



General Guidance for Cathedrals

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Preface

This document is intended to be a helpful resource for cathedrals to support them to implement the changes brought in by 2021 Measure, not least that of Chapter members becoming charity trustees. It is vital, however, that members of each cathedral Chapter should be mindful of both their ecclesiastical purpose and the charitable purposes which they must further and, in particular, when they are considering strategic plans for the cathedral or deciding on significant expenditure.

Together, all Chapter members are part of the faithful, praying heart of a cathedral which is first and foremost a worshipping community at the centre of the whole diocese. While usually drawing its members from across the region, it will be important for each Chapter to remain disciplined in coming together to be nourished by both scripture and the sacrament, and to reflect prayerfully together. This will help strategic planning to be a response to Christ's calling of his Church in that place.

Section I of the Cathedrals Measure 2021 (**the 2021 Measure**) sets out the following ecclesiastical purpose to which anyone on whom a function is conferred by the 2021 Measure must have due regard when exercising that function:

- (i) the fact that the cathedral is the seat of the bishop and a centre of worship and mission; and
- (ii) the importance of the cathedral's role in providing a focus for the life and work of the Church of England in the diocese.

The cathedral's ecclesiastical purpose should inform, and be reflected in, all aspects of the work of the cathedral.

In addition, the members of the Chapter, as charity trustees, must ensure that all activities further the Chapter's charitable objects as set out in s.4 of the 2021 Measure and its Constitution. All activities must also be undertaken in a way which provides public benefit. The charitable objects of the cathedral Chapter are:

- (a) to advance the Christian religion in accordance with the faith and practice of the Church of England, in particular by furthering the mission of the Church of England;
- (b) to care for and conserve the fabric and structure of the cathedral church building;
- (c) to advance any other charitable purposes which are ancillary to the furtherance of the purpose referred to in paragraph (a) or (b).

A. Chapter members as charity trustees

Once the 2021 Measure is fully in force for a cathedral, the Chapter will be regulated by the Charity Commission as well as by the Church Commissioners. All members of the Chapter will be charity trustees and will need to comply with charity law as well as ecclesiastical law.

This section provides Chapter members and those employed by the cathedral with a high-level summary of the key charity trustee duties which Chapter members are expected to fulfil and the best practice in governance expected in key areas. Links have also been provided to important guidance to assist Chapters, chief officers and other employees and volunteers to consider the issues raised in this guidance in more detail.

A1. What is expected of me as a charity trustee?

The Charity Commission's guidance "The Essential Trustee" CC3¹ explains the fundamental responsibilities and duties of trustees. CC3 lists and explains the six key duties that are essential for trustees to properly carry out their role:

- (i) Ensure your charity is carrying out its purposes² for the public benefit³;
- (ii) Comply with your charity's governing document and the law;
- (iii) Act in your charity's best interests;
- (iv) Manage your charity's resources responsibly;
- (v) Act with reasonable care and skill; and
- (vi) Ensure your charity is accountable.

The Charity Commission considers these six duties to be fundamental because, in its experience, there has usually been a failure in at least one of these duties when serious concerns arise about a charity and its governance. CC3 is a very good starting point to understand what your duties are as a charity trustee as it provides a whistle-stop tour of the key duties and common pitfalls for trustees, giving practical examples of how trustees can comply with good governance practice. It is also helpful to refresh the knowledge of those Chapter members who may have experience as charity trustees, as a reminder of what is expected from you.

CC3 acknowledges that charities vary in size and activities, and what amounts to good practice will therefore differ from charity to charity. CC3 accepts that it is for trustees themselves to consider and decide how best to apply good practice to their charity's particular circumstances and so this is what you, as Chapter members, will need to consider collectively for your Chapter.

Nevertheless, CC3 makes it clear that the Charity Commission expects trustees to follow its 'should' recommendations of good practice. If the Charity Commission is looking into concerns raised about a particular cathedral, it will not be enough for its Chapter to say that it has complied with the minimum legal requirements. The Charity Commission takes a "comply or explain" approach to CC3 and so if the Chapter chooses not to follow the good practice recommended by the Charity Commission in a specific situation, you should be able to explain and justify the reasons for doing so and record these reasons with the decision.

In order to help charity trustees understand their duties, the Charity Commission has released a series of 5 minute video guides for trustees⁴. These are helpful as they allow you to explore what is expected of you in "bite size" pieces.

CC3 should be provided in the induction pack for all new Chapter members. It may also be helpful to signpost the Charity Commission's video series to new Chapter members as part of their induction.

¹ CC3: [The essential trustee: what you need to know, what you need to do \(CC3\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/charitable-purposes-and-public-benefit)

² The Chapter's charity law purposes, and its ecclesiastical law purpose, are set out in the Preface, above.

