron(s) and/or PCC(s)/Churchwardens of the benefice concerned.
4. The Commissioners' consent is only required where representations are received from the patron(s) and/or PCC(s)/Churchwardens of the benefice concerned.
5. This is recommended but not statutory.
6. Although not statutory, we recommend that the patron(s) and PCC(s) of all the benefices held in a plurality should be consulted informally over any proposal affecting the parsonage under the above sections of the Measure.



Sources of Finance available for Building, Purchasing or Improving Parsonages

Introduction

Providing suitable accommodation for parsons and their families may involve the building or purchase of new or replacement parsonage houses or the improvement of existing stock. Under the Parsonages Measures any such proposals are, with the Bishop's consent, initiated by Diocesan Parsonages Boards in the light of local circumstances and require the consent of the incumbent as freeholder (the Bishop acts in a vacancy of the benefice) and, in certain circumstances, the Commissioners. The PCC(s) of the parish(es) and the patron(s) of the benefice have a right of representation to the Commissioners, and any non-incumbent member of a team ministry occupying a parsonage house to be improved or replaced has a right to be consulted. In addition, where a parsonage house is or is to be occupied by a team rector, all the members of the team have a right to be consulted. This leaflet explains the various sources of finance which may be available to dioceses when undertaking such proposals. In practice, the funds available are likely to differ from one scheme to another and may also be determined by diocesan policy.

Funding

The following funds may be used solely or in combination with one another:

1. Funds belonging to the benefice

Net proceeds from the sale of a former parsonage house or parsonage land (including any consideration paid for the release or variation of restrictive covenants benefiting the house or land; granting easements; Compulsory Purchase Orders etc.) are sent to the DBF on completion of the transaction and credited to an interest-bearing account for the benefice concerned. The proceeds (net of any legal and other costs and after repayment of any outstanding Commissioners' loans to the benefice) can then be used towards the provision of a replacement parsonage house (if one is needed) or the improvement (but not repair) of the existing house.

If any such funds are not required for parsonage purposes of the benefice then the funds may be transferred to either the Diocesan Pastoral Account or the Capital Account of the Diocesan

Stipends Fund (see below) in accordance with Section 5 of the Parsonages Measure 1938 subject to notices being served on the patron(s) and PCC(s) and consideration being given by the Commissioners to any objections.

However, where pastoral reorganisation involving the benefice is likely to take place, the funds will normally be dealt with in any Pastoral Scheme or Order, made under the Mission and Pastoral Measure. This may include the use of the funds for parsonage purposes in the new benefice (where, for example, two or more benefices are united to create a new one) or their transfer to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund. Anyone who wishes to do so may make representations to the Commissioners with regard to a draft Scheme or Order.

It may be possible to release some of the monies held on a PB Fund to either the Diocesan Pastoral Account or the Capital Account of the Diocesan Stipends Fund in advance of a Pastoral Scheme or Order if the diocese so wish, provided that sufficient funds remain to cover the cost of providing a replacement parsonage house for the benefice should one ultimately be required. Notice of such a proposal must also be served on the patron(s) and PCC(s) and consideration given by the Commissioners to any objections received.

2. Diocesan funds

These include:

Diocesan Pastoral Account (DPA)

DPAs are held by dioceses for the purposes laid down in Section 94 of the Mission and Pastoral Measure 2011. These include grants and loans for parsonage house purposes as well as the improvement and repair of other types of clergy housing (e.g. glebe or diocesan corporate owned team vicars' houses and curates' houses). The DPA comprises proceeds arising from the sale of parsonages and churches which have become redundant under pastoral reorganisation.

Diocesan Stipends Fund - Capital Account (DSF Capital)

DSF Accounts are held by dioceses and the purpose of the Capital Account is primarily to generate income for clergy stipends but they can also be used for the provision or improvement of parsonage houses. Proceeds from the sale, exchange or other dealings with glebe land must be credited to the account and dioceses can also choose to transfer any surplus proceeds arising from parsonage sales (including houses transferred to dioceses under Pastoral Schemes) to DSF Capital if they so wish subject to the Commissioners' agreement if the funds belong to the benefice. The Bishop needs to approve the use of DSF Capital. *(N.B. Funds standing to the credit of the Income Account of Diocesan Stipends Funds are used primarily to pay stipends but can also be used for the repair and*

maintenance of parsonage houses.)

Other funds

These may include (i) diocesan corporate funds; (ii) grants from national bodies such as Marshall's Charity; and (iii) local trusts. *(N.B. Separate contributions made by parishes under their diocese's houses management scheme for housing purposes generally within the diocese or towards the upkeep of the parsonage house belonging to their own benefice or a combination of the two (as may be provided for under the Repair of Benefice Buildings Measure 1972); and block allocations made available to dioceses by the Commissioners on an annual basis which may be used for parsonage purposes are available for repair or maintenance purposes only).*

Commissioners' loans are no longer available for these purposes.

Payment of accounts

Diocesan Parsonages Boards should act as budget holders for all parsonage building, purchase or improvement schemes and are therefore responsible for all payments to architects, contractors etc.

Diocesan staff and their professional advisers should refer to the Commissioners' Parsonages and Glebe Diocesan Manual for fuller details of the different sources of finance for parsonages outlined in this note and, where appropriate, the procedures which should be followed in order to obtain these funds.

A separate leaflet on the procedures to be followed in the sale, building, purchase or improvement of parsonages (and associated consents and notices) is available on request from:

Pastoral Division
Church Commissioners
Church House
Great Smith Street
London SW1P 3AZ

Telephone: 020 7898 1000
Fax: 020 7898 1873

Email: pastoral@churchofengland.org



Parsonage Security

Most clergy wish to be accessible to their community as part of pastoral care. At the same time, they and their families are entitled to live in a house providing reasonable safety and privacy. The purpose of this leaflet is to offer practical advice to dioceses and the clergy on achieving these objectives through prudent measures to protect the parsonage and its occupants from intruders. This advice is based on the recommendations of the Metropolitan Police Crime Prevention Unit and the London Fire Brigade and is reflected in the revised Parsonages Design Guide ('The Green Guide').

The Risks

Clergy generally receive more visitors than the average householder. While the vast majority of visitors will have perfectly good reasons for calling at the house, a small minority may harbour criminal intent and, if so, will almost certainly turn up unannounced. Burglars are largely opportunists and the last thing they want is a struggle to enter a property. Their favourite target is a house where a door or window has been left temporarily unfastened, often when the occupant has gone out for a short time and has forgotten to lock up. Statistics show that 62% of burglaries occur at the rear of the premises and 60% involve entry via windows.

Diocesan Parsonages Boards are responsible for housing the parochial clergy and the decisions they make on the level of security they provide will depend both on the character of a particular area and the precise location of the parsonage within it. Inner-city areas, for example, do not always present higher risks than elsewhere, although the problems may differ in their nature and scale.

Undesirable visitors may target the vicarage if it is situated close to the church (which itself may be prone to burglary and vandalism) and the risks may be proportionately greater. For those clergy living further away from the church and with access to office facilities within the church or parish buildings for appointments/callers, the risks to their house and its occupants may be less. We would not, however, wish to generalise: risk is best assessed by those with detailed local knowledge and experience.

"Designing In" Security

There is growing evidence that the design of buildings themselves, and the way they are arranged on site, affect the way people behave. Where a new parsonage is to be built it should be designed to provide both actual security and the perception of security. The aim should be literally to "design in" security and "design out" crime. "Bolting-on" extra precautions once the house has been built may not only look obtrusive and be expensive but could send out the wrong message to the community about the Church's ministry and the priest's approach to it. It could even deter or discourage legitimate visitors. Careful site planning is therefore essential at the outset and will also need to take account of such factors as the proximity or otherwise of the church and/or parish buildings.

We strongly recommend that dioceses or their professional advisers consult their local Police Force Architectural Liaison Officer (ALO) once a site for a new parsonage has been identified. ALOs (also known as Crime Prevention Design Advisers (CPDA) in the Metropolitan Police Service) are attached to every local police force and London Borough and are responsible for identifying the security and personal safety concerns which apply to a particular site and first design. Pitfalls such as unwittingly designed climbing aids, access points or places of concealment can be easily eliminated and natural surveillance and sightlines can be enhanced.

For many existing houses (including those parsonages that were not purpose-built), there are likely to be fewer opportunities to "design in" security in this way, but the advice of ALOs should nevertheless be sought at an early stage when major improvements are proposed or wherever there is a need to improve security generally. In some instances the provision of extra security devices may be the only realistic solution available but dioceses will need to decide each case on its merits. The Police are always willing to inspect a property and offer suggestions on burglary protection measures and they do not charge for this service.

Recommended Security Measures

We believe that the following measures will help to deter all but the most determined intruder. Our recommendations relate primarily to new parsonage houses but, where relevant, may be applied to most types of clergy housing, new or existing. We recognise however that it might not be possible to apply them in all cases.

The recommendations are divided into three categories in order to distinguish the degrees of importance which we attach to our advice:

Category 1 describes the minimum precaution(s) necessary to provide adequate security;

Category 2 represents features of these precaution(s) that we feel are very desirable;

Category 3 contains detailed advice and suggestions which may not always be practicable to follow in all cases.

Additional recommendations are made where necessary in respect of parsonages located in inner-city and high risk areas generally.

Where relevant, security measures should conform to the appropriate British/European Standards. The local Police Crime Prevention Officer (or ALO) should be asked to advise on the latest Standards (which change from time to time). If required, the Police can also offer advice on suitable installers.

SITE AND GROUNDS

The approach to the property should be directly accessible and visible from the road with a clear view of the driveway from inside the house. No walls, fences, trees, shrubs etc. should obscure sightlines. The route to the front entrance should be clearly defined and a strong, lockable gate should separate the front garden and driveway from the back or kitchen door to the house.

Trees and shrubs should be sited with care and should not provide a would-be intruder with cover or a means of access to and from upstairs windows. Total screening is not advisable. When planting trees, consider species with slender trunks and high foliage (e.g. Beech, Pine) to help to maintain clear sightlines and to avoid masking any lighting columns in the drive.

The safety of children playing in the garden should be fully taken into account. Play areas generally should be overlooked from occupied parts of the house.

Where the rear or side gardens are adjacent to public parks or open areas, access to the property should be suitably protected.

The strategic siting of low to medium height prickly shrubs and bushes such as Barberry, Firethorn, Hawthorn and Holly ("hostile planting") can help to persuade callers to use the designated path and could also be used in vulnerable areas around the house provided such planting does not hamper maintenance. As a general rule it is unwise to plant shrubs etc. so that they screen an outside door or window where they might hide someone tampering with a lock or window fastening.

A gravel or pea-shingle covered driveway or 'moat' around the house offers excellent and inexpensive security. The noise warns of approaching visitors and discourages unwanted ones.

Any fuel bunker or other raised storage area should be sited away from potential entry points above ground-floor level.

Irrespective of proximity to the church or church buildings, we feel that parsonages and any on-site car parking in inner-city areas should be well lit and closely overlooked by other residential buildings. Where appropriate the house might be designed in such a way that it does not appear to be radically different from neighbouring properties. This may help to reduce the chances of it being specifically targeted by a thief.

Generally speaking, the privacy of the occupants of and visitors to parsonages in high-risk locations has to be secondary to the need for security.

EXTERIOR LIGHTING

A good level of exterior lighting, both front and back, is generally considered to be a deterrent to vandals and burglars who will be made to feel more conspicuous than they would be in a poorly lit area.

The lights should be adjacent to all outside doors and operated by a time switch, photo-electric cell or passive infra-red detectors. A manual override facility should be fitted both downstairs and in the principal bedroom. Installation should conform to current Standards.

The lights should be positioned below or between bedroom windows so as to illuminate callers' faces and not just the tops of their heads. Consider lights for the drive, especially in areas of little or no street lighting. Lighting generally should be designed to minimise light pollution.

In some areas of the inner-city and other highly vulnerable locations we recommend permanent dusk to dawn external lighting covering all sides of the property. Modern compact fluorescent lamps provide all-night lighting at relatively low cost.

INTRUDER ALARM SYSTEM

Alarm systems are now considered to be an essential adjunct to security for homes of all types and locations and not just those in high risk areas. Not only do they serve as a deterrent but in the event of burglary they alert neighbours and generate an element of fear and uncertainty in the criminal, so causing him or her to spend less time in or on the perimeter of the premises and thereby limiting or avoiding loss to the householder. The alarm system must be approved by the National Approval Council for Security Systems (NACOSS).

Two personal attack (or panic alert) buttons should be fitted with the alarm system (one by the front door and one in the principal bedroom). This is important for those clergy

living alone and others who may be particularly concerned about the risk of personal assault. Providing this facility can greatly help to reduce such fears.

The alarm system must be audible (there is little point in having one if nobody can hear it). It should be installed in accordance with the Code of Practice for Noise from Audible Intruder Alarms 1982 and wiring must be in accordance with the current Standards for intruder alarm systems. A non-switchable 13 amp fused spur suitable for an alarm control panel is currently required and a 4-core alarm cable from that point to the front and rear doors must be provided as a minimum. Detection devices should comply with current Standards.

Burglar alarms may not in themselves prevent break-ins but they do give an audible warning that someone is attempting to gain entry or is moving about in the house. The recommended system usually takes the form of small sensors fixed to windows and doors which are connected to a control panel and will react to any tampering by a would-be intruder before entry is actually made. We do not recommend alternative systems which involve only the use of infra-red devices or pressure sensitive pads to detect movement indoors since no warning will be given until an intruder is already inside the building. The installation of the alarm system during the construction of a new house avoids subsequent damage to decorations.

Consideration should be given to linking both the alarm system and the personal attack buttons to a monitoring station. In some cases, discounts may be available from suppliers of alarm systems if dioceses are willing and able to negotiate bulk or repeat orders.

In areas where vandalism is a particular problem it may be necessary to fit a protective grille over the alarm system.

FRONT DOOR

We recommend two doors of external quality at the front of the house creating a secure enclosed porch leading to the lobby.

The outer door should be fitted with laminated glass (with any windows to the side also fitted with laminated glass) to allow a clear view of callers. The inner door should be of robust timber design with a minimum 44mm thickness. Non-timber doors must comply with current Standards.

We recommend the following security features:

- ◆ Door frame securely fixed at 600mm centres.
- ◆ A rebated stop, either shaped or glued and pinned to withstand a determined charge or kick.
- ◆ Dead locking cylinder rim lock fitted 1/3 from the top with separate 5 lever security mortice deadlock to current Standards, 1/3 from the bottom (avoiding any rail joints). The mortice

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lock should have at least 1,000 key variations. Multi-point locking with three or more dead bolts may be an alternative.

- ◆ Entry by key only.
- ◆ Pair of non-key operated bolts to inside face, top bolt no higher than 1,500mm (5').
- ◆ Three hinges supplemented by hinge bolts on outward opening doors.
- ◆ Door chain or limiter.
- ◆ Inner door viewer at maximum height of 1,500mm (it is sensible to choose the device with the widest viewing angle, possibly 200 degrees).
- ◆ Letter box at waist height in or adjacent to outer door for concealing mail and newspapers, to be a minimum of 400mm from the door locks.

Glass panelled external doors are not so insecure as might be assumed, particularly when fitted with laminated glass. Burglars are normally very reluctant to break a large panel of glass to gain entry by stepping through the resulting jagged hole. They may also need to vacate the property in a hurry by the same route and serious injury can often be caused by broken glass (although much less likely with laminated glass). Provided the glazed door is well made, a good fit in its frame and fitted with the recommended locks and bolts, it will be as secure as a solid door.

In areas where crime levels are exceptionally high, we recommend all wooden doors at the front of the house with the outer door strengthened by steel plates (unless natural light is required, in which case any glazing should be kept to a minimum and laminated). It may also be necessary to provide a fixed point video entry-phone at the front entrance to the house (providing audio-visual communication) with the camera carefully positioned so as to prevent tampering, to eliminate blind spots and to highlight visitors' faces or, in the very worst crime areas, closed-circuit television incorporating a wide angled lens and a permanent recording facility. Modern technology has miniaturised CCTV cameras to such an extent that a clearly visible dummy camera should be considered in addition. Consideration should also be given to providing a fireproof letterbox.

BACK OR KITCHEN DOOR

The back door should be of substantial construction with secure fixings to deter intruders.

It should not be directly approachable from the road in view of the security risk and potential loss of privacy. Recessed porches and alcoves should be avoided. A mortice sashlock (conforming to current Standards) and 100mm key operated bolts should be fitted top and bottom. The top bolt should not be fitted above a height of 1,500mm (5').

FRENCH WINDOWS

These should have the same physical and fitting requirements as for external doors.

To include:

- ◆ Mortice rebate sash lock.
- ◆ One pair of key operated mortice security bolts or key operated surface mounted bolts to each door, or espagnolette locking for both doors.
- ◆ Two hinge bolts on any outward opening door.

SLIDING PATIO DOORS

Where provided they should be fitted with laminated glass.

To include:

- ◆ Anti-lift device.
- ◆ Minimum three-point locking or equivalent security device.

WINDOWS

The windows in any property must be made secure.

- ◆ Window frames must be securely fixed and internally beaded if possible.
- ◆ Key operated locks conforming to current Standards should be fitted to all opening ground-floor windows (except those containing laminated glass) but not fitted to upstairs windows unless vulnerable to access via a balcony, flat roof or drainpipe or where it is necessary to

comply with the requirements of household insurers. If locks are fitted it is essential that keys are readily accessible in the event of a fire.

