

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

June 2014

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

## Introduction

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

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

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

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

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

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

#### *Licences and contracts of employment*

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

### **3. Permission to Officiate**

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

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

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

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

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

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

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

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

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

“could cover:

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

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

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

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

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

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

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