³ The Chapter will need to confirm that it has had regard to the public benefit guides PBI, PB2 and PB3 when making decisions these guides are relevant to: <https://www.gov.uk/government/collections/charitable-purposes-and-public-benefit>

⁴ [Charity Commission guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/charitable-purposes-and-public-benefit)

A2. Making and recording decisions as a Chapter

The Charity Commission's Guidance on Charity Trustees and Decision Making (CC27)⁵ sets out the principles the courts have developed for reviewing decisions made by charity trustees. Although these principles should inform Chapter's approach to decision making generally, they do not need to be followed step-by-step for minor decisions. The Charity Commission expects trustees to be able to show how they have followed these principles when making significant or strategic decisions, such as those affecting the cathedral's beneficiaries, assets or future direction.

When making decisions Chapter members should follow these principles:

- (i) act within their powers;
- (ii) act in good faith, in the best interests of their charity;
- (iii) make sure they have all the information they need to make a decision, including taking any necessary advice;
- (iv) consider all relevant factors and ignore all irrelevant factors;
- (v) manage any conflicts of interest/loyalty;
- (vi) make decisions that are within the range of what a "reasonable" Chapter could make in the circumstances.

It is important for Chapter members to follow these principles of decision making and for the Chapter to make and retain clear records of decisions taken which evidence how and why the decisions were made properly if its decision is questioned or investigated in the future. Records should include who attended a meeting and when, what information and advice Chapter considered and how they used it, what options were considered, whether there were any disagreements, and the main reasons for the decision taken. These records may be the minutes of meetings or separate notes and correspondence.

The Chapter should be particularly careful when making a decision which may generate negative publicity and/or which could have a negative impact on the cathedral's reputation. As part of the decision-making process, the Chapter should consider how any risks identified to the cathedral's reputation can be mitigated or managed. While the Chapter may not be able to eliminate the risk of negative publicity, the Chapter should be able to demonstrate that such risks have been considered and appropriate steps taken where appropriate.

If Chapters are not able to demonstrate that they have followed the above principles, there is a risk that:

- (i) Chapter members could be responsible for financial loss or reputational damage to the cathedral resulting from a decision;
- (ii) the decision could be invalid, or might have to be reversed;
- (iii) Chapter members could open the cathedral to the risk of legal action, and themselves to the risk of personal liability; and
- (iv) the Charity Commission may consider that it needs to become involved and use its powers to protect the cathedral's property and rectify the situation.

The Charity Commission can only ever consider whether a decision was within the "range of decisions" that a reasonable trustee body could have made. This means that the Charity

⁵ CC27 [It's your decision: charity trustees and decision making - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/its-your-decision-charity-trustees-and-decision-making)

Commission cannot (or certainly should not) judge whether the Chapter's decision was "right" or "the best decision" as that would be entirely subjective and improper.

A3. Managing conflicts of interest or loyalty

The Chapter must adopt a conflicts of interest policy which enables them to identify and manage any conflicts effectively. The Church Commissioners have provided guidance for Chapters on managing conflicts of interest and loyalty, which includes a template policy for Chapters to bespoke to their needs⁶. This guidance and template policy also sets out what financial benefits and payments may be made to executive and non-executive Chapter members.

Chapter are required to:

- (i) recognise and declare any conflicts of interest and loyalty;
- (ii) prevent any conflicts of interest and loyalty from affecting decisions; and
- (iii) record any conflict and how it was managed, in accordance with the Chapter's conflicts of interest policy.

B. Governance and management

Good governance is fundamental to a charity's success. It enables and supports compliance with the law and relevant regulations and promotes a culture in which everything works towards fulfilling the charity's vision. Setting up a good governance framework for the cathedral is primarily the responsibility of the Chapter, with the senior management (chief officers) being primarily responsible for its practical implementation.

The Charity Governance Code⁷ (the **Code**), supported and endorsed by the Charity Commission, represents a standard of good governance practice to which all charities should aspire. Chapters should consider relevant principles of the Code when reviewing the Chapter's governance in each area, to see how the principles and recommended practice in the Code can inform and improve the governance processes and practices of the Chapter.

The Code sets out seven principles with accompanying recommended practice for good governance under each principle. It is deliberately aspirational and some elements of the Code will pose a challenge for many Chapters. However, the Code is a useful tool for Chapters to consult when seeking to improve their governance and achieve the highest standards and best practice in the sector.

The AEC has produced a cathedral focussed version of the Code – the Cathedral Governance Code 2021⁸ – which Chapters and chief officers may find helpful when considering the Code's recommendations in a cathedral context.

BI. Separation between governance and management

The members of the Chapter are the charity trustees with general control and management of the administration of the cathedral Chapter and its assets. As trustees, Chapter members have a largely governance role, with direct responsibility for strategic direction, oversight and financial planning. The daily operations and management of the cathedral are delegated by the trustees to the chief officers and the members of the Senior Management Group (see below).

⁶ [insert link to this guidance].

⁷ [Download the Code — Charity Governance Code](#)

⁸ The AEC's Code is available to cathedral administrators on the CAFA website.

