



Statutory Guidance

Guidance for the Chapter, Dean and cathedral clergy:

Accountability to the Chapter under s.12 Cathedrals Measure 2021¹

I. Introduction

The members of the Chapter are the charity trustees of the cathedral. Chapter members are either ex officio executive members or non-executive members. The dean and those residentiary canons who carry out “cathedral duties”² are executive members of the Chapter³.

Subsections 12(6) and (7) of the Cathedrals Measure 2021 (the **2021 Measure**) provide that:

- the dean is, in respect of his or her functions relating to the cathedral, accountable to the Chapter in accordance with arrangements made by the Chapter; and
- the clergy of the cathedral are, in respect of their functions relating to the cathedral, accountable to the Chapter through the dean in accordance with arrangements made by the Chapter.

The “*clergy of the cathedral*” are, for these purposes, each residentiary canon or other clerk in Holy Orders who carries out cathedral duties⁴.

This guidance is guidance on accountability produced by the Church Commissioners for the purposes of section 12(8) of the 2021 Measure only⁵. In accordance with section 12(9) of the 2021 Measure, the Church Commissioners have consulted AEC, being such body as appears to the Church Commissioners to represent cathedrals. ***The dean, the clergy of the cathedral and the Chapter must have ‘due regard’ to this guidance.***

Section 12(8) of the 2021 Measure requires the dean, the clergy of the cathedral and the Chapter to each have due regard to any guidance issued by the Church Commissioners on accountability in relation to cathedrals. The legal duty to have due regard means that the dean, the clergy of the cathedral and the Chapter are not free to choose whether or not to follow this guidance. As a matter of law, this guidance should be given great weight and must be followed unless there are ‘coherent reasons’ for not doing so.

¹ This is not guidance on how to address capability concerns. For guidance on capability processes and procedures see <https://www.churchofengland.org/sites/default/files/2017-11/Ecclesiastical%20Offices%20Regulations%202009%20Capability%20Procedure.pdf> and for Advice relating to its use see <https://www.churchofengland.org/sites/default/files/2017-11/Capability%20Procedure%20Code%20of%20Practice%20Supporting%20Advice.pdf>

² Section 45(1) Cathedrals Measure 2021 (see Appendix 1)

³ Paragraph 1 to Schedule 1 to the Cathedrals Measure 2021 (see Appendix 1)

⁴ Section 12(12) Cathedrals Measure 2021 (see Appendix 1)

⁵ For general governance guidance and accountability for trustee functions, see General Guidance [insert link] and [The Essential Trustee: what you need to know, what you need to do - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/essential-trustee-what-you-need-to-know-what-you-need-to-do)

2. What are the dean and cathedral clergy accountable to the Chapter for?

Subsections 12(6) and (7) provide that the dean and the clergy of the cathedral are accountable to the Chapter for their “*functions relating to the cathedral*”. Section 45(1) provides that a “*function*” means “*a power or duty*”. Therefore, the dean and the clergy of the cathedral are accountable to the Chapter for the exercise of their powers or duties relating to the cathedral.

What is included in these powers or duties is clarified further by section 12:

- s.12(10) provides that, in the case of a dean or a residentiary canon, the functions referred to include the functions he or she has under the Canons; and
- s.12(11) provides that the accountability requirement does not apply in relation to functions exercisable by the dean or any cathedral clergy as a charity trustee.

The 2021 Measure makes provision for the dean and the clergy of the cathedral to be accountable to the Chapter in respect of their non-trustee functions relating to the cathedral because they are office holders and not employees. The members of the Chapter, as charity trustees, have the general control and management of the administration of the Chapter⁶, which is the body corporate of the cathedral and so the dean and cathedral clergy are accountable to the Chapter in respect of their non-trustee functions relating to the cathedral.

3. Chapters to put suitable arrangements in place to provide for accountability

The 2021 Measure provides that the dean and clergy of the cathedral are to be accountable to the Chapter “*in accordance with arrangements made by the Chapter*”⁷. The Chapter must put in place clear written arrangements that are appropriate and reflect the local circumstances in their cathedral so that the dean and the cathedral clergy are accountable in relation to their non-trustee cathedral functions.

