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OTHER MATERIAL ON CHURCH OF ENGLAND WEBSITE INCLUDES

The deployment of clergy on licence and PTO
AC advice on Parental Leave etc.
AC advice on interim posts
Appointments Procedures
Capability Procedure
Grievance Procedure
AC advice on Interim Posts
Interim posts supplementary guidance

DISCLAIMER: This is intended to be a helpful guide that makes reference to legal provisions but is not legal advice and should not be relied on as such. Whilst it provides a general overview, it may not be comprehensive and needs to be read in conjunction with the other advice to which it refers.

SCOPE OF THIS GUIDANCE: This guidance does not apply to the Diocese of Sodor & Man, the Diocese in Europe or the Channel Islands

Section 1	Overview: how the bishop of a diocese confers authority on clergy to officiate in a particular place
1.1 Being instituted to a benefice See also section 3.	<p>A benefice is an ecclesiastical office that may cover one or more parishes. Beneficed clergy (vicars, rectors or team rectors) are generally known as incumbents and do not have a licence. The procedure for appointing them is set out in the Patronage (Benefices) Measure 1986. Most clergy hold office under common tenure, but a few have ‘the historic freehold’ and therefore the entitlements and obligations conferred by common tenure do not apply to them.</p>
1.2 Admitting them to serve within the diocese by licence See also sections 4 and 5.	<p>Clergy can exercise ministry as an office holder under a licence from the bishop under common tenure in a variety of ways:</p> <ul style="list-style-type: none"> • as priest in charge, team vicar, or assistant curate in a particular parish or parishes, which requires a licence from the bishop under Canon C8; • as an office holder with a general licence under common tenure (almost always on a non-stipendiary basis) which enables them to carry out ministry in any parish in the diocese when invited to do so by the incumbent or priest in charge or team vicar; • as an employee ¹ (for example a Diocesan Director of Ordinands, a bishop’s chaplain or a hospital chaplain, when their employer would be respectively the Diocesan Board of Finance, the diocesan bishop in his or her corporate capacity, or the hospital trust).
1.3 Giving them PTO within the diocese	<p>Permission to Officiate (PTO) is used where someone does not have a defined role in a parish and may be withdrawn at any time. It is often given to retired clergy who wish to continue to exercise a ministry in retirement.</p>

For more detail:

See the chart at Annex 1: Ways in which clergy can exercise ministry

See the guidance on The Deployment of Clergy with licences and permission to officiate (June 2014).

¹ A licence is required from the bishop for an employee to carry out a ministry, whether in the form of a general licence (in the case of DDOs and bishops’ chaplains) or a licence under the Extra-Parochial Ministry Measure 1967 in the case of hospital chaplains and chaplains at other institutions. The employee’s rights and responsibilities will be determined by their employment contract, as the secondary legislation which confers the rights and responsibilities that go with common tenure do not apply when someone exercises their ministry exclusively within a contract of employment.

Section 2	Overview of common tenure
2.1 Background to introduction of common tenure	<p>Common Tenure was brought in in response to a Government initiative to confer some of the rights of employees on atypical workers including ministers of religion and clergy office holders in all churches, and faiths.</p> <p>It was brought into effect from 31 January 2011 by means of the Ecclesiastical Offices (Terms of Service) Measure 2009 and the Ecclesiastical Offices (Terms of Service) Regulations 2009 and subsequent amending legislation.</p>
2.2 Scope of common tenure	<p>It applies to all new appointments to offices with effect from 31 January 2011.</p> <p>Incumbents appointed before 31 January 2011 have the right to opt into common tenure whenever they choose.</p> <p>Priests in charge, team vicars and assistant curates appointed before that date were automatically transferred onto common tenure, and now usually have open ended terms of office until retirement, as their term of office may be limited only under the circumstances specified in regulation 29.</p> <p>Compensation for financial loss is payable to clergy if removed from office as a result of pastoral reorganisation or where a priest in charge's licence is revoked when the vacancy in a benefice comes to an end. (No compensation is payable when a fixed term office under regulation 29 comes to an end.)</p>

<p>2.3 Legal entitlements of clergy on common tenure</p>	<p>Common tenure confers the following legal entitlements on clergy:</p> <ul style="list-style-type: none"> ▪ to be provided with a written statement of particulars setting out the various particulars of the office; ▪ an uninterrupted rest period of not less than 24 hours in any period of seven days; ▪ a minimum of 36 days' annual leave; ▪ maternity, paternity, parental and adoption leave in accordance with directions given by the Archbishops' Council as Central Stipends Authority (this includes Shared Parental Leave with effect from 1 December 2015); ▪ to request time off, or adjustments to the duties of the office, to care for dependants in accordance with directions given by the Archbishops' Council as Central Stipends Authority; ▪ to spend time on certain public duties other than the duties of the office, with the matter being determined by the bishop if there is any dispute; ▪ access to a grievance procedure set out in a Code of Practice made by the Archbishops' Council; ▪ a right of appeal to an employment tribunal if removed from office on grounds of capability.
<p>2.4 Legal Obligations on clergy on common tenure</p>	<p>Common tenure confers the following obligations on clergy:</p> <ul style="list-style-type: none"> ▪ to participate and co-operate in ministerial development review (MDR); ▪ to participate in arrangements approved by the diocesan bishop for continuing ministerial education and development (CMD); ▪ to use all reasonable endeavours to make arrangements for the duties of the office to be performed by another person when unable to perform the duties of office through sickness, which may, where appropriate, consist of notifying a responsible person or authority of the absence; ▪ to undergo a medical examination where the bishop has reasonable grounds for concern about the office holder's physical or mental health; ▪ to be subject to a capability procedure which may be instigated where an office holder's performance gives cause for concern, and which may, in the last resort, lead to removal from office in cases where performance is not satisfactory and fails to improve.