In most charities it is fairly easy to distinguish between those in a governance role (unpaid trustees) and those in a management role (paid employees). However, this differentiation is more complex for Chapters as a minority of the trustees – the dean and those residentiary canons with cathedral duties - are “executive trustees”, with both trustee (governance) and executive (management) functions. Therefore, it is important for Chapters to distinguish between governance and management functions and to be clear in what capacity those Chapter members with both executive and non-executive are acting or making decisions. Chapters may find it helpful to set these out in writing, in one or both of the following ways:

- (i) Executive trustees could have two role descriptions – one which sets out their executive “management” functions in the cathedral and another which sets out their non-executive “governance” functions as members of the Chapter.
- (ii) When the Chapter makes written delegations⁹ for the exercise of powers to an executive trustee, it should be clear whether the power is being delegated to the dean/residentiary canon in his or her capacity as a Chapter member or in his or her executive capacity.

Non-executive Chapter members, particularly in smaller cathedrals, may wish to undertake a voluntary role in the cathedral which is entirely separate from their role as a trustee. This could be a regular role, such as volunteering as a visitor guide around the cathedral, or on an ad hoc basis where a need arises and the Chapter member has the time and relevant skills to help out. Where a non-executive Chapter member volunteers, it should be clear that they are not volunteering in their capacity as a trustee. In addition, they should avoid volunteering in a role which creates any potential conflicts with, or may compromise their ability to undertake, any part of their trustee role.

B2. The Senior Management Group

Sections 7(3) and 19 of the 2021 Measure require each cathedral’s Statutes to establish a Senior Management Group (**SMG**). The members of the SMG must include the dean, each residentiary canon with responsibility for a department of the cathedral or for part of its operations and the chief officers. In addition, the Statutes may provide for the SMG’s membership to include such other members of staff (whether lay or clergy) as the Chapter considers appropriate.

An SMG has those functions conferred on it by the cathedral’s Statutes and it is accountable to the Chapter. The general purpose of the SMG is to support and implement the goals set by the Chapter within the parameters of the Constitution, Statutes and policies adopted by the Chapter as well any specific decisions or guidelines provided by the Chapter.

B3. The dean

The dean is, ex officio, a member of the Chapter. The dean is also the chair of the Chapter and, where there is a tied vote at the meeting, the dean has a second, casting vote¹⁰.

Section 12 of the 2021 Measure sets out the ecclesiastical status and duties of the dean, which include the requirement for the dean to oversee the work undertaken by cathedral clergy and staff and to provide leadership on safeguarding in the cathedral. As such, the dean’s role is a challenging one as it requires the dean to be both the chair of Chapter and the Chief Executive of the cathedral, and so 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

⁹ See B7 below

¹⁰ Para 6 to Schedule 1 of the 2021 Measure

Christian community. The dean is required to be a member of the SMG¹¹ and the dean is accountable to the Chapter for his or her (non-trustee) cathedral duties¹².

B4. The Senior Non-Executive Member (SNEM)

The Senior Non-Executive Member (SNEM) is the Chapter member appointed by the bishop. The bishop must consult the Chapter before appointing a person as the SNEM¹³.

The role of the SNEM, as the senior Chapter member without any executive functions or duties, is a purely governance role and, as such, is quite distinct from that of the sub-dean. As a general rule, the SNEM should not be closely involved in the day-to-day operations of the cathedral, even in the dean's temporary absence.

The SNEM owes the same fiduciary duties to the Chapter as all other Chapter members; the SNEM is not a representative of the bishop on the Chapter. The SNEM is expected to be a critical friend to the dean, to provide support and advice to the dean in his or her capacity as chair of the Chapter.

An important part of the SNEM's role is to chair Chapter meetings in the dean's temporary absence. This will be particularly helpful to Chapters when considering matters where the dean is absent from all or part of a meeting as he or she has declared a conflict of interest or loyalty in the matter being discussed. Where the dean is temporarily absent to enable an identified conflict to be properly managed, the SNEM will chair the Chapter meeting.

If the dean's absence is more than temporary, the bishop is required to appoint an interim dean to undertake the dean's role and functions in his or her absence¹⁴. Where the bishop has appointed an interim dean, it is the interim dean and not the SNEM who will chair Chapter meetings.

It is good practice for the bishop, dean and SNEM to meet a couple of times a year (in addition to the dean's usual meetings with the bishop) to discuss any specific matters of concern or interest, as well as the mission of the cathedral and its wider role in the diocese more generally.

B5. The diversity of Chapter and its committees

The Cathedrals Working Group Report noted there is much evidence to demonstrate that diversity on boards leads to more effective governance. It recommended¹⁵ that Chapters should strive to appoint appropriately qualified non-executive members who reflect the diversity of their local Christian community. This recommendation was reflected in the 2021 Measure,¹⁶ which requires Chapters to set up a Nominations Committee, the functions of which are to:

- (i) advise the Chapter on the recruitment of non-executive members of Chapter;
- (ii) advise the Chapter on the recruitment of members of Chapter Committees;
- (iii) advise the Chapter on the training needs of members of Chapter; and

¹¹ S.19(1) of the 2021 Measure

¹² S.12 of the 2021 Measure – See also the Church Commissioners' guidance on Accountability to Chapter.