The arrangements made by the Chapter must include providing for the non-trustee functions relating to the cathedral which pertain to each office to be recorded in writing⁸ and a copy provided to the relevant office holder, the dean⁹ and the Chapter. This will enable the Chapter, the dean and the clergy of the cathedral to be clear what functions each office holder is accountable to the Chapter for under section 12 of the 2021 Measure.

Guidance on what such arrangements would normally be expected to include, as a minimum, is set out in section 4 (the dean), section 5 (residentiary canons) and section 6 (other cathedral clergy), below.

4. The dean’s accountability to the Chapter

Paragraph 1 to Schedule 1 of the 2021 Measure provides that the dean is an ex officio member of the Chapter and an “executive” Chapter member. Deans, as executive Chapter members, have a dual role; they are a charity trustee and chair the Chapter as the trustee body and, as the principal dignitary of the cathedral after the bishop and as the executive chair, the dean

⁶ Section 8(4) Cathedrals Measure 2021

⁷ S.12(6) and (7) Cathedrals Measure 2021 (see Appendix 1)

⁸ The record of the non-trustee functions relating to the cathedral should not mandate how such functions are to be performed by the office holder.

⁹ As the clergy of the cathedral are accountable to the Chapter through the dean, the dean must receive a copy of the non-trustee functions relating to the cathedral provided to each of the clergy of the cathedral.

also carries out his or her ecclesiastical law and executive powers and duties¹⁰. The dean is required to be a member of the cathedral's Senior Management Group¹¹ (but is not required to be its chair). This means that the dean is responsible for leading both the governance and the management of the cathedral, as well as being the senior leader of what is above all else a Christian community.

The Chapter must put appropriate and suitable arrangements in place to enable the dean to be accountable to the Chapter in respect of his or her non-trustee¹² cathedral functions, including those set out in the Canons¹³.

It is for the Chapter to determine what formal processes it considers are appropriate in relation to the dean's accountability to the Chapter. However, it is expected that any arrangements will normally include a key role for the non-executive majority of Chapter members, including the Senior Non-Executive Member (the **SNEM**)¹⁴. The relationship between the dean and the SNEM will be a key relationship in the governance of the cathedral¹⁵. It is recommended that the dean and the SNEM meet at least twice a year and, where appropriate, some (or parts) of these meetings could form part of the mechanisms through which the dean is accountable to the Chapter for his or her non-trustee cathedral functions.

Meetings between the dean and the SNEM should be seen as a substitution for the periodic meetings that often take place between a chair of the trustees and the chief executive, but which are not possible in cathedrals as the dean holds both of these roles.

It is good practice to review these arrangements when a new dean or SNEM is appointed. This is because it may be appropriate for transitional arrangements to be put in place to support the person who is new to the role.

5. The accountability of residentiary canons to the Chapter through the dean

Residentiary canons are all ex officio members of Chapter and most will be executive members of Chapter¹⁶. Like the dean, executive residentiary canons will have a dual role as they will be charity trustees as well as having the executive functions of their ecclesiastical offices. Those residentiary canons with responsibility for a department of the cathedral or for part of its operations are also required to be a member of the cathedral's Senior Management Group¹⁷. However, unlike the dean, who is directly accountable to the Chapter, executive residentiary canons are accountable to the Chapter through the dean for their non-trustee functions relating to the cathedral¹⁸.

The Ecclesiastical Offices (Terms of Service) Regulations 2009 (the **2009 Regulations**) have been amended¹⁹ to provide for the dean to carry out an annual review²⁰ with each residentiary canon who is an executive Chapter member in relation to the exercise of that residentiary canon's cathedral duties. The annual review is in addition to, and quite separate from, an

¹⁰ Sub-sections 12(1)-(5) Cathedrals Measure 2021 (see Appendix 1)

¹¹ S.19(1) of the Cathedrals Measure 2021 (see Appendix 1)

¹² Section 12(11) Cathedrals Measure 2021 (see Appendix 1)

¹³ Section 12(6) Cathedrals Measure 2021 (see Appendix 1)

¹⁴ Paragraph 5 to Schedule 1 to the Cathedrals Measure 2021 (see Appendix 1)

¹⁵ See General Guidance for Cathedrals Sections B1, B3 and B4

¹⁶ Paragraphs 1(1) and (2) of Schedule 1 to the 2021 Measure (see Appendix 1)