Section 3	Beneficed Clergy
3.1 Incumbents	<p>Incumbents are either vicars or rectors, or team rectors, and are instituted to the benefice by the bishop or his or her commissary.</p> <p>Incumbents have legal title to the parsonage house, the church and churchyard.</p> <p>The property rights of incumbents have been described by an opinion of the Legal Advisory Commission as qualified, elusive and vestigial².</p> <p>Even if they are regarded as mainly symbolic, some clergy put a very high value on them.</p> <p>Incumbents are either on historic freehold or common tenure.</p>
3.2 Clergy on historic freehold	<p>Incumbents who were instituted before 31 January 2011 and have not changed post since and who have not opted to move onto common tenure, are on historic freehold.</p> <p>Incumbents (other than team rectors - see 3.3) can stay on historic freehold as long as they remain in their current post. Their terms and conditions do not change unless they move to a new post.</p> <p>Clergy not on common tenure have no legal right to use the common tenure grievance procedure, but it can be appropriate to use it, as this will ensure that the grievance is properly dealt with.</p>
	<p>Clergy on historic freehold are not legally required to participate in Ministerial Development Review (MDR) and Continuing Ministerial Development (CMD), although most of them are willing to do so.</p> <p>They are not subject to the capability procedure, although they are subject to the Clergy Discipline Measure 2003.</p>
3.3 Position of team rectors with limited terms of office under common tenure	<p>Team rectors on limited terms who do not hold office under common tenure lose their office on the expiry of their term, unless they opt into common tenure before their term expires. It is important to ensure that they are reminded of the need to opt into common tenure before their term expires if they wish to remain in office.</p>

See Annex 2 for historic freehold compared with common tenure.

² See paragraph 40 of GS 1564 Review of Clergy Terms of Service Part 2

Section 4	Licensed Parochial office holders
<p>4.1 Priests in charge</p>	<p>Priests in charge are put in charge of a benefice whilst it is vacant. This usually happens where the patron's right of presentation to the benefice is suspended. The appointment is made by the bishop (who must consult the parochial church council and, so far as reasonably practicable, the patron).</p> <p>The decision to suspend requires the consent of the diocesan mission and pastoral committee (and the consultation of the patron, the parochial church council(s) and the chairs of the relevant deanery synod). It is generally done either because pastoral reorganisation is planned or because it is intended to replace the parsonage house.</p> <p>Priests in charge generally carry out the same duties as incumbents, have the cure of souls, and are often treated by their parishioners as if they were the incumbent. If the suspension is lifted and the vacancy to the benefice is filled by the appointment of someone other than the priest in charge as incumbent, then the priest in charge is entitled to financial compensation for loss of office for a period of up to 12 months.</p>
<p>4.2 Assistant curates (also known as 'curates')</p>	<p>If assistant curates are in training, they will usually be in a fixed term appointment. If they have already held a training appointment and their training has been completed, the term of any subsequent appointment will be unlimited unless it falls into one of the other categories of fixed term appointment permitted under regulation 29 of the Ecclesiastical Offices (Terms of Service) Regulations 2009.</p> <p>Under section 99 of the Mission and Pastoral Measure 2011, a bishop's instrument may direct that the office of an assistant curate may be described in such terms as specified under the instrument, for example, associate priest.</p>
<p>4.3 Team Vicars</p>	<p>A team vicar is a priest of incumbent status other than the team rector in a team ministry. He or she shares the cure of souls with the team rector and other team vicars.</p>

Section 5	Clergy: Office holders under general licence
5.1 Effect of a general licence	<p>A general licence enables the office holder to preach or otherwise minister in the geographical area specified in the licence (usually but not necessarily the diocese).</p> <p>However, the holder of the licence may not minister in a particular place without the permission of the person having the cure of souls in that place, i.e. the incumbent, or the bishop in a vacancy.</p>
5.2 Reasons for giving a general licence	<p>Canon C12(1) states that a licence granted by the bishop must be in the form either of a general licence to preach or minister in any parish or ecclesiastical district in the diocese or of a licence to perform a particular office or serve a particular mission initiative endorsed by a bishop's mission order.</p> <p>The grant of a general licence may be useful, for example, if the intention is that the office holder should be deployed in short term projects in successive parishes.</p> <p>However, although this makes it possible to bring the priest's ministry in a particular parish to an end when the project there is finished, the priest's general licence will remain in force.</p>
5.3 If a stipend is paid to the holder of a general licence....	<p>The post in question will probably be employment and the common tenure regulations will be disapplied (see below). Consequently the stipend would continue to be payable unless the post holder were made redundant.</p> <p>A further complication is that a general licence does not confer ex officio membership of any PCC, and it might be necessary to co-opt the priest onto a particular PCC while he or she was ministering in that parish.</p> <p>If the holder of a general licence is an employee, he or she is not eligible to go on the national payroll.</p>