¹³ Para 3(5) to Schedule I of the 2021 Measure

¹⁴ S.13 of the 2021 Measure

¹⁵ Governance, Paragraph 87, Composition of Chapter, bullet point 5

¹⁶ Sections 15(5) and (6)

- (iv) keep under review the skills, knowledge and experience of, as well as the diversity among, members of the Chapter and to recommend improvements to the Chapter where they are identified as necessary.

The Nominations Committee is required to review the diversity of the membership of the Chapter and recommend how the Chapter can address any lack of diversity identified when it appoints new members. Whilst diversity encompasses age, disability, gender, race and sexual orientation, it can also include diversity of socio-economic background.¹⁷

The Archbishops' Anti-Racism Taskforce report, *From Lament to Action*¹⁸, recommended that Chapters should use their power to appoint non-executive Chapter members to actively recruit at least one UKME/GMH member of the Chapter. When considering the Nominations Committee's recommendations for the appointment of a new Chapter member, the Chapter should consider whether its composition already reflects the Taskforce's recommendation and, where it does not, whether there is any UKME/GMH¹⁹ representation among the executive members of the Chapter. Where it does not, and in particular where there is also no UKME/GMH representation among the executive members of the Chapter, the Chapter should, where reasonably possible, make an appointment so that its composition does reflect the Taskforce's recommendation.

B.6 Term limits for non-executive Chapter and committee members

Term limits help to ensure that boards and committees regularly refresh themselves, bringing in new ideas, points of view and skills. They also make it easier to retire people who are no longer adding significant value.

As Chapters will have at least three members who are "executive", and so not subject to terms limits, it makes it even more important for careful thought to be given to what term limits are appropriate for the non-executive Chapter members in your cathedral. The same is true in relation to setting term limits for members of committees of Chapter and of any advisory bodies set up by the Chapter.

Lord Hodgson's review of the Charities Act 2006, commissioned by the Government and published in 2012, supported the principle of term limits and recommended that: "*Trusteeship should normally be limited in a charity's constitution to three terms of no more than three years' service each*". Whilst each cathedral is different, Chapters are advised to use the concept of three terms of three years as a benchmark and to adjust it, if required, to meet the needs and circumstances of their cathedral Chapter.

B7. Statements of Delegated Authority (SoDAs) and Terms of Reference (ToRs)

Chapter members, as charity trustees, have a general duty of care which they must apply to all aspects of their role. Chapter members can delegate authority but not responsibility to senior staff and to Chapter committees. Where Chapter members delegate decision making, they must always retain ultimate responsibility and accountability for all decisions that are made²⁰. As a general rule, high risk and unusual decisions should not be delegated. Chapters need to make sure that any powers or authority delegated to Chapter committees or to senior staff are set out in writing, so that the limits of the delegation are clear and suitable controls, such as proper reporting procedures, are in place to enable the trustees to oversee all delegated matters.

¹⁷ For further information please see the Nominations Committee guidance [Insert link]

¹⁸ [FromLamentToAction-report.pdf \(churchofengland.org\)](#) (Recommendation 14, Participation).

¹⁹ United Kingdom Minority Ethnic/Global Majority Heritage

²⁰ See Para 3.6 [It's your decision: charity trustees and decision making - GOV.UK \(www.gov.uk\)](#)

In particular, Chapters should agree and keep under review a formal policy and delegated authority to authorise expenditure on behalf of the Chapter – a “statement of delegated authority” (a **financial SoDA**)²¹. Financial SoDAs should set out who the authority is delegated to, the limits of that authority and any exceptions or other conditions attached to that authority. It should also include any reporting requirements to the Chapter.

When delegating authority, whether to Chapter committees or to staff, the Chapter is advised to:

- (i) Be clear on what decisions are reserved to the Chapter and which decisions may be delegated. The Chapter’s primary role is strategic rather than operational and this should be reflected in the areas of authority the Chapter delegate.
- (ii) Ensure that written delegations for staff and terms of reference for Chapter committees (**ToRs**)²² are put in place, with sufficient detail as to the parameters of the delegated powers, so that the delegations are clear and can easily be understood and carried out.
- (iii) Review, monitor and risk assess all SoDAs and ToRs at regular intervals, to ensure that they remain suitable and appropriate and that they are delivering the results required.

B8. Financial controls

It is the responsibility of the Chapter to make sure that the cathedral is protected against fraud, theft and financial crime and so the Chapter must put robust financial controls and appropriate safeguards in place using a financial SoDA. The Charity Commission has produced guidance CC8²³ which the Chapter and chief officers may find helpful when considering how best to:

- (i) safeguard the Chapter’s assets;
- (ii) administer the Chapter’s finances in a way that identifies and manages risk; and
- (iii) ensure the quality of financial reporting, by keeping adequate accounting records and preparing timely and relevant financial information.