- ◆ All windows fitted with locks should be capable of being locked when left part-open for ventilation purposes.
- ◆ *Locks fitted independently of window furniture should be "push/turn to lock - key to unlock" or which lock automatically when the window is closed. All ground-floor windows and those at higher levels which are fitted with locks should always be locked when the house is left empty, even if it is for only a few minutes.*
- ◆ *Consideration should be given in existing houses to the need for an additional window in the study and/or the use of a net curtain or blind for discreet surveillance purposes if there is no clear sightline (or a very limited one) from the study to the main approach to the house.*

Where there is a history of persistent vandalism (window breaking probably being the most common damage inflicted), we recommend that consideration be given to fitting laminated glass to all ground-floor windows securely mounted in their frames.

Gaolers' gates and steel bars/shutters on windows are not recommended as swift egress by the occupants might be prevented in the event of a fire if keys cannot be found quickly. Rescue from outside may also be hindered.

GARAGES AND OUTBUILDINGS

Do not overlook the security of the garage and any garden sheds or other external stores. Make doors and any windows as secure as possible.

Apart from the value of tools in themselves, many are particularly suitable for house breaking. Spades, for example, can be used to try to break open doors and ladders should always be stored securely for obvious reasons. If they are too long to fit in a garage or shed ladders are best padlocked to brackets on a convenient wall of the house. Shed doors need to be stoutly made and well fitted with hinges which cannot be tampered with from the outside. There is little point in fitting an expensive heavy duty padlock and hasp if the door can be forced by levering off or unscrewing flimsy hinges.

In inner-city areas or where the personal safety of the clergy is of particular concern, a remote control garage door operated from inside the car is recommended and a secure side door connecting the garage to the house should be provided. Any parking space should always be well-lit.

OTHER DAY-TO-DAY SECURITY MEASURES

There are a number of simple precautions that clergy can take in order to protect the security of their homes. For example:

AVOID TELL-TALE SIGNS ON GOING AWAY

- ◆ When the house is to be left empty for more than a day, always tell a reliable neighbour or friend, but only tell those who need to know.
- ◆ Cancel all deliveries, milk, newspapers and ask someone to check that the post and free newspapers are not sticking out of the letterbox. Alternatively, ask the post sorting office to hold post.
- ◆ Don't leave notes for tradesmen. Telephone them instead.
- ◆ Ask a neighbour or friend to water the garden and indoor plants, mow the lawn and cut the hedge. They might also be asked to park their car occasionally on the drive or in front of the house and put the bin out on bin day.
- ◆ If everyone in the household is to be out until after dark, leave a light on in a room, not the hall. A time switch or light-sensitive fitting is recommended.
- ◆ In the house remember that curtains and blinds drawn in the daytime attract the thief.
- ◆ Make sure the doorbell is only audible from the inside - let people assume it is not working rather than not being answered.
- ◆ Disconnect telephones that can be heard left ringing (particularly those on window sills). Also, any answer phone message should always say "We cannot come to the 'phone at present", rather than "We are not here".
- ◆ Keep garage doors shut and locked. If the garage has windows, use curtains or blinds to block prying eyes. No car often means that nobody is home.

STAYING SAFE

- ◆ Where possible, check the credentials of unfamiliar callers. Ask for some identification if they claim to be officials - do not be fooled by a uniform. Some organisations use a password to help identify their representatives.

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- ◆ Ask the local police about security-marking valuables. The police can provide stickers for windows advertising that this has been done.
- ◆ Don't forget to lock up, even when just popping out for a few minutes.
- ◆ Never hide a spare key outside.
- ◆ If the house is to be left empty, shout "goodbye" to an imaginary person left inside and leave a radio on while the house is empty. Choose a "Talking Station" such as Radio 4 or 5.
- ◆ If someone is seen acting suspiciously, a simple "Can I help you?" should do the trick. Potential thieves do not like being noticed.
- ◆ If in a Neighbourhood Watch area, display a sticker in the front and back windows of the house.

For more advice on domestic security and personal safety matters contact the local Police Crime Prevention Officer. Further information may also be obtained from the Home Office Crime Prevention Centre, Police Headquarters, Cannock Road, Stafford ST17 0QG. Tel: 01785 582217.

A separate leaflet on recommended fire precautions in parsonages (including fire-fighting equipment) is available on request from:

Pastoral Division
Church Commissioners
Church House
Great Smith Street
London SW1P 3AZ
Telephone: 020 7898 1000
Fax: 020 7898 1873
Email: pastoral@churchofengland.org



Fire Precautions for Parsonages

Fire can have a devastating effect on a building and its contents and can spread rapidly owing to the amount of dry combustible material contained in the average house. Life is threatened by both burns and asphyxiation and fire brigades are called out to over 60,000 fires in domestic premises every year. These domestic fires kill nearly 500 people and injure over 11,000 annually.

This leaflet offers some basic advice on how to prevent a fire and how to protect members of the household from its effects should one occur. It builds on the recommendations contained in the revised Parsonages Design Guide ('The Green Guide') which offers guidance to dioceses and others on the design and building of new parsonages and is based on the advice of the London Fire Brigade and the Home Office.

1. Smoke Alarms

Many of the deaths and injuries from fires in the home could be prevented if people had early warning and were able to get out in time. Fitting smoke alarms can save lives since they will alert the occupants of a house to the presence of a fire earlier than the human senses can (especially at night), giving an opportunity to escape.

1.1 What is a smoke alarm?

Smoke alarms are self-contained devices that incorporate a means of detecting a fire (smoke detector) and giving a warning (alarm). They are about the size of a hand and are normally fitted to the ceiling. They detect fires in their earliest stages and sound a loud warning alarm giving those precious few minutes in which to get out of the house safely. The noise emitted is penetrating and closing doors at night is unlikely to render the equipment ineffective.

1.2 What types of smoke alarm are there?

There are two types of smoke alarm currently available on the market - **ionisation** and **optical (also described as photoelectric or photoelectronic)**. The ionisation type is cheapest. They are very sensitive to small particles of smoke produced by flaming fires, such as chip pans, and

will detect this type of fire before the smoke gets too thick. They are marginally less sensitive to slow-burning and smouldering fires which give off large quantities of smoke before flaming occurs. The optical type are more expensive but more effective at detecting larger particles of smoke produced by slow-burning fires, such as smouldering foam-filled upholstery and overheated PVC wiring. They are marginally less sensitive to free burning flaming fires.

Each type looks similar and they are powered either by a battery or mains electricity (or a combination of both). Some are interconnectable, so that any smoke detected at one point can raise the alarm at all the others. Some have additional features, such as emergency lights and silence buttons, for use where false alarms can be a nuisance, e.g. when cooking.

1.3 What type of smoke alarm is recommended?

Both types of fire are common so the best form of protection would be to choose at least one smoke alarm of each type. Ideally, and to ensure continuity of supply, mains powered alarms with a back-up power supply (e.g. battery, rechargeable capacitor) are the best option. They should be interconnected. As an added safety measure, it is best that alarms contain a battery powered emergency light to help guide the occupants of the house to safety in the event of the main electricity being cut out (which is quite possible in the case of an electrical fire). However, simple battery powered alarms of either type will give good minimum protection.

All smoke alarms must conform to the appropriate British/European Standards. In addition, mains powered alarms with battery back-up should be installed in accordance with the relevant Standards. The local Fire Brigade's Safety Officer will be able to provide details of the Standards currently applicable. Local Authority Building Control requires all new residential accommodation to be fitted with smoke alarms and the system required will depend upon the size, type and proposed use of the accommodation. Whenever an older property is to be structurally altered and refurbished, the local Fire Brigade's Safety Officer should be consulted over the most appropriate system to install. No charge is made for any advice given.

1.4 How many smoke alarms should be fitted?

Fires can start anywhere, so the more that are fitted, the higher the level of protection.

For **maximum** protection an alarm should be fitted in every room, except the bathroom, kitchen or dining room with a door directly into the kitchen. In these locations, steam or cooking fumes may trigger the alarm unnecessarily. Similarly, an alarm should not be fitted in the garage where exhaust fumes are likely to set it off. Cigarette smoke will not normally trigger an alarm.

For **minimum** protection the number to be fitted will depend on the design of the accommodation. If the accommodation is on one floor, one smoke alarm, preferably of the optical type, may be enough to provide early warning of a fire. If the home has more than one floor (most modern parsonage houses consist of two storeys), at least one alarm should be fitted on each level. In this case a combination of optical and ionisation alarms, preferably interconnected, will give the best protection.

1.5 Where should smoke alarms be fitted?

For homes with more than one floor, for minimum protection one alarm should be fitted **at the bottom of the staircase** well away from the kitchen with further alarms fitted **on each upstairs landing**. If (unusually for a parsonage) the accommodation is on one level, for minimum protection, the alarm should be fitted **in the hallway** between the living and sleeping areas but well away from the kitchen.

Smoke alarms should normally be fitted at least 30 centimetres (12 inches) away from any wall or light fitting and as close to the centre of the room, hallway or landing ceiling as possible. They should never be fitted within 15 centimetres (6 inches) of the corner between the ceiling and wall as this is dead air space in which the air circulation is poor and the particles can bypass the sensor. This might prevent smoke from reaching the alarm in time to provide early warning.

Important: The manufacturer's instructions should be followed at all times, particularly where mains powered alarms are to be installed.

1.6 What about the kitchen?

A mains powered **heat** detector (as opposed to a **smoke** detector) should be fitted in the kitchen (or in any dining room with a door directly into the kitchen). Ideally the heat detector should be interconnected with the smoke alarms and contain a battery back-up facility. Heat detectors are designed to sound an alarm in response to a fast rise in temperature rather than to fumes or steam produced by cooking and are therefore best in these locations. An alternative but a less convenient option may be to provide a smoke detector fitted with a mute facility (this will silence the alarm momentarily by pressing a button).

1.7 Do smoke alarms need to be maintained?

Yes, but they generally need very little maintenance. The manufacturer's instructions should always be followed carefully. Once a month the alarm should be checked by pressing the test button or with smoke from a snuffed candle. Alternatively, the detector can be checked by using one of the testing devices currently on the market for this purpose. The unit should be vacuumed every six months (the nozzle should not be allowed to touch the unit) and the casing and slots should be wiped regularly to ensure that dust is not blocking the sensor. For mains wired alarms, the power should first be switched off. Battery powered alarms should be fitted with new batteries at least once a year. Batteries should never be removed for other purposes. When redecorating, the alarm should be removed and should on no account be painted over.

1.8 Smoke alarms for people with hearing or sight disabilities

Many people whose hearing is impaired are still able to hear a conventional smoke alarm. Interconnected alarms are particularly useful in this respect since smoke detected in one part of the house will set off other alarms elsewhere.

For people with severe hearing disabilities who would not be able to hear a conventional smoke alarm there are special devices available which make use of a vibrating pad or flashing light instead of (or in addition to) the audible signal - the vibrating pad alarms are particularly useful for deaf-blind people.

Further information can be obtained from local voluntary organisations or Social Services Departments who may be able to offer advice on products specially designed to help people with disabilities. Advice may also be available from one or more of the organisations listed at the end of this leaflet.

2. Fire Fighting Equipment

For domestic property, fire fighting equipment for occupiers' use comprises fire extinguishers and fire blankets.

2.1 Fire extinguishers

On the whole, fire brigades are not enthusiastic about fire extinguishers for use in private homes. Untrained people reacting in some panic or distress may easily use an extinguisher incorrectly or be encouraged to stay in a building fighting a fire when they should be escaping or helping others to escape and calling the Fire Brigade.

Reasonably small and portable fire extinguishers (very large ones are not easily capable of being handled in an emergency) can be useful as a safeguard against small fires, but fires should only be tackled if they are in the very early stages and if the user feels confident in doing so.

All new fire extinguishers must conform to the appropriate British/European Standards.

Fire extinguishers should be located where they can be reached easily and quickly and where their suitability for a particular fire can be checked swiftly. The best place is on an escape route, i.e. near an outside door, or on the route from the living areas to an outside door, or close to any perceived fire risk. They should be properly fixed to the wall at a height where they can be reached, but not by young children. They should be easily seen - locating them inside cupboards or behind doors will only waste valuable time if a fire breaks out. **They must not be placed over cookers or heaters or in places of extreme heat.**

The manufacturer's instructions will give advice on what needs to be done to keep a fire extinguisher in good working order. After an extinguisher has been used, even if only partially, it **must** be recharged according to the manufacturer's instructions and all fire extinguishers should be properly serviced once a year.

2.2 Different types of fire extinguisher

Fire extinguishers come in a range of sizes and are available charged with a number of different substances. However, certain substances can only deal with certain fires and inappropriate

combinations of fire and extinguisher can make matters worse. All new portable fire extinguishers are now coloured red with a zone of colour indicating the contents of the extinguisher. This colour indication appears on the front of the extinguisher above the operating instructions and will be clearly visible if it is correctly mounted. However, existing fire extinguishers on which the entire body is colour coded remain useable until such time as they need to be replaced.

The following types of extinguisher deal with the fires described:

Type	Zone Colour Code	Use	Danger
Water	Red	Intended for wood, cloth, paper, plastics, coal etc. Fires involving solids. Works mainly by cooling burning material.	Do not use on chip or fat pan fires, burning oil or on electrical appliances.
AFF (Aqueous film-forming foam) - Multi-purpose	Cream	Intended for wood, cloth, paper, plastics, coal etc. Fires involving solids. Liquids such as grease, oils, paint, petrol etc. Forms a fire extinguishing film on the surface of a burning liquid. Has a cooling action with a wider extinguishing application than water on solid combustible materials.	Do not use on chip or fat pan fires.
Carbon Dioxide - CO ₂	Black	Intended for liquids such as grease, oil, paint, petrol etc. Clean, effective and safe on live electrical equipment. CO ₂ is a vaporising liquid gas which smothers the flames by displacing oxygen in the air.	

N.B. The following types of fire extinguisher are generally recommended for use outside the home:

* **Standard Dry Powder or Multi-Purpose Dry Powder**

STANDARD DRY POWDER knocks down flames on liquids such as grease (except chip or fat pan fires), oil, paint and petrol.

MULTI-PURPOSE DRY POWDER knocks down flames and, on burning solids, melts to form a skin smothering the fire. It can be used on wood, cloth, paper, plastics, coal etc. (fires involving solids) as well as liquids such as grease (except chip or fat pan fires), oil, paint and petrol.

Neither type of fire extinguisher cools the fire very well and care has to be taken that the fire does not re-ignite. They are best used outside the home because of the mess produced, e.g. to deal with motor-vehicle fires and fires in garages/sheds.

*** Vaporising Liquid (including Halon)**

This type of fire extinguisher produces a vaporising liquid gas which gives rapid knock down of flames by chemically inhibiting combustions. Used on liquids such as grease (except chip or fat pan fires), oil, paint and petrol. Owing to the ozone depleting potential of halon, its future use and availability will be restricted - the production and consumption of new halon ceased in 1994. **It is therefore strongly recommended that this form of extinguisher is not purchased.**

2.3 Fire blankets

A burning chip pan or frying pan in the kitchen is one of the most common kinds of household fire which can be a frightening experience occurring with very little warning. A fire blanket is by far the most effective way with which to deal with such a fire. They are made of fire-resistant material (usually woven glass fibre) and are recommended for both smothering chip or fat pan fires or for wrapping round a person whose clothes are on fire. The fire blanket should conform to the appropriate British/European Standards. It should be marked to show whether it should be thrown away after one use or used again after cleaning in accordance with the manufacturer's instructions. Fire blankets should be kept in the kitchen, but not directly above the cooker or a heater because flames leaping upwards from the hob will make it difficult and dangerous to reach the blanket.

3. Fire Safety

Many fires are caused by lack of concentration or carelessness and it is important to be aware of the dangers and try to prevent fire starting in the first place. It is also sensible to know what to do should a fire be discovered. As a general rule, everyone should leave the house as quickly as possible and the Fire Brigade should be called. Should the fire be discovered in its very early stages some householders may think they can deal with it themselves. The first thing to remember is that even small fires spread very quickly, producing smoke and fumes which can kill in seconds. If there is any doubt, the fire should not be tackled, no matter how small it appears to be. The following simple code should help in deciding what to do if a fire occurs:

*Do not move the object on fire.

*Only tackle a fire if it is in its very early stages. For most types of fire a small amount of water applied at an early stage in the fire can control the potentially hazardous situation more effectively than applying a larger amount of water at a later stage. However, **never** put water on fat pan fires or electrical fires and **never** use a fire extinguisher on chip or fat pan fires.

*Never tackle a fire if it is starting to spread or if the room is filling with smoke. The most common cause of fire deaths is being overcome by smoke or fumes.

*If you cannot put out the fire or if the extinguisher becomes empty, get out closing all the doors behind you as you go.

*Always put other people's and your safety first. Make sure that everyone else has got out of the building and that you can escape if you have to. Ensure that someone calls the Fire Brigade from a neighbour's house, call box or mobile phone.

*Before opening a closed door use the back of your hand to touch it. Do not open it if it feels warm - the fire will be on the other side.