<p>5.4 Providing housing to clergy on general licences</p>	<p>If a house is provided for a clergy person on a general licence, it will be necessary to argue that the house is necessary for the better performance of the office holder's duties, or HMRC will regard the house as a benefit in kind, and require the clergy person to pay tax on it.</p> <p>If employed and not on the national payroll, the employee would not be eligible to have the part of the stipend spent on heating lighting and cleaning of the official part of the house (HLC) paid tax free</p> <p>For these reasons, general licences tend to work better where the priest is a self- supporting or non-stipendiary minister (SSM) and housing is not provided.</p>
<p>5.5 Working across a deanery</p>	<p>Canon C12 (1) states that a licence granted by the bishop must be in the form either of a general licence to preach or minister in any parish in a particular geographical area (usually the diocese) or of a licence to perform a particular office or serve a particular mission initiative.</p> <p>Clergy who are to be deployed across a deanery in a particular role must either be given a general licence or (if the deanery role is ancillary to ministry in a parish) licensed to a benefice. An alternative would be to set up a Bishop's Mission Order (BMO). If they are not having a particular role in a parish, it might be appropriate to give them PTO over a deanery.</p>

Section 6	Clergy employees on general licence
6.1 Criteria that the courts use to determine whether or not someone is an employee	<p>Whether a post is a free-standing office or is held subject to a contract of employment is a matter for the court to determine objectively and is not simply a matter of choice for the post holder and the person making the appointment.</p> <p>Each case would turn on its own particular facts. It will depend on a number of factors, including whether the duties of the role are laid down primarily in ecclesiastical law (as they are for a cleric exercising the cure of souls in a parish) or are the subject of individual negotiation and agreement (as is the case, for example, where a bishop appoints a personal chaplain). So, for example, a parish priest who had a number of specially agreed arrangements which had been personally negotiated might be found to be an employee, even though the general position is that parochial clergy are ecclesiastical office-holders. The fact that the office holder may have been issued with a statement of particulars rather than an employment contract will be taken into account but is by no means conclusive. If a relationship goes wrong, there is always a risk that someone who agreed at the time that they were an office holder will try to argue that he or she is actually an employee and has the rights that go with being employed³.</p> <p>Clergy who do not hold an office are likely to be regarded by the courts as employees. When determining whether someone is an employee or not, the main considerations are:</p> <ul style="list-style-type: none"> ⌘ Whether any financial consideration is provided in return for work; ⌘ the extent to which someone is acting under the control or direction of another; and ⌘ whether they are required to carry out the duties of the role themselves. <p>It is likely the courts would regard the following as employees:</p> <ul style="list-style-type: none"> ⌘ chaplains (industrial, hospital, prison, university) ⌘ bishops' chaplains, where the employer would be the diocesan bishop in his or her corporate capacity ⌘ clergy in paid diocesan roles (such as Diocesan Directors of Ordinands, CMD officers, and Ministry Development officers) where the employer would be the Diocesan Board of Finance.

³ See Payroll's briefing on clergy employees.

<p>6.2 Disapplication of the Ecclesiastical (Terms of Service) Regulations 2009 in the case of clergy employees</p>	<p>Strictly speaking, the Ecclesiastical Offices (Terms of Service) Measure 2009 ('the 2009 Measure') applies to all clergy who exercise their ministry in accordance with a licence from the bishop of the diocese, including clergy working under a contract of employment.</p> <p>However, as a result of a clarifying amendment passed by the General Synod in November 2010, the Ecclesiastical Offices (Terms of Service) Regulations do not apply in respect of any office held in pursuance of a contract of employment.⁴</p> <p>The reason for this is clear. The Ecclesiastical (Terms of Service) Regulations 2009 are designed to confer rights and responsibilities, similar to some of those which apply to employees under the general law, on those ecclesiastical office holders who are <u>not</u> employees. Those who <u>are</u> employees, however, have such rights and responsibilities as arise as a result of their employed status, and it is their contract which governs their detailed terms and conditions of service, not the Ecclesiastical (Terms of Service) Regulations 2009.</p>
<p>6.3 Contracts of employment</p>	<p>It is important that chaplains and other clergy employees should be given a written contract of employment.</p> <p>The contract should state who is the employer of the clergy employee and should also make clear the relationship between the contract and the bishop's licence. The 2009 Measure allows a bishop to terminate a licence granted in connection with ministry exercised under a contract when that contract comes to an end, but not otherwise, except as a result of proceedings under the Clergy Discipline Measure 2003.</p> <p>Because the 2009 Regulations do not apply, employed clergy are not be required to participate in the diocesan scheme for Ministerial Development Review ('MDR') nor to undertake Continuing Ministerial Education provided by the diocese. However, the Archbishops' Council's Guidelines on MDR, approved by the House of Bishops, recommend that the opportunity to take part in MDR should be offered to all employed clergy.</p>

⁴Regulation 2(3).