It is expected that the Chapter’s internal audit and risk management will review the Chapter’s internal financial controls and financial SoDA on a regular basis and advise what changes may be needed to better protect the Chapter.

The Charity Commission has also produced specific guidance on how to protect your charity from fraud and cybercrime²⁴. In order to reduce the opportunity for criminals to use the cathedral to launder money, Chapters should provide training to staff in their finance and fundraising teams on anti-money laundering and “know your donor” processes and ensure that sizeable donations of unknown or unexpected provenance are checked before they are accepted.

²¹ A template financial SoDA has been included at the Appendix to this guidance.

²² See separate guidance for Template ToRs for the statutory committees (Finance and Audit and Risk [insert link] and Nominations [insert link]) which Chapters are required to establish and template generic ToRs for non-statutory Chapter committees [insert link] and for advisory bodies [insert link].

²³ [Internal financial controls for charities \(CC8\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/internal-financial-controls-for-charities-cc8)

²⁴ [Protect your charity from fraud and cyber crime - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/protect-your-charity-from-fraud-and-cyber-crime)

C. Which activities are regulated by the Charity Commission and which are regulated by the Church Commissioners?²⁵

CI. Cathedral activities regulated by the Church Commissioners under the 2021 Measure

Acquisition of Land

The acquisition of land is not regulated by the Charity Commission or the Charities Act 2011. The 2021 Measure requires Chapters to seek consent from the Church Commissioners in relation to certain acquisitions of land in the same way as under the 1999 Measure.

Disposition of Land (including mortgages)

Dispositions of land, including the approval of mortgages and charging (**Dispositions of Land**), are activities regulated by the Charity Commission under the Charities Act 2011 and the Church Commissioners under the 2021 Measure. In order to avoid dual regulation, the 2021 Measure provides that Dispositions of Land by Chapters will be regulated as follows:

- (i) Chapters are required to seek consent from the Church Commissioners for Dispositions of Land under the 2021 Measure in the same way as under the 1999 Measure. As the requirement to obtain the Church Commissioners' consent is a statutory provision in the 2021 Measure, any Disposition of Land which requires the Church Commissioners' consent will not also need to comply with the general Charities Act 2011 requirements²⁶. This means that Chapters will only need to obtain consent from the Church Commissioners for such Dispositions of Land.
- (ii) The Church Commissioners continue to have the power to make an Excepting Order, as under the 1999 Measure, to list those Dispositions of Land for which the Church Commissioners' consent is not required. Where a Disposition of Land does not require the Church Commissioners' consent because it falls within the Excepting Order, the Chapter will be required to comply with the Charities Act 2011 requirements on the Disposition of Land.²⁷ This means that the Chapter will need to obtain and consider the requisite report/advice in accordance with the Charities Act 2011 and include the required statements in the contracts of sale²⁸.
- (iii) Where a Disposition of Land disposition is to a connected party or at an undervalue, Chapters will not also need to seek the Charity Commission's consent if the Chapter has obtained the Church Commissioners' consent for that Disposition of Land.

Borrowing (unsecured)

Although unsecured borrowing is not specifically regulated by the Charity Commission or the Charities Act 2011²⁹, certain unsecured borrowing is currently regulated by the Church Commissioners under the 2021 Measure. The 2021 Measure also requires Chapters to seek consent from the Church Commissioners where any prospective debt (whether secured or unsecured) would cause the total borrowings of a Chapter to exceed an amount set by an Order of the Church Commissioners.

²⁵ It is expected that parts of this section will need to be revised and updated to reflect the provisions of the Charities Bill in due course.

²⁶ pursuant to s.117(3)(a)(i) Charities Act 2011

²⁷ Part 7 (ss.117 – 129) of the Charities Act 2011

²⁸ See Charity Commission guidance at <https://www.gov.uk/guidance/charity-land-and-property>

²⁹ Note - the Charity Commission expects trustees to undertake and evidence proper decision making in relation to any unsecured borrowing in accordance with the principles set out in CC27 – see section A2 above.

Borrowing from endowment monies to undertake emergency repairs to the cathedral building

Chapters continue to be required to seek consent from the Church Commissioners to borrow from its endowment for this purpose.

Total Return

A number of Chapters have adopted a Total Return approach to investing their cathedral's endowment pursuant to s.17A and Schedule A1 of the 1999 Measure. The Total Return provisions in the 1999 Measure are broadly similar to those in the Charities Act 2011 and the Total Return Regulations 2013 (the **2013 Regulations**).

Once the 2021 Measure is fully in force for a cathedral, the Total Return provisions in the Charities Act 2011 and the 2013 Regulations will be available to Chapters in the same way as for all other charities. However, a safeguard has been included in the 2021 Measure which requires Chapters adopting a Total Return approach to obtain consent from the Church Commissioners if they wish to exercise the power in Regulation 4 of the 2013 Regulations to borrow up to 10% of their endowment.