¹⁷ S.19(1) of the Cathedrals Measure 2021 (see Appendix 1)

¹⁸ Section 12(7) Cathedrals Measure 2021 (see Appendix 1)

¹⁹ Ecclesiastical Offices (Terms of Service) (Amendment) Regulations 2021

²⁰ Reg 18A Ecclesiastical Offices (Terms of Service) Regulations 2009 (see Appendix 2)

MDR²¹ as it will only be concerned with the cathedral duties undertaken by that residentiary canon²². Although it is for the Chapter to determine what formal processes it considers appropriate in relation to how residentiary canons should be accountable to the Chapter through the dean for their non-trustee cathedral functions, including those set out in the Canons²³, the annual review should normally play a key part in these arrangements.

The Chapter's arrangements must also make provision for how the dean is to facilitate the accountability to the Chapter of the residentiary canons for their non-trustee cathedral functions. One way in which this could be undertaken is in the form of a report made by the dean to the Chapter following the completion of the annual reviews.

6. The accountability of other clergy of the cathedral to the Chapter through the dean

Some cathedrals have office holding clergy who are not residentiary canons and who are not members of the Chapter but who also carry out functions relating to the cathedral. It is for the Chapter to determine what formal processes it considers appropriate in relation to the accountability of such cathedral clergy to the Chapter through the dean.

The sort of arrangements that may be appropriate are likely to vary depending on the nature of the functions being undertaken as part of the clergy role and the structure of the cathedral. However, such arrangements should normally include some form of annual review with the dean or an appropriate residentiary canon, even though it will not be an annual review conducted as a legal requirement under the 2009 Regulations. Where such a review is conducted by a residentiary canon and not the dean, the residentiary canon should provide a copy of the agreed report from the review to the dean, so that the dean can facilitate the accountability to the Chapter for that member of the cathedral clergy's cathedral functions.

The Chapter's arrangements must also make provision for how the dean is to facilitate the accountability to the Chapter of such cathedral clergy for their cathedral functions, including those set out in the Canons²⁴. One way in which this could be undertaken is in the form of a report made by the dean to the Chapter.

²¹ See Guidance on MDR [insert link]

²² See separate guidance to be produced on the annual review

²³ Section 12(6) Cathedrals Measure 2021 (see Appendix 1)

²⁴ Section 12(6) Cathedrals Measure 2021 (see Appendix 1)

APPENDIX I

Extracts from the Cathedrals Measure 2021

12 The dean

- (1) The dean of a cathedral continues to be its principal dignitary, next after the bishop.
- (2) The dean, in that capacity, must govern and direct on behalf of the Chapter the life and work of the cathedral; and in performing that duty the dean must in particular—
 - (a) ensure that Divine Service is duly performed in the cathedral;
 - (b) ensure that the constitution and statutes are faithfully observed;
 - (c) oversee the work undertaken by the clergy and staff of the cathedral in relation to the cathedral;
 - (d) maintain good order and proper reverence in the cathedral;
 - (e) secure the pastoral care of all members of the cathedral community;
 - (f) provide leadership on matters relating to the safeguarding of any children or vulnerable adults who work, volunteer or worship in the cathedral or who visit the cathedral (with “child” and “vulnerable adult” each having the meaning given in section 39(1));
 - (g) take all decisions necessary to deal with an emergency affecting the cathedral, pending consideration of the matter by the Chapter.
- (3) None of the following may be done without the consent of the dean—
 - (a) an alteration of the ordering of services in the cathedral;
 - (b) the settlement of the Chapter’s budget;
 - (c) the implementation of a decision taken by the Chapter in the dean’s absence.
- (4) In the case of a decision taken by the Chapter on a matter other than one mentioned in subsection (3)(a) or (b), the dean is to be taken as having consented for the purposes of subsection (3)(c) after the expiry of one month beginning with the day after that on which the decision was taken.
- (5) But subsection (4) does not apply if, during the one-month period referred to in that subsection, the dean asks the Chapter to reconsider the decision at its next meeting; and the decision is to be taken by a majority vote of those present and voting at the meeting (as to which, see paragraph 6 of Schedule 1).
- (6) The dean is, in respect of his or her functions relating to the cathedral, accountable to the Chapter in accordance with arrangements made by the Chapter.
- (7) The clergy of the cathedral are, in respect of their functions relating to the cathedral, accountable to the Chapter through the dean in accordance with arrangements made by the Chapter.
- (8) The dean, the clergy of the cathedral and the Chapter must each have due regard to any guidance issued by the Church Commissioners on accountability in relation to cathedrals.