<p>6.4 Combining employment with parochial office</p>	<p>Many employed clergy also exercise a parochial ministry - for example a chaplain who takes Sunday services regularly in a church that would otherwise be without a minister.</p> <p>In such cases we recommend that, if this additional ministry is sufficiently substantial, it should be the subject of a separate licence with the result that the Ecclesiastical Offices (Terms of Service) Regulations 2009 would apply to the separate parochial office.</p> <p>If the chaplaincy and the additional ministry effectively form a single 'package' (i.e. additional ministry is held in connection or conjunction with the chaplaincy), the licence covering the additional ministry can be linked to the chaplaincy under regulation 29(1) (g) of the Ecclesiastical Offices (Terms of Service) Regulations 2009. This enables the bishop to terminate the licence when the chaplaincy ends. See further below on limited term posts.</p>
<p>6.5 Use of DBF employees in a parish</p>	<p>It is possible to deploy an ordained Diocesan Board of Finance ("DBF") employee in a parish on a short-term basis where this is consistent with the person's job description - for example where he or she is employed specifically to provide strategic support and development for parishes across the diocese. Such provision should not, however, be used as a substitute for an appointment to an office which carries with it the cure of souls.</p>

Section 7	Differences between office holders and employees
7.1 Employment rights and holding office	<p>The Ecclesiastical Offices (Terms of Service) Measure Regulations 2009 gave clergy office holders many of the rights of employees, but didn't give them all of them.</p> <p>Office holders have fewer rights but more independence than employees.</p> <p>The courts ensure that you cannot avoid an arrangement being characterised as one of employment by adopting a different label, in order to prevent people signing away their rights as employees (wittingly or otherwise).</p> <p>As a result, any mutual agreement that something is an office and held under Common Tenure is not a protection if working relationships come under strain: in such a situation there is the possibility of someone claiming that their role was actually employment and that they have a right to have a claim of unfair dismissal or discrimination heard by an Employment Tribunal.</p> <p>The legal position of clergy office holders is distinct from that of employees in a number of ways⁵.</p>
7.2 Supervision and direction	<p>Bishops may not dictate to clergy office holders how they should carry out their duties, though they may instruct a cleric who is not complying with canonical requirements to do so.</p>
7.3 reporting absence (annual leave) and sickness	<p>There is no legal requirement on clergy office holders to report leave (other than absence because of illness) or to obtain permission for absence - but there is a need for them to arrange for duties of the office to be carried out in their absence. However, it is a matter for the incumbent or priest in charge to determine to whom he or she wishes to delegate his or her duties (provided that it is to someone he or she may allow to minister under Canon C 8.2).</p>
7.4 Health and safety	<p>The bishop has pastoral responsibility for the clergy in the diocese, but, as he or she cannot require clergy to work in a way that complies with the Health and Safety at Work legislation, the bishop does not have the same legal health and safety obligations as an employer.</p>
7.5 redundancy	<p>Statutory redundancy provisions do not apply to parochial clergy. Compensation is provided on a statutory basis for loss of office resulting from pastoral reorganisation.</p>

⁵ The Court of Appeal case of *Sharpe v Bishop of Worcester* confirmed that, as had always previously been thought to be the case, freehold incumbents are not employees but are the holders of offices created and defined by ecclesiastical law.

7.6 Claims to an Employment Tribunal (ET)	Office holders can only make a claim after loss of office following the capability procedure. They are unable to bring proceedings for constructive dismissal or unfair dismissal, or for failure to comply with legislative requirements such as the Working Time Regulations 1998 or health and safety legislation.
7.7 Flexible working	<p>The right to request adjustments to the way clergy carry out the duties of their office only applies where it is to look after dependants (employees can request flexible working for any reason whatsoever). On the other hand, parish ministry is inherently quite flexible and there may be less need to request adjustments in the first place. The procedure for clergy to follow for requesting time off or adjustments to how the duties of the office are carried out in order to look after dependants can be found on the common tenure part of the Church of England website.</p> <p>Offices cannot be shared in the way that employment can.</p>
7.8 The Equality Act	The Equality Act does not apply to all clergy offices, although it does apply to public offices (Crown dignitaries and incumbents of Crown livings) and personal offices (stipendiary curates). There is also the issue of whether a bishop is a “qualification body” within the meaning of the Equality Act. It is recommended that, in making clergy appointments, all involved act as though the Equality Act applied to all clergy appointments. ⁶

⁶In litigation at time of production of this document

<p>7.9 Employees: Payroll and housing implications</p>	<p>Employees of the DBF won't be on the central payroll, and they won't have a legal entitlement to housing under the Ecclesiastical Offices (Terms of Service) Regulations 2009 and won't be able to claim HLC.</p> <p>It is recommended that they be placed on a DBF lay employee package - with a salary and an expectation that they will provide their own housing.</p> <p>Housing that is provided free or at less than the market rate will be assessed as a taxable benefit, unless the clergy employee can prove to HMRC that he or she needs the particular housing that is provided for the better performance of his or her duties. Some employees - such as university chaplains who need to live on campus in order to be accessible to students - will find it easier to make a case than others such as DDOs who mainly work from the diocesan office.</p> <p>See also: Briefing note for DBFs on payroll and benefit implications of ordained employees.</p>
<p>7.10 Combining employment with office holding (Dual role posts)</p>	<p>In some cases, it may be appropriate to appoint clergy simultaneously to a parochial office on a house for duty basis, which will have the further advantage of enabling them to continue in parochial ministry. This does result in complications:</p> <ul style="list-style-type: none"> ▪ dual role appointments are complex as they are on different terms and conditions; ▪ the parochial post must have real duties; ▪ it is necessary to ensure that parishioners don't think that they have a priest who is full time; ▪ if a house is provided, this will usually mean a parochial office requiring at least two days plus Sunday per week, and it will not be possible for the employed role to be full time.