Power to ascertain whether particular property is permanently endowed

The 2021 Measure confers a new power on the Church Commissioners to determine definitively whether any specific property is or is not part of a cathedral's permanent endowment, where the position is unclear. This power does not enable the Church Commissioners to re-categorise property or funds which were known to be permanently endowed as non-endowment property.

C2. Table showing which cathedral activities are regulated by the Church Commissioners and by the Charity Commission under the 2021 Measure

Activity	Is it regulated by the Church Commissioners?	Is it regulated by the Charity Commission?
Acquisition of Land	Yes	No
Disposition of Land (including mortgaging and charging)	Yes Church Commissioners' consent required where the Excepting Order does <u>not</u> apply.	Yes Charities Act 2011 general requirements ONLY apply to Dispositions of Land where the Excepting Order applies.
Borrowing (unsecured)	Yes	No
Borrowing from endowment monies to undertake emergency	Yes	No

repairs to the cathedral Building		
Determination as to whether a property forms part of the permanent endowment of a cathedral	Yes	No
Total Return	Chapters need consent from the Church Commissioners in order to use the power in Regulation 4 of the 2013 Regulations to borrow and repay up to 10% of the endowment.	Cathedrals use the total return provisions in the Charities Act 2011 and 2013 Regulations.
Filing accounts and annual report	Yes	Yes And file Annual Return online

D. New requirements for Chapters to be aware of as charities

DI. Trading

Once the Chapter is within the Charity Commission's regulatory jurisdiction, its ability to trade is limited by charity law. This is because making money is not in itself a charitable purpose, even if the Chapter is doing it to support its charitable activities.

Charity law allows charities to trade provided that the trading falls into one of the following categories:

(i) Primary purpose trading

Primary purpose trading is trading which contributes directly to one or more of the Chapter's charitable objects. The Chapter should consult its professional advisers as to whether any particular trading activity falls within the definition of primary purpose trading.

(ii) Ancillary trading

Ancillary trading contributes indirectly to the successful furtherance of the charitable purposes of the Chapter and is treated as part of primary purpose trading for both charity law and tax purposes. An example of ancillary trading would be the sale of religious items in a cathedral shop. The level of annual trading turnover which is said to be ancillary may have a bearing on the question whether the trading really is ancillary, but there is no specific level of annual turnover beyond which trading will definitely not be regarded as ancillary. Trading is not regarded as ancillary to the carrying out of a primary purpose simply because its purpose is to raise funds for the cathedral.

The Chapter should consult their professional advisers as to whether any particular trading activity is considered to be ancillary trading³⁰.

(iii) Non-primary purpose trading that does not involve significant risk to the resources of the charity.

Non-primary purpose trading is trading intended to raise funds for the cathedral, as distinct from trading which in itself furthers the Chapter's charitable objects. Chapters may engage in such trading only where no significant risk is involved and where it falls within the small-scale exemption³¹.

Generally, the risks of trading outside what is permitted by law are that:

- (i) if the Chapter makes a profit, it may be liable to tax;
- (ii) if the Chapter makes a loss, that loss may be seen as non-charitable expenditure and so liable to tax; and
- (iii) if the Chapter makes a loss, the Chapter members, as the charity trustees, may be liable for breach of trust.

Therefore, if a Chapter wants to undertake most types of trading it will need to set up a non-charitable trading subsidiary. A non-charitable trading subsidiary is a separate company that is usually wholly owned by the charity and donates the bulk of its profits to the charity via gift aid, so no tax is payable on those profits.

As a non-charitable trading subsidiary is not a charity, the Chapter is not able to subsidise its activities and so any arrangements with a trading subsidiary will need to be formally documented and reflect market rates.

The Charity Commission³² and HMRC³³ have both produced helpful guidance which explains the restrictions on charities trading, the tax and other implications of trading unlawfully and what you need to think about when setting up and running a non-charitable trading subsidiary. In particular, these include:

- funding the trading subsidiary by way of an arm's length investment by the Chapter;
- arrangements for the trading subsidiary to transfer its profits to the Chapter tax free;
- VAT;
- managing conflicts of interest and loyalty between the Chapter and the trading subsidiary's board;
- arm's length market rate formal lease/licence arrangements for any use by the trading subsidiary of property owned by the Chapter; and
- arm's length market rate formal shared services/employee arrangements.

As this is a fairly complicated area, the Chapter should seek legal advice when setting up a trading subsidiary. The Chapter is also advised to seek legal advice to review the arrangements

³⁰ In particular, advice should be taken as to whether the sale of food and drink in your cathedral café is considered, in the specific circumstances of your cathedral, to be ancillary trading.