*If you are cut off by fire try to remain calm. If you are unable to use the door because of flames or smoke, close the door and use towels or sheets to block any gaps. Try to make your way to a window. If the room becomes smoky crawl along the floor, where it will be easier to breathe because smoke rises. Open the window and try to attract the attention of others who can alert the Fire Brigade.

Remember: If in doubt get out, get the Fire Brigade out and stay out until a fire officer has told you it is safe to re-enter your home. Always call the Fire Brigade even if you have managed to put the fire out. They are the experts and will make sure that the fire is properly extinguished. They do not charge for this.

3.1 Chip and fat pan fires

When cooking in a fat pan or deep fat fryer, never fill it more than one-third full with oil or fat and never leave the pan unattended when the heat is switched on. If the oil begins to give off smoke, do not put any food in the pan and turn off the heat to allow it to cool. To test the temperature of the oil, put in a small piece of bread - if it crisps up quickly the oil is ready.

If the oil does catch fire, do not move the pan. Turn off the heat if it is safe to do so but **never** lean over the pan to reach the cooker controls. Place a fire blanket, or (if one is not available) a damp tea cloth or towel, over the pan to smother the flames, ensuring that your hands are protected by the cloth. If a tea cloth or towel is used, it should be as wet as possible without dripping. **Never throw water onto the fire.** The pan should then be left to cool down for at least 30 minutes.

3.2 Electrical fires

Around 28,000 fires in the home are reported each year as being caused by electrical faults, accidents or by misuse of electrical equipment. The greater flammability of many old buildings make them particularly vulnerable but it is not always the wiring of the house which is at fault. Risks can be significantly reduced by taking a number of simple preventative measures.

All electrical appliances (particularly television sets) should be unplugged when not in use, especially at night, and the correct fuses always fitted. Plugs should be removed carefully, not by pulling the flex, and they should conform to the appropriate British/European Standards. Overloading a power point by using several adapters in one socket can cause it to overheat and catch fire. If an adapter is used, ensure it is of good quality with the correct fuse. Electric blankets should be properly maintained, correctly used and serviced in accordance with the manufacturer's instructions. Time switches should not be used for unsuitable appliances, such as electric blankets or radiant heaters - they may come on unexpectedly and cause a fire. When buying any new electrical equipment, ensure that it has been tested and approved by the appropriate British/European regulatory authority.

Flexes should be checked from time to time and should not be joined or run under rugs or carpets. It is important to have the wiring of the house checked regularly, especially if the property is over 15 years old. Look out for warning signals of dangerous wiring - hot plugs and sockets, fuses which blow for no apparent reason, lights flickering or brown scorch marks on sockets and plugs. You should ask your electricity supplier or a qualified electrician to check your wiring immediately if you see any of these danger signs - regular checks of the wiring should help prevent them from occurring. DIY wiring should not be attempted unless the person is very competent. Do not store old newspapers, polish, paint, spirit cleaning solvents etc. in the cupboard under the stairs where the electricity and gas meters are located. A fire under the stairs can prevent escape from upstairs and the stairwell often acts as a chimney causing smoke to rapidly spread vertically, cutting off escape.

In order to reduce the risk of an electrical fire breaking out (and to provide some protection against shock) it may be worth considering the installation of an Earth Leakage Circuit Breaker (or Residual Current Detector) if one is not already fitted. This equipment will detect the slightest bit of leakage and instantly cut off the power supply. A qualified electrician should be consulted in this respect.

If an electrical appliance or fitting does catch fire, the switch at the main fuse box should be turned off before any attempt is made to deal with the fire. Water should never be used on a burning appliance if the electricity is still turned on and note that water should not be used on a television or computer even after the power has been switched off because residual electricity may remain in the unit for some time. CO₂ extinguishers can be used on 'live' equipment.

In the kitchen, always make sure that saucepans are in a safe position on the cooker. Handles should not stick out over the edge of the cooker, where they can be knocked over or left within

the reach of young children. Ensure that the handles are not over a hot ring or burner. Flexes from electrical equipment, such as kettles and toasters, should be kept well away from the cooker and tea towels should never be dried over the cooker. Saucepans should never be left unattended with the heat turned on and ovens should not be left on after use.

3.3 Planning an escape route

If a fire occurs in your home you may have to get out in dark and difficult conditions. Escaping from a fire will be a lot easier if you have already planned your escape route and know where to go. Make sure that your planned escape route remains free of any obstructions and that there are no loose floor coverings that could trip you up. Everyone in the house should be made aware of the escape route.

If any member of the household has serious mobility difficulties you may wish to consider having their bedroom on the ground floor (if this is practical) and as near as possible to an exit. If someone needs assistance to escape, it is vital that they have some means of summoning help by their bed, i.e. a buzzer, intercom or telephone. There are also systems available which will automatically dial out on your telephone line to summon help or send a signal to a manned control room. Details of the many emergency call/alarm systems can be obtained from the Disabled Living Foundation whose address is given at the end of this leaflet.

The new Parsonages Design Guide ('The Green Guide') makes detailed recommendations on the security of new, purpose-built, parsonages and many existing clergy houses are already equipped with security measures ranging from basic precautions such as exterior lights and window locks to additional precautions such as closed-circuit television cameras and reinforced external doors in high risk areas. While these are designed to deter potential intruders from breaking into the house, care must be taken to ensure that such precautions do not hinder escape from a fire. For example, where locks are fitted to upstairs opening windows, it is essential that the occupants of the house know where the keys are and that they are readily accessible in the event of a fire. In addition, laminated glass should never be fitted to upstairs windows and locks should not be fitted to this type of window on the ground floor. The Fire Brigade does not recommend "gaoler's gates" and steel bars or shutters on windows since these may prevent swift escape from the house if the keys cannot be found quickly. Rescue from outside may also be made more difficult and valuable time could be lost.

The local Fire Brigade's Safety Officer should be consulted when considering the provision of any significant security measures to be sure that the safety of the occupants will not be prejudiced in the event of a fire.

3.4 Additional tips on fire safety in the home

1. Never leave matches or lighters where children can find them.
2. Never leave a lit cigarette or pipe unattended - it may fall onto an armchair or carpet which could catch fire, giving off dense smoke and fumes.

Section 13.5 Parsonages Design Guide Leaflets: Fire Precautions

3. Do not use candles where there are safer alternatives. If you do, never leave them unattended and extinguish them properly.
4. Use fireguards around fires and heaters to protect children and never sit too close to a fire. Clothes or the chair itself could be easily set alight, particularly if you fall asleep. Never place clothes on the guard to dry or put papers on the guard.
5. Always stand portable heaters in a safe place where they cannot be knocked or tripped over. Keep them well away from furniture and soft furnishings, such as curtains and cushions and never place them next to beds or where objects may fall onto them.
6. Check that your furniture conforms to current fire resistant standards. Look for the warnings on labels.
7. Turn off and unplug electrical equipment unless it is designed to be left on.
8. Keep curtains well away from any cooker and television sets.
9. Do not leave aerosols in direct sunlight or use them near flames, hot electric elements or other potential sources of ignition. They may contain a flammable propellant gas.
10. Do not place mirrors or bottles in direct sunlight as concentrated sun-rays can start a fire. Windows with a glass lens-like piece imitating old glass should not be used in south-facing windows.

Section 13.5 Parsonages Design Guide Leaflets: Fire Precautions

Further information concerning fire safety in the home may be obtained from the following:

Your local Fire Brigade Safety Officer (*contact your local Fire Station*)

Home Office Fire Safety Publications
Room 153
Publicity and Campaigns Unit
50 Queen Anne's Gate
London SW1H 9AT
Tel: 020 7273 2756

Building Research Establishment
Bucknall Lane
Garston
Herts WD2 7JR
Tel: 01923 664 000

Fire Research Station (*see Building Research Establishment*)

London Fire and Civil Defence Authority
Albert Embankment
London SE1 7SD
Tel: 020 7587 4283 Fax: 020 7587 4289

Ecclesiastical Insurance Group plc
Beaufort House
Brunswick Square
Gloucester GL1 1JZ
Tel: 01452 528533

The following addresses may be useful for people with disabilities:

Royal National Institute for Deaf People
9-23 Featherstone Street
London EC1Y 8SL
Tel: 020 7296 8000 Fax: 020 7296 8199 Textphone: 020 7296 8001 (Minicom)

Royal National Institute for the Blind
224 Great Portland Street
London W1N 6AA
Tel: 020 7388 1266 Fax 020 7388 2034

National Federation of the Blind of the UK
Unity House
Smyth Street
Westgate
Wakefield
West Yorkshire WF1 1ER
Tel: 01924 291313

Disabled Living Foundation
380-384 Harrow Road
London W9 2HU
Tel: 020 7289 6111 Fax: 020 7266 2922

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Royal Association for Disability and Rehabilitation (RADAR)
Unit 12 City Forum
250 City Road
London EC1V 8AF
Tel: 020 7250 3222 Fax: 020 7250 0212 Textphone: 020 7250 4119 (Minicom)

SENSE
11 - 13 Clifton Terrace
Finsbury Park
London N4 3SR
Tel: 020 7272 7774 Fax: 020 7272 6012 Textphone: 020 7272 9648 (Minicom)

A separate leaflet on recommended security measures in parsonages (including advice on day-to-day security precautions and personal safety in the home) is available on request from:

Pastoral Division
Church Commissioners
Church House
Great Smith Street
London SW1P 3AZ
Telephone: 020 7898 1000
Fax: 020 7898 1873
Email: pastoral@churchofengland.org



Low Maintenance and Drought Tolerant Ground Cover for Parsonage Gardens

The permanent planting of low maintenance ground cover is encouraged for two reasons. First, clergy and their families may be reluctant to commit a great deal of effort to maintaining their gardens when faced with many other demands on their time and energy. Secondly, the perceived change in our climate arising from global warming points to the need to conserve water where possible and the planting of reasonably drought tolerant plants and shrubs is one way in which the Church can lead by example.

Diocesan Parsonages Boards, their professional advisers and the clergy themselves should therefore take these considerations into account whenever the opportunity arises to design and/or stock the gardens of clergy houses. The choice of suitable plants is likely to depend on a number of factors (including the nature and location of the site) and we recommend that the advice of local garden centres and/or nurseries is obtained in each case.

Ground cover is the term given to plants that quickly and effectively cover the ground and thereby reduce the need to weed.

What makes a good ground cover plant?

- ◆ First, the plants need to form a thick enough leaf canopy to prevent weeds from becoming established.
- ◆ Secondly, the plants should require the minimum of maintenance, pruning, spraying etc.
- ◆ Thirdly, the plants should be perennial, preferably evergreen and suitable for the area in which they are to be grown.
- ◆ Lastly, and ideally, the plants should establish quickly, covering the desired area within one or two seasons, but not be too rampant and invasive.

When it comes to planting, normal planting techniques should be followed. However, extra attention must be paid to the removal of perennial weeds as their removal at a later date may be difficult.

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Below is a list of some of the more common and reasonably drought tolerant ground cover plants, both evergreen and deciduous:

EVERGREEN GROUND COVER - DROUGHT TOLERANT						
Plant Name	Maximum Height (cm)	No. of Plants Per m ²	Flower Colour	Flowering Season	Shade Tolerance	Chalk Tolerant?
Alyssum Saxatile (Gold Dust, Rock Madwort)	20	7	Golden-Yellow	Spring	Low	Yes
Anthemis Nobilis (Common Chamomile)	5	7	White	Summer	Low	Yes
Arabis (Rock Cress)	10	9	White/ Red	Spring/ Summer	Low	Yes
Cerastium Tomentosum (Snow-in-Summer)	15	6	White	Spring/ Summer	Low	Yes
Cistus Spp. (Rock Rose, Sun Rose)	45-90	2	White Pink	Spring/ Summer	Low	Yes
Cotoneaster (low growing varieties)	10-130	2	White Pink (Red berries)	Spring	Medium	Yes
Epimedium Spp. (Barrenwort, Bishop's Hat)	20-25	10	White Pink	Spring/ Summer	Low	Yes
Erica Carnea (Heath, Heather)	20-35	5	White Pink	Late Winter	Medium	Yes
Euonymus Fortunei (Spindle Tree)	60	3	White (Red fruit)	Spring	Medium	Yes
Euphorbia Spp. (Spurge)	10-60	4	Yellow Green	Spring/ Summer	Medium	Yes
Hedera Spp. (Ivy)	15-20	1	Greenish - Yellow	Autumn	High	Yes
Helianthemum Spp. (Sun Rose)	15-25	6	Yellow Cream, Pink	Summer	Low	Yes
Hypericum Calycinum (St John's Wort)	20-30	5	Yellow	Summer	High	Yes
Iberis Sempervirens (Candytuft)	20-30	6	White	Spring/ Summer	Low	Yes
Juniperus Spp. [Horizontalis, Media] (Juniper)	15-60	1-3	None (foliage only)		Medium	Yes
Lamium Maculatum (Dead Nettle)	10-15	5	White Pink, Purple	Spring	High	Yes
Nepeta Mussinii (Catmint)	20-30	3	Lavender Mauve	Summer	Low	Yes

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Phlomis Fruticosa (Jerusalem Sage)	75-90	2	Yellow	Summer	Low	Yes
Prunus Lauro 'Otto Luyken' (Cherry Laurel)	90	1	White	Spring/ Autumn	High	Yes
Saxifraga Spp. (Saxifrage)	7-10	9	Pink White Yellow	Spring/ Summer	Low	Yes
Sedum Spp. (Stonecrop)	7-10	9	Pink White Yellow	Spring/ Summer	Low	Yes
Senecio 'Sunshine'	90	1	Yellow	Summer	Low	Yes
Stachys Lanata (Lamb's Ears)	7-10	5.	Purple	Summer	Low	Yes
Thymus Serphyllum (Thyme)	5	9	Magenta Pink, White Purple	Summer	Low	Yes
Vinca Spp. (Periwinkle)	10-20	4	Blue White Purple	Spring/ Autumn	High	Yes

DECIDUOUS GROUND COVER - DROUGHT TOLERANT						
Plant Name	Maximum Height (cm)	No. of Plants Per m ²	Flower Colour	Flowering Season	Shade Tolerance	Chalk Tolerant?
Alchemilla Mollis (Lady's Mantle)	15-20	5	Yellow	Summer	Medium	Yes
Cytisus x Kewensis (Broom)	30	3	Cream	Spring/ Summer	Low	Yes
Geranium Spp. [Macrorrhizum/Wargrave Pink etc] (Cranesbill)	15-30	5	Red, Pink Purple Blue	Summer	Medium	Yes
Origanum Vulgare (Common Marjoram)	15	9	Purple	Summer/ Autumn	Low	Yes
Polygonum Affine (Knotweed)	5-10	9	Red	Summer/ Autumn	Medium	Yes
Symphytum Spp. (Comfrey)	15	9	Blue, White Yellow	Summer	High	Yes

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Some common ground cover plants that are not generally regarded as being drought tolerant include the following:

EVERGREEN GROUND COVER – NOT DROUGHT TOLERANT						
Plant Name	Maximum Height (cm)	No. of Plants Per m ²	Flower Colour	Flowering Season	Shade Tolerance	Chalk Tolerant?
Ajuga Reptan (Bugle)	10	7	Deep Blue	Spring	Medium	Yes
Bergenia (Megasea, Elephant's Ears)	30	5	White, Red Pink, Purple	Spring	Medium	Yes
Calluna Vulgaris (Heather, Ling)	15-45	7	White, Red Pink, Purple	Summer/ Autumn	Medium	No
Gaultheria Procumbens (Checker Berry, Winter-Green)	15	6	White	Summer	High	No
Helleborus Spp. (Hellebore)	40-50	3	White Green Purple Pink	Winter/ Spring	High	Yes
Lonicera Pileata (Honeysuckle)	45	2	Yellow Purple Cream Red	Summer/ Autumn	High	Yes
Pachysandra Terminalis	7-10	9	White	Spring	High	Yes
Pulmonaria Spp. (Lungwort)	15	9	Pink Purple Blue	Spring	High	Yes
Waldsteinia Ternata	7-10	9	Yellow	Spring / Summer	High	Yes

DECIDUOUS GROUND COVER – NOT DROUGHT TOLERANT						
Plant Name	Maximum Height (cm)	No. of Plants per m ²	Flower Colour	Flowering Season	Shade Tolerance	Chalk Tolerant?
Acaena Spp. (New Zealand Burr)	7-10	5	N/A	N/A	Low	Yes
Acanthus (Bear's Breeches)	90	1	White Purple	Summer	High	Yes

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Brunnera Macrophylla (Anchusa)	30	4	Blue	Spring	High	Yes
Ceratostigma Spp. (Hardy Pumbago, Leadwort)	30	6	Blue	Summer/ Autumn	Low	Yes
Clematis Spp. (Herbaceous Clematis)	60	1	Blue	Summer	Medium	Yes
Cornus Canadensis (Creeping Dogwood)	10-15	6	White	Spring	Medium	No
Geum x Borisii (Avens)	15-20	9	Scarlet Yellow Orange	Summer	Medium	Yes
Hosta Spp. (Funkia; Plantain Lily)	20-45	4	White Purple	Spring	High	Yes
Phlox Spp. [Subulata, Douglasii]	5-10	9	White, Pink Lilac, Red	Summer	Med- Low	Yes
Potentilla Fruitcosa (Shrubby Cinquefoil)	30-75	2	Red	Spring/ Summer	Medium	Yes
Roses (Ask for advice)	-	-	-	-	-	-
Stephanandra Incisa 'Crispa'	45-60	1	Greenish- White	Summer	Low	Yes

Pastoral Division
Church Commissioners
Church House
Great Smith Street
London SW1P 3AZ
Telephone: 020 7898 1000
Fax: 020 7898 1873
Email: pastoral@churchofengland.org

Annexes

- A Connected Person Declaration
- B Illustration of Intra Church Transactions
- C Bed & Breakfast in Parsonages
- D Parsonage Houses and the Disability Discrimination Act 1995
- E Summary of amendments to primary legislation in Church of England (Miscellaneous Provisions) Measure 2000 directly affecting Church Commissioners' Pastoral Division
- F Summary of amendments to primary legislation in Church of England (Miscellaneous Provisions) Measure 2005 directly affecting Church Commissioners' Pastoral Division
- F1 [Summary of Amendments affecting Parsonages, Glebe and Pastoral Reorganisation Church of England \(Miscellaneous Provisions\) Measure 2006](#)
- G Annual Statistical Return
- H The Land Registration Act 2002: Land Registry Plan Requirements
- I Procedure for disposing of property under the New Parishes Measure 1943
- J Glossary

Declaration by a person or body entering into a contract under the Parsonages Measure 1938 or the Endowments and Glebe Measure 1976 or the Mission and Pastoral Measure 2011 or Ecclesiastical Offices (Terms of Service) Measure 2009

Benefice:

Diocese:

A. Parsonages Measure 1938

[sale] [exchange] [building] [purchase][site purchase] [division] [enlargement] [improvement]

B. Endowments & Glebe Measure 1976

[sale] [lease] [exchange] covered by Schedule 3 of the Measure

Insert description of transaction(s) as appropriate

C. Mission and Pastoral Measure 2011

[sale] [lease] [exchange]

D. Ecclesiastical Offices (Terms of Service) Measure 2009

[sale] [demolition] [exchange] [building] [purchase] [division] [enlargement]

1. I hereby confirm that I am not:

- the incumbent, priest-in-charge, office holder, bishop or a patron of the benefice in question; nor
- a member, officer, agent or employee of the parochial church council of any parish within the benefice in question ; nor
- a member of the diocesan board of finance or of [the diocesan parsonages board/committee] [the Diocesan Mission and Pastoral Committee] [the diocesan glebe committee]*.