Section 8	Offices recognised in ecclesiastical law
8.1 Offices recognised in ecclesiastical law	<ul style="list-style-type: none"> ▪ Archbishop ▪ Diocesan bishop ▪ Suffragan bishop (but not assistant bishop) ▪ Dean ▪ Archdeacon (but not ‘honorary’ or ‘non-territorial’ archdeacon) ▪ Residentiary Canon (but not honorary canon) ▪ Non residentiary Canons (however, these are not under common tenure) ▪ Rural (or area) dean (though this rarely a free standing office and is usually treated as a short-term additional role undertaken by an incumbent, and authorised by commission). There is no office of assistant rural dean. ▪ Incumbent ▪ Team Rector ▪ Team Vicar ▪ Assistant curate (priest or deacon): a curate may be given another title at the discretion of the bishop - e.g. associate minister. A curate may be licensed to a specific post or (more rarely) hold a general licence to officiate throughout a diocese. ▪ Reader (only on common tenure where stipendiary or provided with a house) ▪ Licensed lay worker (Church Army evangelists are sometimes licensed and sometimes employed by the Church Army)

Section 9	Roles outside the scope of common tenure
9.1 Permission to Officiate (PTO) within the diocese	<p>The Bishop can withdraw this at any time. PTO is simply permission and it is subject to the invitation of the incumbent or priest in charge of the benefice where the priest with PTO wishes to minister.</p> <p>If the priest is an integral part of a particular ministry team, then he or she should normally be given a licence. See Guidance on the deployment of clergy with licences and PTO.</p>
9.2 Forces Chaplains	They are covered by Forces terms and conditions.
9.3 Area or rural deans	They are commissioned not licensed.
9.4 Non-residentiary canons	Not under common tenure.
9.5 Voluntary diocesan roles	Diocesan roles carried out on a voluntary basis while holding a parochial ministry, for example Chair of the Diocesan House of clergy or Dean of Women's Ministry, where neither employment (with the degree of supervision and control that implied) nor a separate licensed office were appropriate.
9.6 Non-stipendiary Readers and licensed lay workers	These are offices, but readers and licensed lay workers come under common tenure only if they receive a stipend or a house. Some licensed lay workers will be employees if they receive a stipend and their work is directed.

Section 10	Common Tenure: Statements of Particulars (SOP)
10.1 Legal status of statements of particulars	<p>Clergy on common tenure have a legal right to be issued with a statement of particulars.</p> <p>The statement of particulars is not a contract of employment.</p> <p>The signature of the office holder is not there to indicate his or her assent to what is contained in the statement. Rather, the statement sets out how the terms of service regulations apply to the particular office, and what the office holder's entitlements and obligations under the regulations are. The signature is simply an acknowledgement that the office holder has been informed of his or her rights and obligations.</p>
10.2 Scope of the SOP	<p>The statement of particulars is not intended to be a comprehensive statement of all the rights and obligations that apply to clergy office holders.</p> <p>Much material that is relevant is not included, e.g. material in the Canons.</p>
10.3 issuing of SOP and subsequent changes	<p>Statements of particulars have to be issued within one month of the office holder taking up office. If terms change (for example if a fixed term post is extended), a revised statement of particulars may have to be issued.</p>
10.4 Person issuing SOP	<p>The regulations require a diocesan officer nominated by the diocesan bishop to issue statements of particulars to all clergy on common tenure.</p> <p>This doesn't have to be the person who actually drafts them, and dioceses do this in different ways. In some dioceses, the nominated person is the relevant archdeacon, in some the HR adviser, in some, it is combined with the role of the pastoral secretary.</p>
10.5 Referring to other material in the SOP	<p>The statement of particulars can refer to some other accessible document. This can include the Church of England website, material available from the diocese or published on its website; a role description or working agreement - this can be quite useful for SSMS where a lot is done by agreement.</p> <p>The NCIs have issued models to help with drafting statements of particulars. These are available on request.</p>
10.6 Making it clear that clergy	<p>It is important to be clear that the legal obligations on clergy office holders derive from the legislation to which clergy are subject and are</p>

<p>office holders are not employees</p>	<p>not because they are part of an employment contract</p> <p>Avoid the expression diocesan handbook, as this can cause confusion with employee handbooks, and use the expression <i>information</i> instead.</p> <p>Have a preface on the diocesan website or on any written material referred to in statements of particulars and applicable to clergy office holders that says something equivalent to the following:</p> <p><i>The material on this website/in this document, whilst it may include some information on matters that are legally binding on clergy, lay ministers and other lay officers and volunteers, should be generally understood as guidance and for information unless it explicitly states otherwise. In particular, it should not be construed as forming part of any employment contract.</i></p> <p>Keep provisions that are part of diocesan employees' contracts (whether clergy or lay) separate from material for clergy office holders.</p>
<p>10.7 Termination of appointment</p>	<p>If there are any special circumstances in which the appointment can come to an end, other than death, resignation, retirement, pastoral reorganisation, following disciplinary proceedings or removal from office after the final stage of a capability procedure, these must be stated in the statement of particulars.</p>
<p>10.8 Stipend on the SOP</p>	<p>It is necessary to state the amount of the any stipend or the method for calculating it when issuing the statement of particulars.</p> <p>Every full time stipendiary office holder has a legal entitlement to receive at least the National Minimum Stipend.</p>