³¹ Currently £80k turnover per annum. See Charity Commission Guidance CC35, Para 3.12

³² CC35 [Trustees trading and tax: how charities may lawfully trade - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/cc35-trustees-trading-and-tax-how-charities-may-lawfully-trade)

³³ [Charities and trading - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/charities-and-trading)

it has in place with any existing trading subsidiary and confirm whether any arrangements in place are sufficient to comply with charity law.

D2. Serious Incident Reporting

Once the Chapter is within the Charity Commission's regulatory jurisdiction it must report all Serious Incidents (whether safeguarding or otherwise) to the Charity Commission³⁴, using the Charity Commission's online form³⁵.

Safeguarding Serious Incidents must be reported to the Charity Commission in accordance with the House of Bishops' Serious Incident Reporting Guidance³⁶ which the Chapter is required to comply with. A copy of that report must then be sent to the National Safeguarding Team.

A serious incident is an adverse event, whether actual or alleged, which results in or risks significant:

- (i) harm to your cathedral's beneficiaries, staff, volunteers or others who come into contact with your cathedral through its work (who are collectively referred to throughout this guidance as people who come into contact with your cathedral through its work)
- (ii) loss of your cathedral's money or assets
- (iii) damage to your cathedral's property
- (iv) harm to your cathedral's work or reputation.

For these purposes, "significant" means significant in the context of your cathedral, taking account of its staff, operations, finances and/or reputation.

It is very important that the Chapter reports all Serious Incidents in the cathedral. Failure to report a Serious Incident which subsequently comes to light may be considered to be mismanagement by the Charity Commission which could lead to regulatory action, particularly if further abuse, harm or loss has taken place following the Serious Incident.

D3. Fundraising

The Chapter has overall responsibility and accountability for its fundraising and so should make sure that any fundraising venture reflects its mission and values.

Chapters must only fundraise in a way which protects their cathedral's reputation and encourages public trust and confidence in the Chapter. Therefore, it is the Chapter's responsibility to ensure that any fundraising campaign or initiative complies with the law and adheres to recognised best practice standards, such as the Fundraising Code³⁷ produced by the Fundraising Regulator. Any fundraising venture or campaign should be conducted in a way which shows respect to donors, supporters and the public and protects the Chapter from undue risk. The Charity Commission has produced useful guidance for trustees on their duties in relation to fundraising which Chapters and fundraising teams should read.³⁸

If the Chapter decides to work with an external organisation to fundraise, such as a professional fundraiser or a commercial partner, the Chapter must put a written fundraising

³⁴ [How to report a serious incident in your charity - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

³⁵ [Pre service guidance \(charitycommission.gov.uk\)](https://charitycommission.gov.uk)

³⁶ [insert link]

³⁷ [Code of Fundraising Practice | Fundraising Regulator](https://www.fundraisingregulator.gov.uk)

³⁸ CC20 [Charity fundraising: a guide to trustee duties \(CC20\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

agreement in place that complies with the law. Section 7 of the Fundraising Regulator's Code³⁹ provides a helpful summary of the law and best practice requirements when entering into such an arrangement and the Chapter is advised to seek legal advice when entering into such an arrangement to ensure that the written agreement complies with these requirements.

Chapters should also note section 2 of the Fundraising Regulator's Code, which sets out the fundraising reporting requirements for inclusion in the Chapter's annual report⁴⁰.

Chapters and chief officers may also find some of the fundraising resources created for PCCs helpful, on the Parish Resources website⁴¹.

³⁹ [Professional fundraisers, commercial participators and partners | Fundraising Regulator](#)

⁴⁰ [Responsibilities of charitable institutions and those who govern them | Fundraising Regulator](#)

⁴¹ [Funding - Parish Resources](#)

Appendix

Template Statement of Delegated Authority⁴²

Introduction

Setting up a good governance framework is primarily the responsibility of the Chapter, with the Senior Management Group being primarily responsible for its practical implementation. As such, Chapter members may delegate authority, but not responsibility, to senior staff, although high risk and unusual decisions will not normally be delegated.

It is the responsibility of Chapter to make sure that the cathedral is protected against fraud, theft and financial crime and Chapter has therefore prepared, and will keep under review, this policy and statement of delegated authority (**SoDA**).

Matters reserved to the Chapter

The members of the Chapter are charity trustees and are ultimately responsible for the decisions made and actions taken by and on behalf of the Chapter. Therefore, the Chapter has decided that any decisions relating to the following matters are specifically reserved for the Chapter and are not to be delegated⁴³:

- (i) Decisions about the Chapter's strategy and direction;
- (ii) Approval of all Chapter policies, including the Chapter's investment policy⁴⁴ and reserves policy;
- (iii) Financial matters involving sums in excess of the delegated approvals set out in this SoDA;
- (iv) Approval to enter into contractual obligations or contracts with a value in excess of the delegated approvals set out in this SoDA;
- (v) The acquisition, disposal or charging of all real property;
- (vi) Approval of the annual report and accounts;
- (vii) Appointment of external auditors;
- (viii) Approval of, or changes to, the annual budget;
- (ix) The opening and closing of bank accounts;
- (x) All matters relating to the creation or dissolution of subsidiary or associated companies;
- (xi) Any other matters which have the potential to have a material adverse impact on the reputation of the cathedral.