2. I also confirm that to the best of my knowledge I am not:

- a spouse, civil partner, child, parent, grandchild, grandparent, brother or sister of any of the above persons.

*[*delete whichever Committees are not acting for the diocese in the matter.]*

Name (please print): _____

Signed: _____

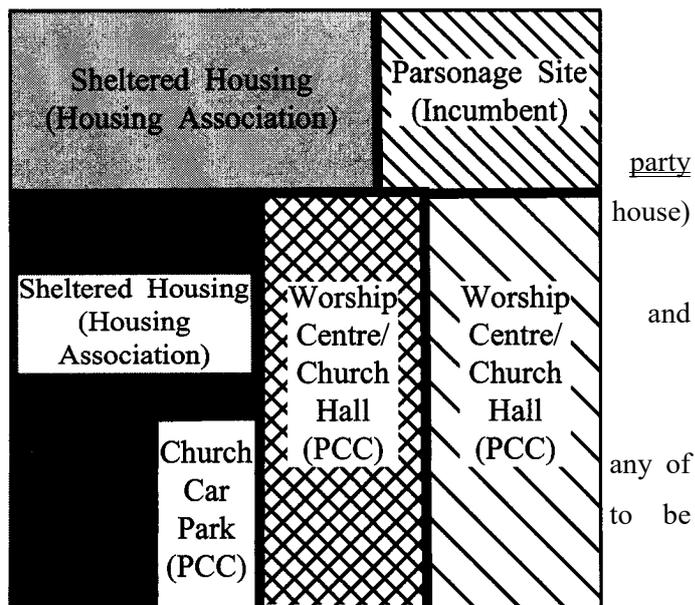
Address: _____

Date: _____

Illustration of Intra Church Transactions

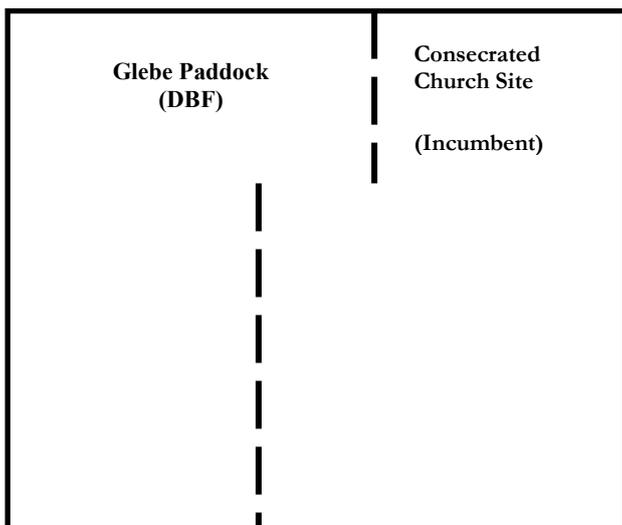
Notes on ‘Connected Persons’

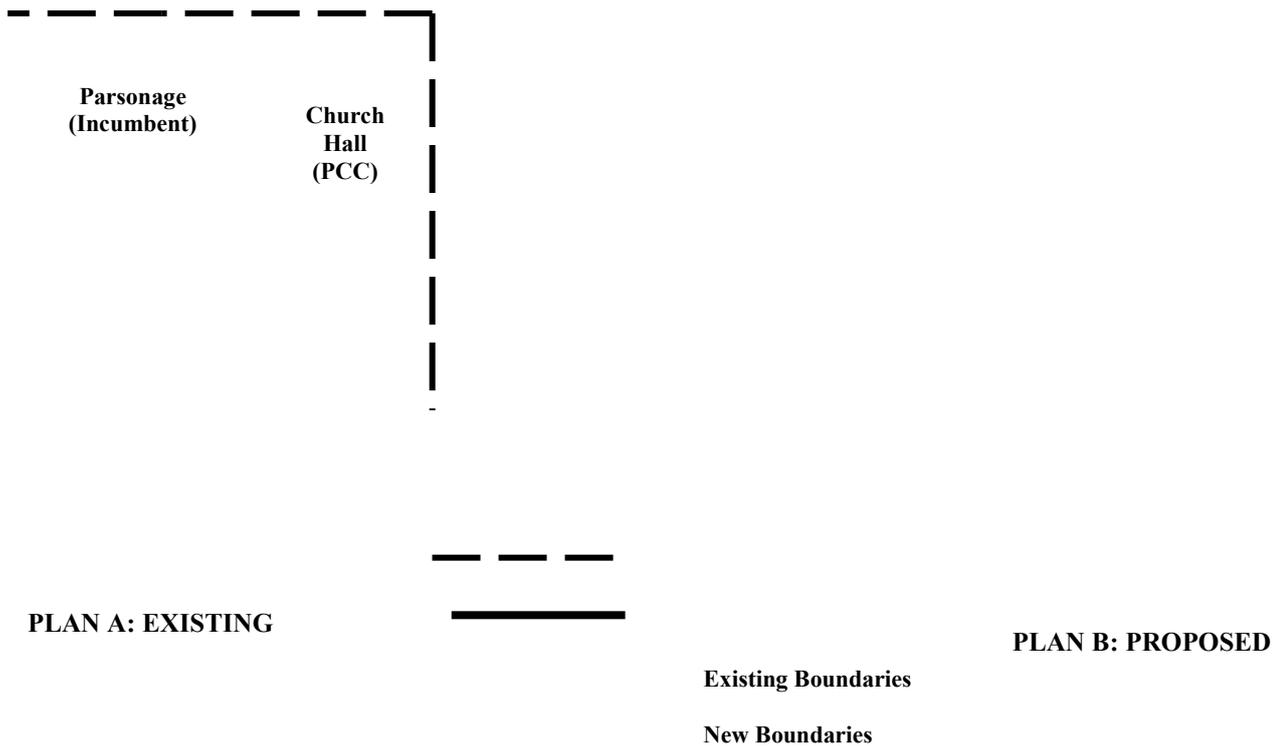
1. Where a person entering into a contract as the other (e.g. the person or body acquiring a former parsonage under the Parsonages Measure 1938 or the Endowments & Glebe Measure 1976 or the Mission Pastoral Measure 2011 or the Ecclesiastical Offices (Terms of Service) Measure 2009 is unable to sign the declaration to the effect that they are not connected to the parties outlined in the declaration, the matter has referred to the Commissioners for approval irrespective of whether or not representations are received.



2. For the purposes of the declaration the Commissioners regard the scope of ‘connected persons’ as extending to the bishop; incumbent; priest-in-charge; the affected office holder, patron(s); members, officers, agents or employees of the Parochial Church Council, the Diocesan Board of Finance, and (as appropriate) the Diocesan Parsonages Board/Committee, the Diocesan Mission and Pastoral Committee and the Diocesan Glebe Committee if they are involved as the other party in one of these transactions. The same applies to their close relatives. If the person entering into a contract was a ‘connected person’ at any point in the negotiations but is no longer such a person at the time the contract is made, then the diocese may wish to seek the Commissioners’ approval to the transaction. The diocese is not, however, obliged to do so.

3. In all cases the diocesan officer responsible should invite the other party to sign the declaration. If there is any doubt as to whether the other party should be regarded as ‘a connected person’ (or whether their connection is a significant one or not), we feel that it is best to err on the side of caution and either (a) formally refer the transaction to the Commissioners for approval or (b) seek their informal views. We recommend that our advice is always sought before proceeding with a transaction involving a connected person in a highly sensitive post (e.g. diocesan secretary or archdeacon) where the need for independent valuations may be particularly important.





PROCEDURES

1. Demolition of parsonage under *Parsonages Measures*.
2. Sale of part of parsonage site (black on plan B) to the Housing Association under the *Parsonages Measures*.
3. Gift of remainder of parsonage site (white on plan B) to DBF in trust for the PCC for car park under the *New Parishes Measure*.
4. Sale of glebe paddock (dark grey on plan B) to the Housing Association under the *Endowments and Glebe Measure*.
5. Pastoral Scheme under the Mission and *Pastoral Measure 2011* to remove the legal effects of consecration from the consecrated church site and for:
 - (i) the appropriation of part of the church site (narrow hatched on plan B) to the incumbent as a new parsonage site under Section 44 of the Mission and *Pastoral Measure*;
 - (ii) the redundancy and demolition of the church, its replacement by a multi-purpose worship centre and the transfer of the remainder of the church site (wide hatched on plan B) to the DBF in trust for the PCC for worship centre/church hall purposes under Section 58 of the Mission and *Pastoral Measure*.

N.B. The church hall site (cross-hatched on plan B) remains in the ownership of the DBF in trust for the PCC to be used in part for the worship centre car park and in part for the site of the new worship centre.

Bed and Breakfast in Parsonages

General advice to Dioceses

[N.B. This note should be read in conjunction with Section 1.9 'Parsonage Lettings'.](#)

"Business operations" of one sort or another are sometimes carried out in parsonage houses. Bed and breakfast is one of them.

There are two key points to be borne in mind. First, the incumbent is, by virtue of his or her office, the freeholder and second, his or her spouse and family are independent people who are by dint of circumstance living in "tied accommodation". This being so, it would clearly not be equitable to bar absolutely the incumbent's immediate family from carrying on activities which any other freeholder's family would be entitled to carry on.

That said, a parsonage house cannot be compared with every other private property since of course under various pieces of legislation, for example the Parsonages Measures and the Repair of Benefice Buildings Measure, other parties are given an interest which should not be compromised. Such parties would be concerned by any form of business requiring, say, structural changes which might affect a house's suitability. Similarly, the diocese would presumably also be concerned by any business activity which would increase its liability for repairs or other outgoings under the RBBM.

While there are few hard and fast rules the incumbent should ensure that whatever business is carried out complies with current legislation. For example, business operations undertaken by people outside the immediate family might require commercial leasing provisions which would not be acceptable in a parsonage. Similarly, certain forms of business would require planning permission for change of use. Others require compliance with Health and Safety Regulations. Whether bed and breakfast activity was such as to change the arrangements for Council Tax or water rates would be a matter for local determination.

Income arising out of such operations will of course be of interest to the Inland Revenue and, possibly, to the DBF. The method of computing income for augmentation purposes, as approved by the General Synod in February 1975, excludes spare-time earnings, spouse's earnings and income from the informal letting of parsonage house rooms. It is, however, open to dioceses to make arrangements as regards the commercial lettings of rooms on a significant scale (e.g. in holiday areas). Any additional income should, of course, be declared.

Formal lettings (e.g. leases) do raise some wider issues. It is generally believed that an incumbent can let his or her parsonage house (or a defined part of it, e.g. a basement flat) under Common Law. However, any part of a parsonage house not required for the convenient occupation of the incumbent for a significant period of time should, strictly, be severed and transferred to diocesan glebe under Section 32 of the Endowments and Glebe Measure 1976 - [see Section 2.6 'Section 32 Orders'](#). Incumbents should always

take advice from the Parsonages Board before seeking to grant a tenancy of any self-contained part of a parsonage if it has not been transferred to glebe.

It is questionable whether bed and breakfast should be considered simply as another form of letting. As the parsonage house is part of the incumbent's remuneration package, income derived from its use in such a way could arguably be taken into account for stipends purposes. On the other hand there could be arguments for treating such income as the spouse's earnings.

In summary, that an incumbent (and his or her family) have certain rights to deal with the benefice property is beyond question. Provided neither the "law of the land", nor the interests of future incumbents and those parties with a duty towards the property are infringed upon, there would appear to be scope for the running of some forms of businesses from parsonage houses. In addition, since priests in charge do not have the parsonage freehold, their rights are correspondingly less than those of incumbents. However the regulations outlined in this note apply equally to both. Any "rules" on this matter are a matter for individual dioceses to decide in agreement with the incumbent or priest in charge. In practice most cases will simply have to be judged on their merits.

Parsonage Houses and the Disability Discrimination Act 1995

The legal position

1. The Disability Discrimination Act 1995 (DDA) makes it unlawful for a service provider to discriminate against a disabled person. One way in which such discrimination may take place is by failing (without justification) to comply with any duty imposed on it by Section 21 of the DDA (a duty to make reasonable adjustments) in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service. [A copy of Section 21 is attached to this Note.](#)
2. It is accordingly necessary to consider whether an incumbent might be a "service provider" under the DDA. For the purposes of the Act, the provision of services includes the provision of goods or facilities to the public or to a section of the public, whether in the private, public or voluntary sector. It makes no difference if the service is provided free of charge. An incumbent is, without doubt, a service provider for the purposes of the Act.
3. Accordingly, where an incumbent makes part of the parsonage available for meetings, (for example, for counselling, bible study groups, PCC meetings etc.), (s)he is under the Section 21 duty to make reasonable adjustments, if the premises are difficult for or inaccessible to disabled people.
4. What are "reasonable adjustments"? This varies according to the nature of the service provider and its size and resources. It is perfectly legitimate to take into account the cost, practicability and disruption resulting from any such adjustments. In many cases it will, of course, be possible for an incumbent to meet the Section 21 duty by simply ceasing to use the parsonage for such purposes and using another venue instead. Such alternative arrangements will be a "reasonable adjustment" for the purpose of Section 21. Failing that, the incumbent will need to make reasonable adjustments to the property, by making alterations to accommodate disabled people.

Financing any necessary alterations

5. The Diocesan Parsonages Board (DPB) has a statutory responsibility for repairs to parsonages under the Repair of Benefices Buildings Measure 1972 (RBBM). While the definition of "repairs" in Section 2 of the RBBM does not include alterations or improvements to the property, the power to improve a parsonage is conferred by Sections 2(1) and (2A) of the Parsonages Measure 1938. It lies with the incumbent (or with the bishop or sequestrators in a vacancy) subject to statutory consents although, in practice, this power is normally assumed by the DPB by agreement with the incumbent/bishop/sequestrators (as the case may be) and may be exercised in accordance with the provisions of the diocesan scheme made under the RBBM (Section 15 of the RBBM refers). In the absence of such a specific provision in an RBBM scheme, the Commissioners recommend that dioceses should assume responsibility for funding any necessary alterations in order to meet the requirements of the DDA. Possible sources of finance would include:

- Diocesan Pastoral Account;
 - Diocesan Stipends Fund Capital Account;
 - Corporate/trust funds (depending on the nature of any trusts);
6. As stated above, in deciding whether adjustments to property are reasonable for the purpose of Section 21 of the DDA, it is permissible to take into account the cost, disruption and practicability. Where the adjustment would otherwise be required under Section 21, it is doubtful that the inability of the person with the Section 21 statutory duty (i.e. in this instance, the incumbent) to pay for the works would fall within this potential exception.

*N.B. Section 21(7) states that a service provider need not “take any steps which would cause him to incur expenditure exceeding the prescribed maximum”. **It is understood that, to date, no maximum sum has been prescribed in this respect.***

Disabled clergy

7. A particular parsonage might, for whatever reason, be inaccessible to a potential incumbent who is disabled. The Commissioners believe that there may be an obligation to make adjustments to the property, where these would be necessary, were there to be a disabled incumbent or, indeed, priest-in-charge. Although an incumbent is not an employee, it would clearly be out of keeping with the spirit of the DDA not to make adjustments where reasonably possible, so that disabled clergy were not precluded from serving in a particular benefice. Otherwise, there could be a breach of the DDA by way of indirect discrimination against clergy who are disabled.