10.9 Housing and the SOP

Incumbents have the legal title to the parsonage house as the corporation sole, although this is not ownership as generally understood, as they may not sell the property and are not liable for repairs unless their negligence has caused them. They are required by Canon C 25.1 “to keep residence on the benefice”, which means living in the parsonage house unless the given special permission by the bishop.

Section 86(4) of the Mission and Pastoral Measure 2011 gives bishops authority to require priests in charge to live in the parsonage house. This is usually in the form of a licence to occupy, which should specify that the house is occupied for the better performance of the duties.

Other licensed clergy office holders who hold a full-time office for which they are entitled to a stipend are entitled to be provided with reasonably suitable accommodation by either the housing provider designated under the Measure (usually the diocesan board of finance) or by a secondary provider who has entered into an agreement with the designated provider to provide housing in a particular case. Licensed clergy have further rights and responsibilities, which are set out in some detail in the legislation and include, for example:

- the right to object to the disposal, improvement, demolition or reduction of the house of residence;
- the right to have the house of residence kept in good repair by a relevant housing provider;
- access to arbitration where there is a dispute about the performance of the respective obligations of the housing provider and the office holder which cannot be resolved by the grievance procedure.

The address of the property and the owner of the housing must be specified in the statement of particulars.

<p>10.10 Ministerial Development Review (MDR); Continuing Ministerial Education and Development (CME/D) and the SOP</p>	<p>Diocesan Bishops are required by the legislation:</p> <ul style="list-style-type: none"> ▪ to make and keep under review a Ministerial Development Review (MDR) scheme containing arrangements for a person nominated by the bishop to conduct a review with each office holder in the diocese at least once every two years; ▪ to have regard to guidance issued by the Archbishops’ Council when carrying out MDR - this is available at www.common tenure.org; ▪ to ensure that a written record of the outcome of MDR is kept and to have it signed by the office holder and the reviewer; ▪ to use reasonable endeavours to ensure that office holders in the diocese are afforded opportunities to participate in Continuing Ministerial Education and Development (CMD) that is appropriate for their ministerial development.
<p>10.11 Leave and rest periods and the SOP</p>	<p>Leave is an entitlement and not a requirement.</p> <p>Clergy can apply flexibility and use discretion over the rights to a weekly rest period and at least 36 days’ leave.</p> <p>There is no requirement to report leave - another area where office holding is different from employment. However, office holders are required to ensure that the duties of the office are carried out when they are absent and to arrange cover. As a minimum this will involve informing a colleague of their absence, and it is clearly good practice for them also to inform the Churchwardens.</p> <p>There are a number of additional possible options/restrictions about leave on the model statement of particulars, but it is strongly recommended that these are only used when there is a particularly strong reason for doing so.</p> <p>For clergy who are not full time and for SSMs, the statement of particulars can be flexible about leave and say by agreement with the incumbent.</p>

<p>10.12 Family leave and the SOP</p>	<p>Directions made by the Archbishops' Council confer on clergy holding office under common tenure the same statutory entitlement that employees have to maternity, paternity, parental and adoption leave. As a result, from 1 December 2015, clergy have a legal entitlement to shared parental leave and any other entitlements subsequently conferred on employees in connection with maternity, paternity, parental and adoption leave.</p> <p>Stipendiary clergy already have the right to statutory maternity, paternity and adoption pay and statutory shared parental pay because they are gainfully employed in office and their stipends are treated for tax purposes as earned income.</p> <p>Dioceses remain free to retain their existing provision (provided that it is greater than the statutory minimum) and to grant more than the statutory minimum in terms of leave and pay.</p> <p>There is a right to request the appropriate authority to give time off or make adjustments to the duties of the office in order to care for dependants. Unlike employees, clergy office holders only have the right to request adjustments in order to care for dependants as clergy have lots of flexibility already.</p> <p>This is a right to make the request and to have the request properly considered, not an absolute right to have the request agreed where it is not reasonable. The procedure for considering such requests is included in advice on the Terms of Service Directions which is available on the Church of England website.</p>
<p>10.13 Sickness reporting and the SOP</p>	<p>There is a legal obligation on all clergy subject to common tenure and in receipt of a stipend to report absence arising from sickness for a period of one day or more to a person nominated by the bishop for this purpose. Any member of the clergy who holds office under common tenure and who is absent from work because of illness must use all reasonable endeavours to make arrangements for the duties of the office to be performed by another person (which may, where appropriate, consist of informing a responsible person or authority of the absence). Stipendiary clergy are also required to provide a medical certificate for any periods of continuous absence of more than 7 days, as this is required for statutory sick pay.</p> <p>It is important to encourage a culture of sickness reporting, not only in order to comply with legal requirements for statutory sick pay but in order to ensure that cover is provided. The bishop, with pastoral responsibility for clergy in the diocese, will want to ensure that he or she and his or her senior colleagues are kept informed about clergy sickness. It is also important to manage absence for SSMs but in a way that isn't heavy handed.</p>