- (9) Before issuing guidance of the kind referred to in subsection (8), the Church Commissioners must consult such bodies as appear to them to represent cathedrals.
- (10) The references in subsections (6) and (7) to the functions a person has in relation to the cathedral include, in the case of the dean or a residentiary canon, a reference to the functions he or she has under the Canons.
- (11) Subsections (6) and (7) do not apply to functions exercisable as a charity trustee.
- (12) A reference in this section to the clergy of the cathedral is a reference to each residentiary canon or other clerk in Holy Orders who carries out cathedral duties.

19 Senior management group

- (1) The members of the group concerned with the management of a cathedral (the establishment of which is provided for in the statutes by virtue of section 7(3)), must include—
 - (a) the dean,
 - (b) each residentiary canon with responsibility for a department of the cathedral or for part of its operations,
 - (c) the chief officers, and
 - (d) such other members of staff (whether lay or clergy) as the Chapter considers appropriate.
- (2) The statutes must make provision as to—
 - (a) the functions and proceedings of the group, and
 - (b) the accountability of the group to the Chapter.

45 Interpretation

- (1) In this Measure—

“cathedral duties”, in relation to a cathedral, means duties (whether in the cathedral or the diocese) which should, in the opinion of the Chapter after consultation with the bishop, be performed in or from the cathedral;

“function” means power or duty;

SCHEDULE I: THE CHAPTER OF A CATHEDRAL

Membership

- I (1) The members of the Chapter of a cathedral are—
 - (a) the dean of the cathedral,
 - (b) the residentiary canons of the cathedral, and
 - (c) such other persons as are appointed or elected in accordance with this Schedule.

- (2) The following members of the Chapter are referred to in this Measure as the “executive” members—
 - (a) the dean of the cathedral, and
 - (b) each residentiary canon who carries out cathedral duties.
- (3) For the purposes of sub-paragraph (2)(b), a residentiary canon is not to be regarded as carrying out cathedral duties if the Chapter considers that the duties carried out by that residentiary canon are of such a minor nature that they should be disregarded for those purposes.
- (4) Any question arising as to the nature of cathedral duties carried out by a residentiary canon is to be determined by the bishop as Visitor.
- (5) The other members of the Chapter are referred to in this Measure as the “non-executive” members.
- (6) The Chapter must have more non-executive members than executive members.
- (7) The Chapter must have at least eight members but no more than twelve or such larger number as is necessary to comply with sub-paragraph (6).
- (8) At least two-thirds of the non-executive members must be lay persons.

Senior non-executive member

- 5 (1) The non-executive member appointed by the bishop under paragraph 3(5) is, by virtue of that appointment, the senior non-executive member of the Chapter.
- (2) The senior non-executive member—
 - (a) may be a lay person or a clerk in Holy Orders, but
 - (b) may not be a suffragan or assistant bishop or archdeacon in the diocese or the bishop’s chaplain or the diocesan secretary.

APPENDIX 2

Extract from the Ecclesiastical Offices (Terms of Service) Regulations 2009

18A Executive residentiary canons: annual review

- (1) In the case of each office holder who is an executive residentiary canon, the dean of the cathedral shall, on at least one occasion in each calendar year, conduct a review with the residentiary canon of his or her exercise of cathedral duties.
- (2) A review under this regulation is to be known as an “annual review” and is in addition to the ministerial development review.
- (3) It shall be the duty of each executive residentiary canon to co-operate in any annual review undertaken under this regulation.
- (4) The dean shall keep a written record of the outcome of any annual review and of any relevant matters relating to such a review, which shall be signed by the residentiary canon and the dean.
- (5) In this regulation, “executive residentiary canon” means a residentiary canon who is an executive member of the Chapter of the cathedral concerned; and “executive member” and “cathedral duties” each have the same meaning as in the Cathedrals Measure 2021.