Other clergy houses

8. Dioceses should consult their Diocesan Registrars about the application of the DDA to clergy houses other than parsonage houses (i.e. glebe and diocesan corporate/trust properties).

Conclusion

9. Where the incumbent invites parishioners into the parsonage for meetings of any kind (s)he is under a duty to make reasonable alternative arrangements if the physical nature of the premises makes it difficult or impossible for disabled people to attend. This duty is the incumbent’s alone; it is not shared by the DPB and the DPB does not indemnify the incumbent in relation to it unless the DPB is able to effect improvements by virtue of an RBBM scheme.

N.B. See also the recommendations in the Parsonages Design Guide concerning the special needs of the disabled when considering the design and building of new parsonage houses.

Disability Discrimination Act 1995

Section 21: Duty of providers of services to make adjustments.

(1) Where a provider of services has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which he provides, or is prepared to provide, to other members of the public, it is his duty to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change that practice, policy or procedure so that it no longer has that effect.

(2) Where a physical feature (for example, one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of such a service, it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to-

- (a) remove the feature;
- (b) alter it so that it no longer has that effect;
- (c) provide a reasonable means of avoiding the feature; or
- (d) provide a reasonable alternative method of making the service in question available to disabled persons.

(3) Regulations may prescribe-

- (a) matters which are to be taken into account in determining whether any provision of a kind mentioned in subsection (2)(c) or (d) is reasonable; and
- (b) categories of providers of services to whom subsection (2) does not apply.

(4) Where an auxiliary aid or service (for example, the provision of information on audio tape or of a sign language interpreter) would-

- (a) enable disabled persons to make use of a service which a provider of services provides, or is prepared to provide, to members of the public, or
- (b) facilitate the use by disabled persons of such a service,

it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to provide that auxiliary aid or service.

(5) Regulations may make provision, for the purposes of this section-

- (a) as to circumstances in which it is reasonable for a provider of services to have to take steps of a prescribed description;
- (b) as to circumstances in which it is not reasonable for a provider of services to have to take steps of a prescribed description;
- (c) as to what is to be included within the meaning of "practice, policy or procedure";
- (d) as to what is not to be included within the meaning of that expression;
- (e) as to things which are to be treated as physical features;
- (f) as to things which are not to be treated as such features;
- (g) as to things which are to be treated as auxiliary aids or services;
- (h) as to things which are not to be treated as auxiliary aids or services.

(6) Nothing in this section requires a provider of services to take any steps which would fundamentally alter the nature of the service in question or the nature of his trade, profession or business.

(7) Nothing in this section requires a provider of services to take any steps which would cause him to incur expenditure exceeding the prescribed maximum.

(8) Regulations under subsection (7) may provide for the prescribed maximum to be calculated by reference to-

- (a) aggregate amounts of expenditure incurred in relation to different cases;
- (b) prescribed periods;
- (c) services of a prescribed description;
- (d) premises of a prescribed description; or
- (e) such other criteria as may be prescribed.

(9) Regulations may provide, for the purposes of subsection (7), for expenditure incurred by one provider of services to be treated as incurred by another.

(10) This section imposes duties only for the purpose of determining whether a provider of services has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.

Church of England (Miscellaneous Provisions) Measure 2000

Amendments in Measure Directly Affecting Pastoral Division

References in the left-hand margin are to the appropriate section of the 2000 Measure.

A. Transfer of Diocesan Stipends Fund Capital Accounts to Diocesan Boards of Finance

Endowments and Glebe Measure 1976

- Sch 8
1. *Section 37:* Repeal. Provisions for the repayment of glebe and housing loans outstanding at 1 April 1978 have been fulfilled. No such loans are outstanding.

Note:

The Archbishops' Council will have the right to specify the form of account for DSF capital.

B. Transfer of Diocesan Stipends Fund Income Accounts to Diocesan Boards of Finance

Diocesan Stipends Fund Measure 1953

- Sch 2,
Para 6
2. Introduce a clause to the effect that the Archbishops' Council has the right to prescribe the form of account and for the Council and the Commissioners to receive copies of the same.

Endowments and Glebe Measure 1976

- Sch 5,
Para 11
3. *Section 38(3):* Amend so that sequestrators pay the balance of any funds at the close of the sequestration to the DBF (and not the Commissioners) for paying into the DSF income account.

Pastoral Measure 1983

- Sch 6,
Para 9
4. *Schedule 4, Paragraph 18:* Amend so that the source [and calculation] of payment (i.e. DSF capital or income) to clergy suffering loss under the Pastoral Measure should be changed to be determined by the DBF after consultation with (and not agreement of) the Commissioners.

Note:

This gives the Commissioners' Pastoral Division a minimalist role in being consulted by dioceses on the source of payment for compensating clergy dispossessed via a Pastoral Scheme. Otherwise, the accounts will be devolved to dioceses.

C. Transfer of Diocesan Pastoral Accounts to Diocesan Boards of Finance

Pastoral Measure 1983

- Sch 6,
Para 5(a)
5. **Section 77 (1):** Provide for DPA to be formally devolved to DBFs; DBFs thereafter to be responsible for making statutory payments into DPA (Subsection (a)) and to determine which other moneys should be paid into account after consultation with the Commissioners (Subsection (b)).
- Sch 8
6. **Section 77 (2):** Repeal. The obligations of DBFs to pay moneys to the Commissioners arising from former legislation for crediting to DPA are spent.
- Sch 6,
Para 5(b)
7. **Section 77 (4):** DBFs to send the Archbishops' Council (as well as the Commissioners) copies of audited DPA accounts.
- Sch 6,
Para 6(a)
&(b)
8. **Section 78 (1):** Amend so that it is mandatory rather than permissive for expenses incurred in pursuance of the Pastoral Measure 1983 to be repayable from one or more DPAs. Commissioners to determine the questions of whether one or more DPA should be used for reimbursing proper expenditure after consultation with the relevant DBFs..
- Sch 6,
Para 6(c)
9. **Section 78 (2):** Amend to clarify that both the Commissioners and DBFs shall be entitled to be repaid from DPAs the cost of any expenditure incurred by either of them on property vested in DBFs under the Measure or on furthering the disposal or use of such property.
- Sch 6
Para 6(d)
10. **Section 78 (3):** Remove requirement for DBFs to consult the Commissioners on questions of whether there are surplus funds in DPAs before applying them elsewhere.
- Sch 6,
Para 6(e)
11. **Sections 78 (4) & (5):** Repeal, thereby removing the Commissioners' involvement in (i) being consulted about the use of moneys under S.78(3); (ii) agreeing to funds being held other than by the Commissioners; and (iii) advancing moneys from their General Fund to meet expenses (not applicable once DPAs are devolved).
- Sch 6,
Para 8(a)
12. **Schedule 3, Paragraph 8 (2):** Amend so that the Commissioners can require DBFs to repay loans from the Commissioners when relevant properties transferred to DBFs via schemes or orders. The Commissioners' ability to postpone such repayment will remain.
- Sch 6,
Para 8(b)
13. **Schedule 3, Paragraph 9(2):** Amend so that parsonage property transferred to a DBF under a Pastoral Scheme can be sold without the Commissioners' consent if it could have been sold without the Commissioners' express consent had it been glebe.
- Sch 8
14. **Schedule 3, Paragraph 10:** Repeal, as funds to be credited to DSF or DPA will be in the control of DBFs and the Commissioners will no longer be involved in the allocation of such funds. The Redundant Churches Temporary Maintenance Account is dealt with in Paragraph 7 of Schedule 6.
- Sch 6,
Para 8(c)
15. **Schedule 3, Paragraph 16 (3):** Replace so that, where diocesan boundaries are

altered by schemes or orders, the Commissioners may require each diocese affected to make such adjustments to (i) capital and income accounts of DSF or DPA as the Commissioners consider desirable or (ii) other funds, accounts or allocations held or made by them after consultation with each DBF concerned. At present, the Commissioners control such (rare) adjustments.

Note:

The Commissioners will in future account to dioceses for reimbursement of (Pastoral Measure) expenditure properly incurred.

D. Matters concerning Parsonage Houses

Parsonages Measure 1938

- | | |
|---------------------|--|
| Sch 1,
Para 2 | 16. General: Update so that the Measure refers to "the Commissioners" vice Queen Anne's Bounty and to "the Diocesan Board of Finance" or "the Diocesan Parsonages Board" vice the Diocesan Dilapidations Board (depending on whether the relevant diocese has a separate Parsonages Board) |
| Sch 1,
Para 3 | 17. Section 1 (3) (i): Repeal the limitation of twelve acres in terms of disposing of property under this section of the Measure. |
| Sch 1,
Para 4(a) | 18. Section 1 (3) (ii): Remove requirement for the Commissioners' consent to the sale etc of property where certain conditions are met (by introducing new Sections 1(3A) & (3B)). |
| Sch 1,
Para 4(b) | 19. Section 1 (3) (iii): The consent of the Crown Estate Commissioners (and not the Commissioners of Crown Lands) would be required. |
| Sch 1,
Para 4(c) | 20. Section 2 (1): Repeal the limitation of six acres in terms of acquiring property. |
| Sch 1,
Para 5(a) | 21. Section 2 (2): Remove the general need for the Commissioners to consent to the purchase etc of property unless the purchase is from a "connected person" (i.e. someone who is or is connected to the incumbent or a member, officer, agent or employee of the PCC or diocese concerned). |
| Sch 1,
Para 5(b) | 22. Section 2 (4): Remove references to the Commissioners needing to approve any modifications to plans once an incumbent takes up office after the commencement of a scheme of works of erection or improvement (Bishop and Board to agree). |
| Sch 1,
Para 6(a) | 23. Section 2A (1): Remove need for Commissioners to consent to division or improvement of properties during vacancies of benefices (Bishop and Board to agree). |
| Sch 1,
Para 6(a) | 24. Section 2A (2): Remove references to the Commissioners needing to approve any modifications to plans once an incumbent takes up office after the commencement of works of division or enlargement (Bishop and Board to agree). |
| Sch 1,
Para 6(a) | 25. Section 3 (1): The Commissioners only to become involved in consenting to the exercise of the powers of Sections 1, 2 and 2A of the Measure (where otherwise certain criteria are met) where there are objections from PCCs or patrons. Otherwise, their consent will not generally be required. Notices to be served on <u>all</u> PCCs of the benefice. |

- Sch 1,
Para 6(b)
26. **Section 3 (3):** Repeal the Commissioners' powers to make recommendations as to the costs, charges and expenses which may be incurred in connections with transactions under the Measure.
- Sch 1,
Para 7(c)
27. **Section 5(4):** Insert a new clause requiring DBFs to provide the Commissioners with such information as they might prescribe concerning sales, purchases and other transactions under the Measure.
- Sch 1
Para 7(a)
28. **Section 5 (1):** Remove reference in (iii) to the Commissioners' previous consent to expenditure of other moneys (no longer required). Instead, the DBF's previous consent will apply.
- Sch 1,
Para 7 (b)
29. **Section 5 (3):** Amend to provide for the Commissioners to remit sale proceeds to DBFs for allocation between DSF capital and DPA provided that the Commissioners are satisfied that the moneys are not needed for the purposes of subsection (1). Proceeds still come to the Commissioners initially (via the DBF).
- Sch 1,
Para 8
30. **Section 7:** Amend so that the DBF, rather than the Commissioners, serve notice to patrons and PCCs of the proposed disposition of sale proceeds, with the Commissioners' role being reduced to the consideration of representations (*since removed by the Mission and Pastoral etc. (Amendment) Measure 2018*) if they are satisfied that they are not required for parsonage purposes.
- Sch 1,
Para 9(b)
31. **Section 9 (2):** Amend so that the sealing of any conveyance under this Measure by the DBF, rather than the Commissioners, signifies that the requirements of the Measure have been complied with, and import similar provisions to those in Section 20 (10) of the Endowments and Glebe Measure 1976 (document to be signed by authorised officer of the Commissioners) to signify the Commissioners' consent (if required).
- Sch 1,
Para 10
32. Introduce a streamlined procedure for the Commissioners to get Synodical approval to new rules under the Measure.
- Sch 6,
Para 8 (b)
33. **Schedule 3, Paragraph 9(2):** Amend so that the DBF has the power to sell or otherwise dispose of former parsonage property vested in it by Section 31 of a Pastoral Scheme without the Commissioners' approval (the Charity Commissioners' regime is sufficient). See No. 13.

NOTE: This will reduce Pastoral Division's statutory role to one of considering transactions which do not meet certain criteria or to adjudicating where otherwise there are objections from the statutory interested parties. We will aim still to fulfil an advisory function (such as the production and revision of the Parsonages Design Guide).

E. Matters Concerning Glebe

Endowments and Glebe Measure 1976

- Sch 8
34. **Section 17:** Remove need for list of glebe to be prepared and sent to the Commissioners (spent).
- Sch 5,
Para 4
35. **Sections 18(1) & (2):** Remove need for the Commissioners to consent to acquisition of glebe by purchase or appropriation.
- Sch 5,
Paras 5
(a) & (b)
36. **Section 19(1):** Amend so that DBFs have the right to hold glebe in one or more subsidiary companies on the same trusts. Commissioners' consent not needed for the transfer of land to a subsidiary company but their approval to setting up any such subsidiary is required.
- Sch 5
Para 5(d)
37. **Section 20(1):** Remove requirement for the Commissioners' consent to the sale, exchange, lease etc of glebe where certain conditions are met. Surveyors' reports should be amplified to allow terms to be included to provide protection for the amenities of land affected by the transaction. Competent and experienced person allowed to advise DBF where the disposition is of a lease of seven years or less.
- Sch 5,
Para 5(f)
38. **Section 20(5):** Repeal the words at the beginning requiring the DBF to apply to the Commissioners on most occasions as the Commissioners' approval to glebe transactions is only needed where certain criteria are not met.
- Sch 5,
Para 5(g)
39. **Section 20(7):** Amend so that all representations are referred to the Commissioners (*since removed by the Mission and Pastoral etc. (Amendment) Measure 2018*), but otherwise their consent is only required where the transaction is does not meet certain conditions.
- Sch 5,
Para 5(h)
40. **Section 20(8):** Amend to reflect dioceses' ability generally to deal with glebe without the Commissioners' approval.
- Sch 5,
Para 5(j)
41. **Section 20(9):** Amend to reflect dioceses' general autonomy, with the Commissioners having a role only in non-certified or representation cases.
- Sch 5,
Para 6
42. **Section 20(11):** Amend so that dioceses can conclusively certify that all the requirements of the Measure have been complied with.
- Sch 5,
Para 7(a)
43. **Sections 25(1) – (5):** Amend so that capital proceeds and rents are retained by DBFs rather than by Commissioners to reflect proposals for dioceses to hold their own DSF capital and income accounts.
- Sch 5,
Para 7(b)
44. **Section 26(2):** Repeal the Commissioners' powers to determine glebe accounting periods.
- Sch 5,
Para 8
45. **Section 26(3):** Add a requirement for the Archbishops' Council (in addition to the Commissioners) to receive copies of accounts, and amend so that the Council (rather than the Commissioners) has the power to prescribe the form of accounts.
46. **Section 27:** Amend to require dioceses to provide the Commissioners with such information regarding glebe sales, purchases etc. as they might prescribe (in addition to present statutory regime of informing them of notices received from Government Departments, Local Authorities, Utilities etc.)
47. **Section 28:** Repeal. The former liability of incumbents to repair glebe buildings is spent.

- Sch 5,
Para 9
48. **Section 32:** Amend so that the Commissioners only have a role in transferring parsonage land to glebe where there are representations. Otherwise, the Bishop to have power to order such transfers (after due consultation) along the lines of the Commissioners' current powers.
- Sch 5,
Para 11
49. **Section 38(1):** Amend (1) so that the Bishop can authorise the lease of any parsonage land with the consent of the DBF, and not the Commissioners and (2) so that the provisions of Section 59 of the Pluralities Act 1838 (which generally require an “avoidance” clause if the property might be needed for clergy housing) do not apply to such leases.
- Sch 5,
Para 12
50. **Section 42:** Repeal the Commissioners' statutory powers to seek information from and give advice to DBFs on glebe matters in view of the amendment to Section 27.
- Sch 8
51. Amend Ecclesiastical Leasing Act 1842 to give Commissioners permissive power to send old glebe deeds to dioceses.

NOTE:

The Commissioners' involvement in glebe matters has been reduced to considering transactions which do not meet certain criteria. They also have a role in considering diocesan glebe management schemes.

F. Functions of the Commissioners under the Pastoral Measure 1983

- Sch 6,
Para 2
52. **Section 14(1):** All matters capable of being dealt with by pastoral order to be capable of being completed by shortened procedure where all interested parties consent. Proposals for dissolving archdeaconries, parish church matters and the disposal/transfer of parsonage houses are presently excluded from such shortened procedure. The Diocesan Mission and Pastoral Committee to have powers to submit draft orders to the Bishop for approval and making without involving the Commissioners. The Diocesan Mission and Pastoral Committee to send copies of completed orders to the Commissioners and interested parties.
- Sch 6,
Para 3
53. **Section 27 (1) (C), (2) & (4):** Amend so that the Bishop (vice the Commissioners) has the power to approve churches as suitable to be parish churches, after consultation with his DAC and DPC. New sub-clause 1(d) requires the Bishop to notify the Commissioners of his approval of a property as suitable to be a parish church and of its consecration.
- Sch 6,
Para 8
54. **Section 78A(1)** Amend to safeguard the effective operation of the Redundant Churches Temporary Maintenance Account (RCTMA) and provide for it to continue to be operated by the Commissioners as a charge on their general fund.