Purpose of the SoDA

This SoDA applies to all individuals with responsibility for elements of the Chapter's budget and for committing the Chapter to expenditure. This SoDA does not relate to any delegated authority passed to Chapter committees as these delegations have been set out in the terms of reference to those committees. Compliance is evidenced through the approval of invoices, the certification of BACS payments and the signing of cheques by the authorised individual(s).

⁴² This is a model template and you will need to amend this to reflect the needs of your own cathedral.

⁴³ A list of suggested examples has been provided. You will need to include any additional matters, or remove any matters from this list, as may be appropriate for your Chapter.

⁴⁴ [Charities and investment matters: a guide for trustees \(CC14\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/charities-and-investment-matters-a-guide-for-trustees)

Records of all these transactions are kept by the Chapter and retained [in accordance with the Chapter’s document retention policy] [for a period of 7 years (or longer if required to comply with specific external funding audit requirements)].

This SoDA will be reviewed [annually] by the Chapter.

Areas of Delegated Authority (non-financial)⁴⁵

The table below outlines the key procedures that are undertaken by, or on behalf of, the Chapter each year. Where these procedures, or aspects thereof, have been delegated to senior staff, this is set out below.

Procedure	Staff Role
Recruitment of staff [set seniority level] when a vacancy arises, within the existing departmental budget	Head of Department / Administrator
Annual pay increases for staff [set seniority level] within the existing departmental budget	Head of Department / Administrator
Reporting non-safeguarding Serious Incidents to the Charity Commission on behalf of the Chapter	Either Chief Officer, once a report of the Serious Incident and its management has been made to the Chapter.

Operational expenditure

Expenditure should only be incurred by [budget holders appointed by []] [heads of department] on behalf of the Chapter up to the amounts formally approved within the annual Chapter Budget. [Budget holders] [heads of department] must not approve nor incur expenditure that, in isolation or in aggregate, will exceed the budgeted allowance. Unbudgeted expenditure will require the approval of [].

All budget holders [heads of department] must adhere to the following approval regime with respect to individual expenditure items:

Category	Approval	Second Signatory
Budgeted expenditure up to []		
Budgeted expenditure greater than []		

⁴⁵ It is for Chapter to determine which processes should form part of this matrix and the relevant approval requirements. A couple of examples have been included in the table. If this section is not appropriate for your cathedral, it can be deleted.

Unbudgeted expenditure		
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All expenditure is to be assessed as affordable and necessary with [budget holders] [heads of department] expected to use resources economically, efficiently and effectively so that maximum benefit can be gained from the funds. In securing and demonstrating value for money, when purchasing a service or product, alternative quotes should normally be sought as follows⁴⁶:

Amount	Minimum Number of Quotes	Formal Tender process needed
Less than []		
Up to [] but less than []		
[] or more		

A schedule of levels of delegated authority for operational expenditure by each postholder is attached as the Annex to this SoDA.

Electronic payments and Cheques

Electronic Payments

Only the following post holders are permitted to input payment runs onto the electronic banking system:

Once inputted, the electronic payment run must be authorised by [] or, in their absence, []. Before authorising the electronic payment run, [] or [] must have checked that each of the individual invoices that make up the payment run contain the relevant budget holder's signature at the relevant authority level. Due consideration should be given to controls to prevent payment fraud.

Bank account administration

The administration of the bank account including setting up of new authorisers should be carried out by [], with authority for changes made by [].

Cheques

Where payments are made by cheque, the cheque must be signed by 2 authorised signatories in accordance with this SoDA.

⁴⁶ It is recognised that on smaller projects or purchases or in cases of emergency, it may not be possible or financially expedient to obtain more than one quote.

The following individuals are authorised signatories on the Chapter’s bank accounts for the purposes of signing cheques.

Value	First Signatory	2nd Signatory

Personal Expenses

Personal expenses incurred by staff in performance of their duties shall be reimbursed where they have been approved in accordance with the [staff handbook / relevant policy]. If such procedures are not followed, the person incurring the expense runs the risk that the expense may not be reimbursed.

Personal expenses incurred by Chapter members which are reasonable and have been incurred in exercising functions as a Chapter member and as a charity trustee will be reimbursed. The reasonableness of such expenses must first be approved by [] if below £[] and by the Chapter if above that amount.

Annex⁴⁷

DELEGATION OF AUTHORITY MATRIX

Post	Limit	Second Signatory	Notes
Dean			
COO			
CFO			
Canon Precentor			
Canon Chancellor			
[Youth / Education director]			
[Director of Music]			
[Head of Development / Events]			
[]			

⁴⁷ This table should be amended to reflect the circumstances of your cathedral.

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