<p>10.14 Capability Procedure</p>	<p>The Archbishops' Council has prepared a Code of Practice and some supporting advice on how to address situations where an office holder's performance is below an acceptable standard at www.common tenure.org.</p> <p>It mirrors the ACAS code for employees. The procedure aims to improve performance, but, in certain cases where improvement is not possible, it may result in removal from office.</p> <p>There are obvious difficulties in using a formal procedure, particularly as clergy office holders are not managed or supervised on a day to day basis, and archdeacons and bishops are unlikely to have frequent contact with them.</p> <p>Using formal capability proceedings is something that should only be done after having tried other options, such as training, performance review and opportunities to improve, and they have been found not to be address the problems of poor performance.</p> <p>Applying the procedure requires a lot of preparatory work. It will be necessary to record any discussion or interaction with people relevant to the procedure (not limited to the clergy office holder concerned) to be able to gather evidence (including from parishioners) and prepare specific objectives so that improvement or the lack of it can be measured and recorded.</p> <p>The code of practice and supporting advice need to be considered carefully, to ensure that the letter and spirit of their provisions are complied with (including the need to provide the office holder with a fair procedure).</p> <p>The procedure covers all cases of capability - including where there are health issues. In these cases, a referral to occupational health will probably be required; there may be less of a disciplinary feel to it, and it may be appropriate to operate it with a light touch and use the shortened procedure.</p> <p>The bishop appoints someone to deal at the initial stages - again often an archdeacon.</p> <p>The Clergy Discipline Measure 2003 covers an area that is distinct from capability, although it may sometimes overlap with it. Discipline is about specific acts of misconduct, rather than poor performance at carrying out the duties of an office. Capability issues are more about can't rather than won't.</p> <p>A lack of capability is not necessarily deliberate or intentional and may include prolonged sickness absence. It is important not to proceed on capability and disciplinary tracks at once - but it is possible to change track and suspend proceedings if necessary.</p>
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10.15 Grievance Procedure	<p>The Archbishops' Council has prepared a Code of Practice and some supporting advice on how grievances should be handled at www.common tenure.org.</p> <p>Those involved are required to have regard to the provisions of the code of practice - this means they may be required to demonstrate that they had good reasons for not following the code.</p> <p>The procedure is there to give clergy with a grievance a means of raising it formally if they feel they need to.</p> <p>The Diocesan Bishop decides who is the appropriate person to manage the procedure in each case, but it will quite often be the archdeacon.</p> <p>Where someone isn't entitled to have access to the procedure, you still need to deal with their complaint and it may be worth using it, while making it clear that this is not obligatory.</p> <p>Clergy who hold office under Common Tenure are only entitled to appeal to an Employment Tribunal following removal from office under the capability procedure.</p>
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Section 11	Fixed and other limited term appointments under regulation 29
11.1 General points about regulation 29 appointments	<p>Since common tenure, appointments to clergy office may only be made for a fixed or other limited term in the circumstances specified in regulation 29 of the Ecclesiastical Offices (Terms of Service) Regulations 2009.</p> <p>The appointment may either be made for a fixed term (which may be renewed or extended) or it may expire on the occurrence of a specified event (such as sponsorship funding being withdrawn or the linked part of a dual role post coming to an end).</p> <p>Compensation for loss of office is not payable when the term comes to an end, unless the post comes to an end before the term as a result of pastoral reorganisation.</p> <p>There is no requirement to make posts fixed term unless the holder is over 70, in which case there is a requirement for the post to be fixed term in any case.</p> <p>It's always necessary to specify in the statement of particulars where the post has been designated as fixed or limited term under regulation 29.</p> <p>A fixed term can be renewed or extended provided that the relevant condition still applies (for example when someone over 70 is in a post and it is thought sensible to issue a licence for short but renewable periods). Unlike employment, renewing the term can be done repeatedly over a long period without making the post permanent. But note that an office can be designated as an interim post on no more than two successive occasions. It is essential to put an extension in writing and ensure that it is properly documented.</p>
11.2 Circumstances for making a fixed term appointment	<p>The circumstances in which you can make an appointment on a fixed or limited term basis under regulation 29 are summarised below, but the legislative provisions should be consulted in full before making one of these appointments.</p>
11.3 offices designated as created in order to cover an office holder's authorised absence from work	<p>Authorised absence includes, for example, long term sickness absence, sabbatical, maternity or parental leave or even suspension under the CDM. Authorised absence does not include a vacancy. Where it is necessary to cover a vacancy, it may be possible to make an appointment on an interim basis (see below).</p>