G. Functions of the Commissioners under the Church Property (Miscellaneous Provisions) Measure 1960

- Sch 3
55. **Section 7 (3):** As in the case of parsonage houses, "the Board" needs to be used to cover dioceses which have separate Parsonages Boards as well as those which rely simply on the DBF.

- Sch 3,
Paras 2 & 3
56. **Section 7 (3) and Sections 8 (2) & (3):** Sale proceeds to be paid to the Board (vice the Commissioners) and applied as agreed between the Board and Bishop, after consultation with the vendor. Similarly, the Board (vice the Commissioners) to have the power to enter into new covenants on acquiring land.
- Sch 3
Para 4(a)
57. **Section 9 (1):** Remove the need for the Commissioners to consent to the taking of easements. "The Board" to be substituted for the Diocesan Dilapidations Board. Bishop's consent needed where power exercised by incumbent.
- Sch 3,
Para 4(b)
58. **Section 9 (3):** Amend so that the Board (vice the Commissioners) receives any capital sums for easements. Moneys to be treated the same as sale proceeds.
- Sch 3,
Para 5
59. **Section 10:** Amend so that gifted parsonage land no longer required can be returned to donor without the Commissioners' consent. The consent of the Board (vice the Diocesan Dilapidations Board) and the Bishop required.
- Sch 3,
Para 6(a)
60. **Section 11 (1):** Remove (spent) ability of an incumbent to dedicate glebe as highway (Paragraph (b)). Otherwise, allow dedication of benefice land for highways without the Commissioners' consent but with that of the Board and the Bishop.
- Sch 3,
Para 6(b)
61. **Section 11 (2):** The Board (vice the Commissioners) to be the recipient of sale proceeds of land for highways.
- Sch 3,
Para 8
62. **Section 25 (2):** The Board to replace the Diocesan Dilapidations Board for the purposes of consents under the Measure (in addition to others where needed).
- Sch 3,
Para 9
63. **Section 27:** The Board (vice the Commissioners) to signify that all relevant procedures have been properly carried out.
- H. **Functions of the Commissioners under the Repair Of Benefice Building Measure 1972**
- Sch 4,
Para 2
64. **Section 2 (3):** Update reference to Town and Country Planning Act.
- Sch 4,
Para 3
65. **Section 12 (1):** Remove requirement for the Commissioners to approve insurance companies other than the EIG and otherwise to determine the risks to be covered. This will be a matter for the Board.
- Sch 4,
Para 4
66. **Section 14 (1):** Amend so that, where the Board is notified that any necessary consent of the Commissioners to the sale, exchange or demolition of a parsonage house has been given, or that the Commissioners are satisfied that any representations should be overruled, the management/maintenance duties of the Board should be unchanged as provided in the subsection.
- Sch 4
Para 5
67. **Section 15 (1) (b):** The reference to "Section 31 of the Pastoral Measure 1968" to be removed in connection with the schemes for parsonage building works. Section 31 of the Pastoral Measure 1983, which replaced this section, does not refer to the improvement, demolition or erection of parsonage houses.

68. *Section 16(1)(e)*: Delete references to Commissioners' loans to incumbents.
- Sch 4,
Para 7
69. *Section 18*: Update to reflect the fact that "Parsonages Funds" were established years ago and that such funds remain as reserves, with limitations on the use of capital.
- Sch 4,
Para 8
70. *Section 19 (4)*: Amend so that the Board holds all insurance moneys without having to pass them to the Commissioners.
- Sch 4,
Para 9
71. *Section 20 (6)*: Amend so that the proceeds of any tree felling shall be retained by the Board (and not paid to the Commissioners) if they are not otherwise required locally. Essentially, they can be treated as the proceeds from the sale of a parsonage.
- Sch 4,
Para 10
72. *Section 21(1)*: Amend so that a team member living in a parsonage house has the right to be consulted if the team rector/sequestrators want to alter/add to a house in which he or she lives.
- Sch 4,
Para 11
73. *Section 27(3)*: Update reference to the Interpretation Act.
- Sch 4,
Para 12
74. *Section 30*: Remove requirement for the Commissioners to consent to Diocesan Synod parsonage management schemes. Instead, the Commissioners simply to receive copies of schemes made by Diocesan Synod.

NOTE:

The Commissioners' role under this Measure is greatly reduced and would be limited essentially to that of an appellate body if an incumbent was to object to a diocese's proposal not to undertake certain repairs to the parsonage on the grounds that it was planned to sell, exchange or demolish it.

Church of England (Miscellaneous Provisions) Measure 2005

Amendments in Measure directly affecting Pastoral Division

A: Parsonages Measures

1. **Section 1(3A):** Amend to include demolitions meeting “standard criteria” without Commissioners’ consent unless there are representations.
2. **Section 1(6):** Amend definition of “connected person” to include incumbents and members of DBFs/PCCs as connected persons (as opposed to just their relations: see specimen connected person form in the Diocesan Manual).
3. **Section 2(1)(ii) and 11:** Clarify that the definition of parsonage house means any house belonging to the benefice and not just a house acquired under the Parsonages Measures. Make a similar amendment so that the Bishop can make certifications in respect of any parsonage, and not simply one acquired etc under the Measures.
4. **Section 7:** Amend so that it is clear that only representations received during the prescribed notice period will be considered by the Commissioners.
5. **Section 9(2)(B):** Amend so that the equivalent of Ss.37(3) and (4) of the Charities Act 1993 is imported as an adjunct to existing provisions. This will put it beyond doubt that a purchaser may rely completely on the DBF’s certificate/signature of any transfer to confirm compliance with the Measure and that a transaction where all statutory requirements have not been gone through is nevertheless a valid transaction.
6. **Section 12:** Amend so that it is clear that churchwardens of all parishes without PCCs in the subject benefice are entitled to receive transaction notices.

B: Repair of Benefice Buildings Measure

7. **Section 1(2):** Amend so that surveyors appointed after the date of the amendment should be professionally qualified (e.g. as a corporate member of a relevant professional body of standing, such as the RICS, CIOB and their successor bodies or registered under the Architects Act 1997).
8. **Section 14(1):** Amend so that it is clear that the Parsonages Board’s full maintenance responsibilities for parsonages do not apply where the Board is satisfied that it has the authority to sell, demolish or exchange a particular house.
9. **Section 15(4):** Amend so that where provided by the Management Scheme under the 1972 Measure (with the approval of the Diocesan Synod), the Board may meet the cost of inspection reports, repairs, improvements etc. relating to assistant staff housing from any account(s) which may be used legally for those purposes.
10. **Section 16:** Amend so that where provided by the Management Scheme under the 1972 Measure (with the approval of the Diocesan Synod), the Board may meet the

cost of any rates, rent and other outgoings in respect of any assistant staff house (including sale costs etc). Also, such provisions to apply to the housing of anyone involved in pastoral care.

11. **Section 17:** Amend to clarify that the Board may meet its expenditure (including capital expenditure but excluding expenditure from a specific trust fund or by direct payment of a Parochial Church Council) from any account(s) which may be used legally for that purpose.

12. **Sections 17 & 18:** To be amended so that the requirement for the Board to open and maintain a Parsonage Fund is removed altogether (section 18 is repealed). This removes any current restrictions as between the use of capital and income on expenditure within the existing Parsonages Fund and the Commissioners'/General Synod's residual roles in terms of varying the rules for the use of the original capital of the Parsonages Fund (which has hitherto to be regarded as a reserve). As a result dioceses now have much greater flexibility than hitherto. The Fund (and its reserve element) will be applied at diocesan discretion any account(s) which may be used legally for parsonage works.

13. **Section 19(3):** Amend so that, in the absence of any separate Parsonages Fund, the Commissioners' grants (for housing purposes) shall be paid by the Board into such account(s) as it shall determine which may be used legally for the purposes of the provision, improvement or repair of parsonages.

14. **Section 19(6):** Amend so that reference to Parsonage Fund receives same treatment as S.19(3).

15. **Section 20(4):** The rights of incumbents to represent when it is proposed to fell trees was deleted by the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. However, S. 21(3) referred back to the (now) non-existent S.20(4) when attempting to set out the rights of the incumbent to represent against a diocese's proposals to remedy any unauthorised alterations made by an incumbent. The gist of the former S.20(4) has therefore been reinstated in S.21.

16. **Schedule 1, Paragraphs 2(6), (7) and 3(b):** Obsolete references to Parsonages Fund have been repealed.

C: Endowments & Glebe Measure

17. **Section 20(1):** The repeal of Schedule 3 to the E&G Measure in 2001 gave the Commissioners a (potentially) wider role on a wider range of transactions than in the Measure pre-amendment and meant that dioceses had to serve notices on that range of transactions. Schedule 3 has now been reintroduced so that the streamlined arrangements that took effect in 2001 apply to the limited range of transactions in the schedule.

18. **Section 20(2):** Amend to obviate the need for the Commissioners' consent in the case of a non-voluntary transaction (e.g. to a glebe disposal under the Leasehold Reform Act 1967) to get rid of the Commissioners' potential approving/ adjudicating responsibilities. This change is extended to the diocesan angle on these transactions (e.g. the need to get reports and to serve notice on the local incumbent etc).

19. **Section 20(5):** Where a benefice is vacant, the Parochial Church Council of the parish in which the glebe is situated becomes an interested party with a right of representation where a notice has to be served in respect of a qualifying glebe transaction.

20. **Section 20:** Amend to correct the numbering error made by the Miscellaneous Provisions Measure 2000 which introduced a new S.20(6A). There was already a S.20(6A) as introduced by the Team and Group Ministries Measure 1995. The MPM 2000 clause becomes S.20(6B).

21. **Sections 20(8), (9) and 10:** Amend so that in each sub-section the words “the terms of” are deleted. This will align the Commissioners’ secondary responsibilities with their primary responsibilities in s.20(1) as amended.

22. **Section 20(11):** Amend so that the equivalent of Ss.37(3) and (4) of the Charities Act 1993 is imported as an adjunct to existing provisions. It is now beyond doubt that a purchaser may rely completely on DBF’s certificate/signature of any transfer to confirm compliance with the Measure and that a transaction where all statutory requirements have not been gone through is nevertheless a valid transaction.

23. **Section 24:** Amend so that anyone involved in pastoral care can be housed in glebe.

24. **Section 26(3):** Remove requirement for Commissioners and Archbishops’ Council to receive glebe accounts.

25. **Section 32:** The Parochial Church Councils of the benefice become interested parties with a right of objection when parsonage land is proposed to become glebe.

26. **Section 42:** reinstate to confirm that the Commissioners can advise dioceses and seek information from them (for consistency with other Measures). Dioceses have to “have regard” to that advice.

27. **Section 45(1):** Change definition of Pastoral Scheme so that it reflects Privy Council’s new reduced role.

D: Pastoral Measure

28. **Sections 8, 9, 10 and 11:** Amend so that the Privy Council is only involved where the Commissioners have decided that Schemes should proceed notwithstanding representations. Even where the Privy Council considers applications for Leave to Appeal (or indeed Appeals), Schemes will not need to be approved by Order in Council. Similar arrangements apply to redundancy schemes under S.50.

29. **Section 31:** Amend s. 59(2) so that a redundancy scheme (or a s.46/47 pastoral scheme) can appropriate land to parsonage purposes without the need for a supplementary conveyance.

30. **Section 39:** Amend to allow the Bishop, as well as the Commissioners, to make consequential amendments to a plurality, by virtue of the devolution of s.14 order cases.

31. **Section 77(4):** Amend so that neither the Commissioners nor the Archbishops' Council receive DPA Accounts.

32. **Section 80:** Amend so that the Commissioners may at any time seek information from, and give advice to, dioceses and that dioceses shall provide such information and have regard to that advice.

33. **Schedule 3, Paragraphs 4(5) and 13(2):** Amend to clarify the long-standing assumption that councils (team; group; district; joint; parochial) set up in a scheme or by Bishop's Instrument cannot last longer than 5 years. The amendment provides that five years is the maximum if the scheme does not provide for less than that.

34. **Schedule 3, Paragraph 9(3):** Amend so that parsonage proceeds not required for parsonage purposes can be used for broader purposes than housing team vicars or assistant curates so that housing for those involved in pastoral care counts as qualifying expenditure.

E: Diocesan Stipends Fund Measure 1953

35. **Section 7:** Remove obligation for Diocesan Stipends Fund accounts to be sent to the Commissioners and the Archbishops' Council.

**Church of England (Miscellaneous Provisions) Measure
2006**

**Amendments affecting Parsonages, Glebe and Pastoral
Reorganisation**

PART 1:

Implementation with effect from 1 October 2006

A: Endowments and Glebe Measure 1976

1. *Section 19A(2) and (3)*- Amend so that it is wholly clear that a glebe subsidiary company has to operate under the same trusts as its parent company and can deal with property on a like basis.
2. *Section 45(1)*- Amend so that **(1)** the definition of **diocesan glebe land** is expanded so that its application includes land acquired or otherwise vested in/transferred to a subsidiary; **(2)** the definition of **parsonage land** in **(d)** is amended so that it is the Diocesan Board of Finance that decides whether property should be retained for parsonage purposes; and **(3)** the definition of **parsonage land** in **(f)** is amended so that the said land is “parsonage land” where the diocese is satisfied that it may be sold without the Commissioners’ consent.

B: Diocesan Stipends Fund Measure 1953

3. *Section 4(1)(a)*- Amend so that a **subsidiary** of the DBF can be the purchaser of land to be glebe using DSF capital.
4. *Section 5(3)(2)*- Delete Miscellaneous Provisions Measure 2000 non-implemented amendment to the Commissioners giving directions as Central Stipends Authority about the use of Diocesan Stipends Fund Income Accounts and replace by a provision for the Bishop to have regard to the Central Stipends Fund’s recommendations.

C: Pastoral Measure 1983

5. *Sections 4(2) and 6(2)*- Amend so that no interested parties can relinquish the right to receive draft Schemes and Orders.

6. **Section 77(1)(b)**- Amend to remove the consultative role for the Commissioners on the allocation of miscellaneous funds to the DPA.

D: Church Property (Miscellaneous Provisions) Measure 1960

7. **Section 7**- Amend so that subsequent sales of certain church land can take place if it is certified that the land is no longer needed for (as opposed to never has been) use as originally envisaged.

E: Repair of Benefice Buildings Measure 1972

8. **Sections 20(5) and 31(2)** – Amend so that references to “patron” are amended to “registered patron”.

F: Church of England (Miscellaneous Provisions) Measure 1978

9. **Section 8** – Amend so that for compulsory purchase purposes the DBF (rather than the Commissioners) is treated as the owner of benefice land where the benefice is vacant.

G: Miscellaneous Civil Acts and Measures

10. **Various** – Amend 31 Civil Acts so that in the main the Commissioners’ role as recipient of second copies of notices in respect of benefice property or as an interested party in the vacancy of the benefice is passed to the Diocesan Board of Finance.

PART 2:

Implementation with effect from 1 May 2007

H: Parsonages Measure 1938

11. **Section 1(4)** - Amend so that (1) land purchased for parsonage purposes but not now used as such and not contiguous to an existing parsonage; and (2) parsonage land made surplus by a Pastoral Scheme which did not provide for its future can subsequently be sold without first being transferred to glebe (the Measure has an odd construction in this respect which requires a two stage process); and (3) the power of exchange as allowed by S.1(1A) extends to here.

12. **Sections 1(5), 5, 6, 9(4) etc** - Amend so that sale proceeds are retained by Diocesan Boards of Finance as Benefice Building Funds as opposed to being forwarded to the Commissioners. The Commissioners' role should be reduced to considering objections to the transfer of benefice proceeds to diocesan funds if they are not needed for parsonage purposes in the benefice. Income arising under s.6 to accrue as capital. S.9(4) to be amended to reflect that funds go to the DBF. Existing PB funds held by the Commissioners to go to DBFs. Notices to be served by DBFs to transfer funds to diocesan accounts.
13. **Sections 3(1) and 7** – Amend so that the Commissioners' standard notices of parsonage transactions to interested parties are no longer "prescribed" under the Parsonages Measure Rules. This will make it quicker and more efficient to recommend new forms of notice in the future.

Church of England (Miscellaneous Provisions) Measure 2010

Amendments in Measure Directly Affecting Pastoral Division

New Parishes Measure transactions:

With effect from 1 September 2010 the Commissioners will only need to be involved in any transactions undertaken by dioceses (other than one under Section 23(1)(d) of the Endowments and Glebe Measure 1976) where the proposed transaction is with a connected person and/or the 'report' requirements are not met. In such instances the dioceses will need to obtain the Commissioners' consent before being in a position to take the matter forward. **Please note:** The New Parishes Measure route must never be used to by-pass the rights of any of the interested parties that would normally need to consent to a transaction or otherwise have a right of representation in a case if it could otherwise be carried out under the primary legislation.

Church of England (Miscellaneous Provisions) Measure 2014

Amendments in Measure Directly Affecting Pastoral Division

New Parishes Measure transactions:

The drafting oversight of the 2010 MPM in relation to transactions under Section 23(1)(d) of the Endowments and Glebe Measure 1976 always requiring the Commissioners' involvement has been corrected so that the Commissioners' prior approval is only required where a proposed transaction is with a connected person and/or the 'report' requirements have not been met.

Smoke-free England

Guidance for Parsonage Houses

From 1 July 2007 virtually all enclosed public places and workplaces in England became smoke-free. The new law was being introduced to protect employees and the public from the harmful effects of secondhand tobacco smoke.

So how does this affect Parsonages?

The new smoke-free law applies to virtually all 'enclosed' and 'substantially enclosed' public places and workplaces. Since 1 July 2007 those people who control or manage smoke free premises have a legal responsibilities to prevent people from smoking. The law requires no smoking signs to be displayed in all smoke free premises.

Which parts of the parsonage house must be smoke-free?

The Smoke Free (Exemptions and Vehicles) Regulations 2007 state that a private dwelling does not have to be smoke-free except for any part which is used solely as a place of work by more than one person who does not live at the dwelling, or a person who does not live in the dwelling and a person who does, or a person (whether he or she lives in the dwelling or not) who in the course of his or her work invites persons who do not live in the dwelling to attend that part of it which is used solely as a place of work..

When determining whether a part of a dwelling is used solely as a place of work, the Regulations exclude work that is undertaken solely (1) to provide personal care for a person living at that dwelling (2) to assist with the domestic work of that household (3) to maintain the structure or the fabric of the dwelling or (4) to install, maintain or remove any service provided to dwelling for the benefit of the persons living in it.

Therefore the new smoke-free law will apply only to parts of dwelling used solely as a place of work. In a parsonage it is likely that the study would be the only area that may be affected and would only become statutorily smoke-free if the incumbent had two or more secretaries, or other church workers, who did not live at the parsonage and used the study solely as their place of work within the parsonage.

The incumbent himself is unlikely to use his study solely as a place of work and this therefore exempts it from the regulations.

If parts of the dwelling are used for both work purposes and private residential purposes, for example a living room which doubles as a meeting room, the new smoke-free law will still not apply.

With respect to the parsonage grounds, a public place includes both permanent structures and temporary ones such as tents and marquees which may therefore be caught if, for example, they are open to the public for a church fete to which any member of the public could attend. Private functions are exempt.

Nothing in the law, of course, takes away the occupier's right to not allow smoking in any part of the premises.

What sort of signs do we need if we are going smoke-free?

No-smoking signs that are required to be displayed must meet the following minimum requirements:

- _ be a minimum of A5 in area (210mm x 148mm)
- _ display the international no-smoking symbol at least 70mm in diameter*
- _ carry the following words in characters that can be easily read:

No smoking. It is against the law to smoke in these premises

Where should the signs be displayed?

The new law says that signs ‘need to be displayed in a prominent position at every entrance to smoke-free premises’. It does not stipulate the precise location (such as on the door) in order to afford maximum flexibility for signs to be displayed in the most appropriate place in the smoke-free part of the premises.

It is up to you to choose the most appropriate place in the building for the sign, as long as the sign is prominently displayed. It is not necessary for it to be permanently fixed to the fabric of the building. It may be that the sign could be displayed within a porch at the front of the premises. If you have any questions about the law (for example, you are unsure about where a sign should be positioned), we recommend you consult your environmental health officer at your local Council (who is responsible for compliance) for further information. Their role is to help you – it is not the intention of enforcement authorities to approach churches, church buildings or clergy houses in a punitive way.

In addition, smaller signs consisting of the international no-smoking symbol only (at least 70mm in diameter) must be displayed at external entrances to smoke-free premises that are only used by members of staff (e.g. the incumbent’s study in the limited circumstances outlined above) – providing the premises displays at least one A5 area sign.

Do we have to pay for these signs?

No. Free no-smoking signs can be downloaded and printed or for a limited time, ordered from smokefreeengland.co.uk/resources or by calling 0800 169 1697.

You can also display personalised signs by changing the words ‘these premises’ to refer to the name or type of premises - such as ‘this study’ - as long as the sign meets the minimum requirements set out in the new law.

Why is this necessary?

The signs will make it clear which premises and vehicles are smoke-free and demonstrate that you are taking the necessary steps to meet the requirements of the law.

They also provide some degree of legal protection for you in the unlikely event of someone being caught smoking on the premises.

Where can I find further information on smoke-free legislation?

Log onto smokefreeengland.co.uk or phone the smoke-free England Information Line on 0800 169 1697 for the full guidance and to order or download free signs.

* The international no-smoking symbol consists of a graphic representation of a single burning cigarette enclosed in a red circle of at least 70mm in diameter with a red bar across it.

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Annual Statistical Return

1. Given that the Commissioners are no longer be involved in the majority of parsonage and glebe transactions, it would be impossible to produce broad statistics showing developments/trends in the national picture in these respects without putting alternative arrangements in place.
2. It was for this reason that, with the agreement of dioceses and the Synod, the Church of England (Miscellaneous Provisions) Measure 2000 made the following relevant changes to the Parsonages Measure 1938 and the Endowments & Glebe Measure 1976:
 - (a) Parsonages Measure 1938 (Section 5(4))

A new clause was inserted recording that “the (Diocesan Parsonages) Board shall provide the Commissioners with such information as they may require concerning transactions under this Measure affecting property”;
 - (b) Endowments & Glebe Measure 1976 (Section 27)

This records that “every Diocesan Board of Finance shall keep the Commissioners informed of such matters as the Commissioners shall from time to time prescribe, being matters arising from any notice given to the Board by a Government Department or local or public authority or public utility undertakers and affecting the diocesan glebe land of the diocese”. The 2000 Measure has now added the words “or matters concerning transactions affecting the diocesan glebe land”. The Commissioners no longer have any requirements in respect of Government or local authority statutory notices etc. but the additional wording introduced by the 2000 Measure will enable us to collate basic material about glebe transactions across the country.
3. Attached is a statistical return dealing with parsonage and glebe transactions which we would be grateful if dioceses could complete and return as soon as possible after the end of each calendar year, commencing from 31 December 2001.
4. We will send individual letters to each diocese at the end of each calendar year to remind them of our broad requirements in this respect.

B: OTHER GLEBE (EXCLUDING TEAM VICARAGES)

6. GLEBE PURCHASES	Land			Miscellaneous/ Commercial		Other Church Housing	
	Number	Acreage	Basic Cost	Number	Basic Cost	Number	Basic Cost

7. GLEBE SALES	Land			Miscellaneous/ Commercial		Other Church Housing	
	Number	Acreage	Gross Proceeds	Number	Gross Proceeds	Number	Gross Proceeds

8. NET GLEBE INCOME <i>Please record here the net income, after qualifying outgoings, and the relevant accounting period)</i>	A: NET INCOME	£
	B: YEAR TO	Date:

SIGNED:	
NAME:	
POSITION HELD:	
DIOCESE OF:	
DATE:	

The Land Registration Act 2002: Land Registry Plan Requirements

The Land Registration Act 2002 which came into force on 13 October 2003 completely overhauled the system of land registration which had been in force since 1 January 1926.

To accompany the new regime, the Land Registry issued instructions in relation to (among other things) plans on deeds sent in for registration.

The new Land Registry Practice Guide says:

“Where a plan is required for any new deed or for any application lodged at the Land Registry, it should be prepared having regard to the following guidelines:

- *drawn to and show its actual scale*
- *show its orientation (for example, a north point)*
- *use preferred scales of 1/1250 – 1/500 for urban properties*
- *use preferred scales of 1/2500 for rural properties (fields and farms etc)*
- *not based on a scale of imperial measurement (for example, 16 feet to 1 inch)*
- *not reduced in scale*
- *not marked or referred to as being for identification only*
- *not show statements of disclaimer used under Property Misdescriptions Act 1991*
- *show sufficient detail to be identified on the Ordnance Survey map*
- *show its general location by showing roads, road junctions or other landmarks*
- *show the land of the property including any garage or garden ground*
- *show buildings in their correct (or intended) position*
- *show access drives or pathways if they form part of property boundaries*
- *show the land and property clearly (for example by edging, colouring or hatching)*
- *have edgings of a thickness that do not obscure any other detail*
- *show separate parts by suitable plan markings (house, parking space, dustbin space)*
- *identify different floor levels (where appropriate)*
- *show intricate boundaries with a larger scale or inset plan*
- *show measurements in metric units only, to two decimal places*
- *show undefined boundaries accurately and where necessary, by reference to measurements*
- *show measurements that correspond, so far as possible, in scaled measurements*

We will reject any dealing of part or lease application in respect of registered land where the plan to the deed bears a statement of disclaimer.”

To save problems in the conveyancing process, please ensure that plans forwarded to the Commissioners comply as far as possible with these guidelines.

The disposal of unconsecrated church land and parsonage land that is no longer required

New Parishes Measure 1943 (Section 17)

General guidance notes for benefice solicitors

Introduction

These notes give basic guidance to solicitors dealing with the disposal etc under section 17 of the New Parishes Measure 1943 of unconsecrated church land or parsonage land that is no longer required for the purpose for which it was acquired.

Unconsecrated burial grounds

If the property was acquired as a burial ground but remains unconsecrated and unused, please first ascertain that the Chancellor does not claim jurisdiction. If the Chancellor claims jurisdiction, the disposal cannot proceed under the New Parishes Measure: it will instead have to be authorised by a faculty.

Title Deeds

The Church of England Record Centre of 15 Galleywall Road, London SE16 3PB tel: 020 7898 1000 - Fax: 020 7898 1031 (e-mail: archivist@churchofengland.org) will send you, on request, a copy of the index card listing any deeds held for the benefice. You should apply direct to the Centre for any deeds you require in connection with the transaction.

You should also enquire whether any (other) deeds are in the diocesan registry or are held locally elsewhere on behalf of the benefice.

Terms of Approval and Consents

The Commissioners' approval will only be required where the proposed transaction is with a connected person and/or the 'report' requirements have not been met.

Contract and transfer

The form and content of the contract are entirely a matter for the solicitor acting for the benefice: the draft documentation should not be sent to the Commissioners for approval or comment.

Transfer

(Please also see the suggested form of transfer and the separate notes relating to it on our Legal Office's website.)

After Completion

A copy of the transfer must be sent to the Pastoral Division as soon as possible after completion for filing in the Church of England Record Centre (and so that the Commissioners are aware that the transaction has been completed).

If the transfer contains exceptions and reservations or covenants future incumbents will need to know of these. Where such matters affect diocesan glebe or other diocesan property, the DBF should also be made aware of them. After completion it would be a good idea to send a copy of the transfer to the incumbent (whether or not there are exceptions, reservations or covenants) asking that it be placed with the church records, and, where appropriate, to send a further copy to the DBF.

Accounting for Proceeds

You should obtain your client's approval to your firm's charges, disbursements and VAT and deduct these, and the selling agent's charges (similarly approved) from the proceeds of sale.

September 2010

Recommended practice around glebe transactions

1. *The Diocesan Synod and/or Bishop's Council should establish clear guidelines for glebe development in the context of the Mission and Culture of the Diocese.*

It is recommended that the Bishop's Council should agree a diocesan policy and guidelines for glebe land developments for debate and endorsement by the Diocesan Synod. This would emphasise the statutory and fiduciary duties of the DBF and Glebe Committee but place them within the aims, culture and ethos of the Diocese. This could include an indication of good practice expected from promoters and developers as well as the DBF itself, any ethical restraints in accordance with the EIAG recommendations and an expression of support for developments such as affordable housing, which have pastoral implications.

2. *The Clergy, Churchwardens and PCCs of parishes should:-* **a) *be informed of the Guidelines and*** **b) *made aware of glebe land in their parishes, but also reminded that it is owned and managed by the DBF for the benefit of the Diocese as a whole,***

It is suggested that this should be done as a one-off circulation to all parishes following agreement of the guidelines and the same information should subsequently be sent to the new office-holder whenever there is a change of incumbent or priest-in-charge for a parish which has diocesan glebe land located in it. The intention is that clergy and parishes should be aware of any glebe land in the parish so that any proposal for sale or development should not come as a bolt from the blue. At the same time, they should also be aware of the context in which the DBF manages glebe: its fiduciary duty to do so for the benefit of the Diocesan Stipends Fund, the benefits to mission in the diocese as a whole, the pastoral and missional opportunities which may be presented by development; and the consequential benefits, such as a Church School extension, which parishes might receive as "planning gain" from a development.

3. *All Archdeacons should be members of the Glebe Committee.*

This is important to ensure that the Committee which deals with glebe land is sufficiently connected to the wider Diocese and has due regard to its core purpose and works within its culture and ethos. There is a danger that if a Diocesan Glebe Committee is too narrowly based around property investment expertise it will operate on a set of assumptions which perhaps too closely reflect the attitudes of the property development companies with which it deals. Archdeacons are also well placed, from their knowledge of individual parishes, to alert the Committee at an early stage to potential difficulties or opportunities in particular cases.

- 4. Conflicts of interest of members of Glebe Committees arising from their parochial associations should be identified at an early stage and they should withdraw from participating in decisions which might compromise their freedom to represent the views of their parishioners at a later stage.**

This goes beyond any conflict of interests which members may have at a personal level and is intended to avoid placing them in a position where they may have divided loyalties or be tainted in the eyes of their parishes by association with unpopular decisions. It would apply to lay members on the electoral roll of a parish under discussion.

- 5. The DBF should exercise the appropriate control over the promotion of potential development sites through the Planning process.**

The DBF or Glebe Committee should exercise a sufficient degree of control over the actions of promoters and development partners. This should be partly by the selection of appropriate partners (with an eye to reputational risk) and, also, by the inclusion of contractual conditions obliging them to work within the principles of the Diocese and its ethos and culture. The Board should also emphasise to promoters early in discussions that acting in advance of a contractual agreement would itself not accord with these principles.

- 6. Clergy and PCCs should be alerted in advance of any proposals becoming public knowledge and where appropriate, there should be early discussions with the PCC and Civil Parish to understand local concerns and needs, especially the potential for any community benefits which might be secured.**

It is always a matter of judgement as to how far a DBF should proceed with identifying potential development sites and undertaking preliminary discussions with potential developers before alerting the clergy, churchwardens and PCC concerned to the possibility of glebe development. There is an understandable wish not to cause unnecessary local concern where the possibility of development is at an exploratory stage and may come to nothing. However, the DBF should always try to avoid the parish first becoming aware of possible development from a source other than itself. Early discussion with the PCC, and subsequently with the Civil Parish Council may enable the Diocese to head off any misrepresentation of the facts arising and gaining currency locally. It is also an opportunity to identify potential benefits such as greater mission opportunities, provision for starter homes, enhanced community facilities or viability for a school which might mitigate perceived disadvantages and result in greater local support for the proposal.

7. ***Timing and content of S.20 notices and covering letters.***

It is recommended that the wording describing the nature of a proposed transaction should go beyond the bare minimum of “to sell” and identify the purpose, such as “for residential development” where this will involve a change of use. The notices should be accompanied by a plan identifying the land concerned.

The timing of the service of notices is also a matter of judgement. Doing so when discussions about development are still at an exploratory stage may give the impression that the DBF is already committed to it come what may. However, one of the intentions of the service of notice is that the DBF or Glebe Committee should be aware of the local concerns and aspirations before negotiations with promoters or developers are too far advanced to take account of them, where this is compatible with the DBF’s fiduciary duty. No contracts should be approved, or entered into, until there has been sufficient time for those receiving notices to make their views known to the Diocese.

8. ***Those participating in public meetings regarding potential developments should be fully briefed and senior clergy should be involved in such meetings to ensure that pastoral considerations are properly represented.***

It is recommended that such meetings should always be attended by two representatives of the DBF, normally including a senior member of the clergy, such as the Archdeacon or Area Dean. This is so that they can corroborate each other’s recollection of what is said and that there is a clergy person present to ensure that pastoral considerations are fully taken into account. It is important that DBF representatives should be fully aware of what, or what options, are under consideration and about any local issues of which the Diocese is already aware.

9. ***Staff responsible for implementing proposals should receive feedback from meetings in which they have not participated.***

It is important that those in day to day contact with agents, promoters, development partners or local planners are fully informed when instructing or discussing issues with them.

July 2018

Glossary of Terms

Appropriation	To change the use to which any land is put without necessarily changing the ownership of the land. Commonly used when land is held for charitable purposes.
Auction	Method of sale of property in which the Vendor's agent (auctioneer) invites bids from contending purchasers. The last and highest bidder when the auctioneer closes the proceedings has thereby contracted in legally binding form to purchase the property at the amount of his or her bid provided it is not less than the reserve.
Benefice	An ecclesiastical office carrying certain duties. An incumbent's benefice is therefore not a geographical area (see parish) but the office to which (s)he is appointed and may comprise one or more parishes. A benefice may be a rectory or vicarage from which the incumbent is called rector or vicar .
Bishop	In the Church of England (as in other episcopal churches) the bishop is the central focus of all organisation and ministry within his diocese. He is the chief pastor and authority and shares the cure of souls with all the incumbents of that diocese (and thus often acts for an incumbent in a vacancy i.e. in the provision, sale and improvement of parsonage houses). He is also, in his own person, the chief representative of the diocese in the councils of the wider church.
Building Regulations	The Building Regulations are made by the Secretary of State for the Environment, Transport and the Regions under powers delegated by Parliament under the Building Act 1984. They are a set of minimum requirements designed to secure the health, safety and welfare of people in and around buildings and to conserve fuel and energy.
Churchwardens	The chief lay officers of a parish elected annually by parishioners with the consent of the incumbent. The number and qualifications of and the time and manner of choosing churchwardens are regulated by the Churchwardens Measure 2001. There are normally two churchwardens of every parish. They have various statutory duties. They have the right to make representations to the Diocese on a proposed glebe sale when the benefice is vacant and to receive notices under the Mission and Pastoral Measure and the Parsonages Measures if there is no parochial church council. They are frequently appointed as sequestrators during vacancies of benefices.
Common Tenure	A new form of office holding introduced by the Ecclesiastical Offices (Terms of Service) Measure 2009 which will eventually apply to all ecclesiastical office holders. Anyone appointed to an ecclesiastical office on or after 1 February 2011 and all existing office holders who did not hold a freehold office are now on Common Tenure. The main effects of this are that most office holders now have security of tenure

until the age of 70 and may receive compensation if their office ceases to exist, but are also subject to the capability procedure under the Measure and may lose office for lack of capability as well as on disciplinary grounds. Existing freeholders may continue in office on that basis but may also opt-in to Common Tenure at any time if they so wish.

Connected Person	Where a person entering into a disposition as <u>the other party</u> (e.g. the person or body acquiring a former parsonage house) under the Parsonages Measure 1938, the Endowments & Glebe Measure 1976, the Ecclesiastical Offices (Terms of Service) Measure or the Mission and Pastoral Measure 2011 is unable to sign a declaration to the effect that they are <u>not</u> connected to any of the parties outlined in the declaration, the matter has to be referred to the Commissioners for approval irrespective of whether or not representations under the provisions of under the Parsonages Measure 1938 are received. A form of declaration is recommended by the Commissioners.
Conveyance/Transfer	The act by which title to property is conveyed/transferred from one party to another. Commonly refers to the legal document which sets out the details of what is to be conveyed/transferred. (Transfers relate to titles registered with H.M. Land Registry.)
Corporation Sole	A legal term denoting one person only in his or her capacity as current holder of an office (e.g. a bishop or an incumbent) with power to bind his or her successors in that office.
Covenant	A legally binding agreement, usually included in a conveyance, between two or more parties to do, or to refrain from doing, a specified act.
Curate	Generally used to describe an assistant curate to an incumbent. Such assistant curates are licensed to their work by the bishop.
Custodian Trustee/ Administrative Trustee	Parochial property is often held jointly by the diocesan authority (usually the Diocesan Board of Finance but in some dioceses a separate Trustee body) and the Parochial Church Council . The diocesan authority (the Custodian Trustee) owns the land but the Parochial Church Council (the Administrative Trustee) has all effective responsibility for the use, repair and day to day management of the property.
Deed	A written document giving effect to some legal arrangement or transaction, signed and sealed by the parties involved.
Diocesan Authority	The diocesan body (usually the Diocesan Board of Finance) in which trust property is vested.
Diocesan Pastoral Account	Account held by the Diocesan Board of Finance for diocesan or parochial purposes including the purchase and improvement of parsonages and glebe . Surplus parsonage proceeds held on a Parsonages Building Fund by the Commissioners can be transferred to

this account after notices have been served on the **patrons** and **Parochial Church Councils** and either no objections have been received or any objections have been overruled by the Commissioners' Mission and **Pastoral Committee**.

Diocesan Stipends Fund	The DSF (Capital) Account is the account held by the Diocesan Board of Finance into which the sale proceeds from any disposal of glebe is placed. Income generated from DSF Capital and glebe is held in an in the Diocesan Stipends Fund Income Account which is used to help pay stipends. The Capital Account can also be used for the acquisition of glebe and the purchase or improvement of parsonage houses . Access to the Fund must be approved by the Bishop .
Easement	A legal right to use some other person's land for a specific purpose e.g. to provide a right of access or to lay service pipes or wires.
Endowment	Capital (including land or securities) often deriving from gifts and held to provide an income, e.g. to the holder of an office.
Endowments and Glebe Measure	A Measure passed by the General Synod of the Church of England in 1976 which (inter alia) transferred property belonging to the benefice , excluding parsonage land , to the diocese. It covers all dealings involving glebe .
Excluded part	Part of a parsonage house which has been formally excluded from it by the Bishop under Section 11 of the Parsonages Measures. Must be transferred to diocesan glebe by a S 32 Order if it is to be leased.
Faculty	Official permission of the chancellor of a diocese (or an archdeacon) to make any changes to a consecrated building or land. Any such changes, e.g. structural works, must not alter the sacred nature of the building or land. A faculty is also required to authorise works to most unconsecrated places of worship and rights of way over a churchyard or church site - e.g. to provide access to the parsonage house.
Freehold	An incumbent appointed before 1976 has, subject to certain conditions, the tenure of his benefice for life, even if the benefice to which he was originally appointed is subsequently affected by a pastoral scheme or order. Those appointed between 1976 and 31 January 2011 may continue as freeholders up to the age of 70 even if the benefice to which he or she was originally appointed is subsequently affected by a pastoral scheme or order Anyone appointed since 1 February 2011 will hold office under Common Tenure . Certain other ecclesiastical office holders own a freehold. (See parson's freehold .)

Glebe Land	Land, formally vested in the incumbent of a benefice as part of the endowments of the benefice until 1 April 1978 when the Endowments and Glebe Measure 1976 came into effect and the land was automatically transferred to the Diocesan Board of Finance and is now known as diocesan glebe land. Diocesan glebe land is primarily held for investment purposes to generate income for the Diocesan Stipend Fund but may also be used to house assistant clergy and team vicars .
Glebe Management Scheme	Article enshrining the rules by which a diocese manages its glebe.
Green Guide	The commonly used name for the Parsonages Design Guide .
Incumbent	The freehold or Common Tenure owner of a benefice - can be either a rector or a vicar - with responsibility for the cure of souls. May be assisted by curate, deacon, licensed lay worker, retired priest etc.
Land Certificate	The document issued by the Land Registry describing a property and forming the definitive and legally accepted title to its current and previous ownership.
Lease	A legal agreement by which one party grants possession of property to another for a defined period of time, normally for a rent or capital sum (premium) or both. Also the deed by which the agreement is made.
Leasehold	The holding of property on the terms and by the authority of a lease .
Lessee	A person to whom property is leased.
Lessor	The owner or head lessee of the property which is leased.
Living	The income attached to an office, hence often used as a synonym for benefice .
Measure	The Church of England equivalent of an Act of Parliament. The General Synod has powers to formulate Measures which must be approved by Parliament and receive the Royal Assent. Whilst Parliament can reject a Measure it has no power to amend one. Measures form part of the laws of England.
Members ('Other') of a Team Ministry	May be clerical or lay. They share the pastoral care of the area with the team rector and team vicars , but NOT the cure of souls.
Parish	The basic geographical unit over which an incumbent has cure of souls. There may be several parishes within the area of one benefice.
Parsonage Building Fund	A Fund held by the individual dioceses on behalf of the benefice from

the sale of a **parsonage house** or other **parsonage land and the proceeds from the release of covenants benefiting the parsonage**. It can be used for parsonage purposes or, if not required for that use, for certain other purposes once transferred to the DPA/DSF.

Parochial Church Council

Representative body of parishioners elected from those on the electoral roll in accordance with the Church Representation Rules. Usually chaired by incumbent.

Parsonage House

The official place of residence of an **incumbent** of a **benefice**. The house belongs to the incumbent in right of his or her office.

Parsonage Land

Generally, any land or property no longer required as the official residence of an incumbent for which future provision has not yet been made. It is formally defined by s.45 of the Endowments and Glebe Measure 1976. It does not simply mean land adjoining the parsonage house.

Parson's Freehold

Until 1969 the incumbent of a benefice could not be removed (except for misconduct) if he chose to stay. The freehold has subsequently been limited and will eventually no longer exist as a result of the following changes : (a) schemes under the Pastoral Measure introduced in 1969 (now made under the Mission and Pastoral Measure 2011) may have the effect of dispossessing the incumbent of his or her benefice by its dissolution, with proper provision for compensation; (b) the Ecclesiastical Office (Age Limits) Measure 1975 provides that all those appointed to benefices after the coming into effect of that Measure on 1/1/1976 must retire at age 70. Those appointed before 1/1/1976 may, if they choose, stay for life so long as they are not dispossessed (this applies even if their benefices are subsequently affected by pastoral schemes or orders); and c) the Ecclesiastical Offices (Terms of Service) Measure 2009 which provides that all incumbents appointed on or after 1 February 2011 (except existing freehold incumbents appointed to new benefices as a result of pastoral reorganisation) hold their office under **Common Tenure**. Existing freehold incumbents continue to hold office on that basis unless they choose to opt-in to Common Tenure.

Parsonage Board

Board appointed or designated under Section 1 of the **Repair of Buildings Measure 1972** for the purposes of that Measure.

Parsonage Measures

Measures passed by the National Assembly of the Church of England in 1938 and 1947 to consolidate and amend the law relating to the sale, demolition, purchase, exchange, building, division and improvement of parsonage houses and of other property then belonging to benefices.

Parsonage Measure Rules

Rules originally made by Queen Anne's Bounty under section 15 of the Parsonages Measure 1938 and amended by the Church Commissioners in 2000 and again in 2007. They set out the procedures to be followed when consulting **patron(s)** and **Parochial Church Council(s)** over the

disposal acquisition and improvement of parsonages.

Parsonage Design Guide	Published from time to time by the Church Commissioners and sometimes referred to as the “Green Guide”, it contains the Commissioners’ advice to dioceses, architects and others on recommended standards of accommodation, design and materials when a new parsonage house is to be built. The current edition was published in December 1998.
Mission and Pastoral Committee	A Committee of the Commissioners' Board of Governors which makes decisions on representations on pastoral and houses matters and where their consent is required for glebe disposals. It is chaired by the Third Church Estates Commissioner.
Mission and Pastoral Measure	The Measure of the General Synod to consolidate the Pastoral Measure 1983 and the bulk of the Dioceses, Pastoral and Mission Measure 2007 (apart from, in the main, aspects relating to the Dioceses Commissions’ sphere of work) which authorises changes in pastoral reorganisation. Designed to "make better provision for the cure of souls". Part of the law of the land and equivalent to an Act of Parliament.
Pastoral Scheme	A document which effects more complex changes in pastoral reorganisation made under the Mission and Pastoral Measure .
Patron	The person or body owning an advowson (i.e. right to present a priest to a benefice) who may be a private individual or a corporation (ecclesiastical or lay).
Planning Permission	Consent to a development or change of use given under Town and Country Planning Acts by a local planning authority. An 'outline' application establishes whether consent for the proposal will, in principle, be forthcoming and may set out such further details as will be required before 'full' or detailed planning permission is given. A 'full' planning application seeks authority for a particular proposal which has been worked out in detail. In some circumstances e.g. in a conservation area, a 'full' application is required at the outset. Listed Building consent or Conservation Area consent may be separately required.
Plurality	The holding of two or more separate benefices by one incumbent who then has the freehold of all the benefices. This can only be authorised by a scheme or order under the Mission and Pastoral Measure .
Priest in Charge	A priest given charge of a benefice by licence of the bishop during a vacancy. (S)he has not been presented and therefore is not the incumbent .
Qualified Surveyor	Defined in the Parsonages Measures as “a fellow or professional associate of the Royal Institution of Chartered Surveyors or of the Incorporated Society of Valuers and Auctioneers (<i>or member of a similar institution</i>) reasonably believed by the incumbent or the bishop, as the

case may be, to have ability in, and experience of, the valuation of land of the particular kind, and in the particular area, in question.”

Quinquennial Survey	A building inspection report of a church or parsonage required to be undertaken every five years.
Quota	The annual contribution asked of each parish towards diocesan funds for clergy stipends, building, maintenance, diocesan purposes, Synod purposes etc. Also, in some dioceses, referred to as 'the parish share'.
Rector	The incumbent of a rectory .
Rectory	Historically a benefice where the whole of the tithe and glebe land were available for the maintenance of the minister. Rectories have also been created by statute e.g. a benefice where a team ministry is established. Also the house where a rector lives.
Repair of Benefice Buildings Measure	A Measure passed by the General Synod of the Church of England in 1972 to provide (inter alia) for the repair of parsonage houses by Diocesan Parsonages Boards and for the repair of other buildings then belonging to a benefice.
Reverter	Provision in a conveyance for all or part of the property to return to the original grantor or his or her successors either at a specified time or when no longer required for its original purpose.
Rural Dean <i>(In some dioceses called Area or Urban Dean)</i>	The incumbent or priest-in-charge of one of the benefices in a deanery who acts as chairman of the clergy in the deanery and as a channel of communication between diocesan administration and parishes. His or her duties are not closely defined by statute and will vary from diocese to diocese. (S)he is however ex-officio a sequestrator of a vacant benefice.
Sealing	The final step in concluding a legal agreement or transaction by which the seals of the parties concerned are fixed to the document. (Only corporations need affix their seal.)
Section 32 Order	The Section of the Endowments and Glebe Measure 1976 which enables a Diocesan Board of Finance to transfer any surplus parsonage land to glebe with or without a consideration.
Sequesterate	To divert the income of a benefice temporarily or permanently from its owner, the incumbent , into other hands. A benefice is also in sequestration during a vacancy. The income, if any, of the benefice during a vacancy is paid to the Diocesan Stipends Fund , e.g. fees and Easter Offerings.
Sequestrator(s)	The person(s) responsible for administering the income of a benefice in sequestration. The churchwardens of every parish in the benefice and

the rural dean act as sequestrators together with a person appointed by the bishop if he so desires (s.1(1) of the Church of England (Miscellaneous Provisions) Measure 1992).

Stamp Duty

Tax payable to the government on **conveyances/transfers** of property. Since the Finance Act 1982 all transfers to Charities (including glebe purchases) are exempt. An historic concession on most parsonage sales was removed by the Finance Act 2003.

Statement of Reasons

A written statement from the Church Commissioners explaining their reasons whether to allow diocesan proposals under various Measures to proceed notwithstanding representations against.

Statutory Declaration

Obtained when title deeds to a property cannot be found. It is a declaration made by someone who has known the property for an amount of time and is to the effect that they are not aware of anyone other than person X claiming title to the property. It is almost invariably the case that title documents to ancient churches cannot be found (if they ever existed at all).

Suspension of Presentation

A priest is 'presented' to the **bishop** as a candidate for a living by the patron. However, the bishop can initiate a period of suspension with the consent of the Diocesan Mission and Pastoral Committee and after local consultation. During such a period of suspension no-one may be presented to the living without the consent of the bishop and the Diocesan Mission and Pastoral Committee. Such periods of suspension may not exceed five years but are capable of renewal for further periods of five years.

Team Ministry

A special form of ministry whereby a team of clergy and possibly lay people share the pastoral care of the area of a **benefice**. Can only be established by a **pastoral scheme**.

Team Rector

The priest in a **team ministry** who heads the team and owns the property of the **benefice**. (S)he shares the **cure of souls** with the **team vicars**.

Team Vicar

A priest of **incumbent** status in a **team ministry**, other than the **team rector**. (S)he shares the cure of souls with the **team rector** and other team vicars.

Terrier

The document which lists the area, terms of letting and other relevant information affecting property owned by a corporate body. An example is the return of diocesan **glebe** prepared by each diocese in 1978 of which copies are held by the Church Commissioners.

Title

Documentary proof of ownership of land. This may take the form of deed(s), a Land or Charge Certificate issued by H.M. Land Registry or, where no such evidence exists, a **statutory declaration** by a person who has known the property for many years. Before property is conveyed or

transferred it is necessary for the vendor to establish title to the satisfaction of the purchaser.

Trust	Documentary proof of ownership of land. This may take the form of deed(s), a Land or Charge Certificate issued by H.M. Land Registry or, where no such evidence exists, a statutory declaration by a person who has known the property for many years. Before property is conveyed or transferred it is necessary for the vendor to establish title to the satisfaction of the purchaser.
Trust Deed	The holding of money or property for a particular purpose by a body or group of individuals legally entrusted with its administration.
Value Linked Loan	Loans made by the Commissioners to dioceses as a means of assisting with the provision of housing for clergy spouses whose marriages have broken down. The Scheme helps to provide accommodation normally held by a DBF as part of its corporate portfolio and such property cannot therefore be in benefice or glebe ownership. Loans are made under the Commissioners' general investment powers and form part of their investment portfolio. As the name suggests, their value is linked to that of the property and enables the Commissioners to share in any increase in the capital value of the property during the lifetime of the loan. Formerly known as 'Equity Sharing Loans'. Until January 2009 these loans also used to be available for assistant clergy housing but loans are now only being made available for deserted spouses.
Vicar	The incumbent of any benefice that is not a rectory .
Vicarage	Historically a benefice where the tithe and glebe were appropriated to a religious house or corporation etc. who could not exercise the cure of souls. They had to appoint a vicar (the word means 'representative') to exercise the cure. Nowadays most new benefices when created are vicarages. Also the house where a vicar lives.
Wayleave	An easement affecting pedestrian or vehicular access or passage across another's land or cables over it.