<p>11.4 offices held by an office holder aged 70 or over</p>	<p>The ability to hold office over 70 is restricted as follows.</p> <p>Clergy over 70 can only be appointed to a licensed office and, as a result, can't hold office as incumbent or archdeacon (note that the Ecclesiastical Offices (Age Limit) Measure 1975 allows for an incumbent's existing post to be extended by the bishop for a limited period where the pastoral needs of the parish make it desirable and the PCC agree).</p> <p>Any office held must be for a fixed or limited term, which may be renewed extended as appropriate.</p>
	<p>Regulation 29(1) states that section 1 of the Ecclesiastical Offices (Age Limit) Measure 1975, which prohibits the appointment of any cleric over 70 to an office (as opposed to the grant of permission to officiate), is to be read subject to regulation 29(1)(b).</p> <p>This means that a priest over the age of 70 may be appointed to a licensed office for a fixed or limited term, which may be renewed or extended as appropriate. This excludes appointment to a benefice, since an incumbency is not a licensed post. The bishop retains his or her power under section 3(2) of the 1975 Measure to allow an incumbent of a benefice to remain in post for a maximum of two years after reaching 70, with the consent of the PCC. Further information is available in <i>Supporting the Ministry of Retired Clergy</i>⁷.</p>
<p>11.5 Offices designated as training posts</p>	<p>An office designated as a training post is one where the office holder is required by the bishop to undertake initial ministerial education. An office designated as a training post may continue to be designated as such for a period of no more than one year following the completion of the office holder of the initial ministerial education. This amendment has been made in order to cover situations where a curate has completed his or her training and the term of the post has expired before the curate has found a first incumbency or other suitable post.</p> <p>A new statement of particulars will need to be issued confirming the new date of expiry as well as extending the licence. Where training has not been completed, it is entirely appropriate to extend the post (particularly if there have been long periods of leave (for example sickness or maternity or parental leave) or to put someone in a second curacy provided that there is still training to be completed.</p> <p>It is vital to ensure that any extension is properly documented and that an amended statement of particulars is issued.</p>

⁷<https://www.churchofengland.org/media/2097121/supporting%20ministry%20of%20retired%20clergy%20june%202014.pdf>

<p>11.6 offices designated as subject to sponsorship funding</p>	<p>For an office to be designated as subject to sponsorship funding, at least part of the cost of the office holder’s stipend, pension, housing or other expenses must be defrayed by a person or body other than a DBF, DPB, PCC or the Church Commissioners.</p> <p>This category is intended to allow posts dependent on outside funding (for example, a joint project between a diocese and an independent charity such as the Church Urban Fund) to be terminated if that funding comes to an end. In these cases, at least part of the cost of the office holder’s stipend, pension, housing or other expenses must be defrayed by a person or body other than a DBF, parsonage board, PCC or the Church Commissioners.</p> <p>Theoretically, it is possible to provide a minimal source of outside funding to enable a post to qualify under this provision, as long as it is provided by a person or body other than those named in regulation 29(4). However, if the outside funding is simply a device to create a short-term post rather than a genuine joint venture, the time-limited basis of the appointment could be vulnerable to challenge.</p>
<p>11.7 offices designated as probationary</p>	<p>To be designated as a probationary office one of the following conditions must be satisfied:</p> <p>(i) the office holder must not have held any ecclesiastical office for at least a year before the appointment;</p> <p>(ii) the office holder must have been removed from office under the capability procedure and this must be the first office he or she has occupied since then;</p> <p>(iii) the officer holder must have been the subject of a disciplinary complaint which has concluded either in the imposition of certain sanctions or with the office holder’s resignation, and the appointment must be made on the recommendation of the diocesan bishop to facilitate that person’s return to ministry.</p> <p>A probationary appointment can only be made in these specified circumstances. There is no general power for a bishop to ‘try out’ someone in a particular office.</p>
<p>11.8 Offices created by a Bishops’ Mission Order (BMO)</p>	<p>The duration of a Bishop’s Mission Order is limited to a maximum of five years after which it must be reviewed. If you have questions about BMOs, then do consult Pastoral Division.</p>

<p>11.9.1 Offices designated as held in conjunction with another office or employment</p>	<p>There are various possible scenarios here:</p> <ul style="list-style-type: none"> ▪ a DDO employed by the DBF who is also a residentiary canon; ▪ an archdeacon who is also a residentiary canon; ▪ a DBF employee who is also a house for duty office holder; ▪ an office holder who holds more than one benefice in plurality.
<p>11.9.2 Dual role options</p>	<p>1. Make one or both posts fixed term, as offices may be successively renewed over a period of time without becoming permanent. (By contrast, if a contract of employment is renewed so that it has been in force continuously for more than 4 years, it is normally automatically converted into a permanent contract.) Or</p> <p>2. Specify in the SOP that the office (or both offices if there is more than one) terminates if the other office or employment to which it is linked terminates.</p> <p>The statement(s) of particulars would need to contain particulars of either the fixed term or the circumstances under which the office would terminate.</p> <p>The statement of particulars will need to specify which (if any) post comes with a provided house. In some cases (for example, a residentiary canon who was a DDO) the bishop would probably want to prevent a situation where the officer holder could in theory resign from the employed post whilst continuing in the office and remaining in the house. This could be done by designating the office as held in conjunction with another employment and specifying that it must come to an end if the person ceases to be employed in the role to which it was linked for any reason.</p> <p>There is no <i>requirement</i> to do this - it is a case of using your discretion and asking what would happen in a particular case.</p>

<p>11.9.3 dual roles and SOPs</p>	<p>Where the posts are both offices and are held in conjunction You can issue a single statement of particulars, which can be helpful if the post is full time and you don't want to have to apportion stipend, time and annual leave in the statement of particulars - it is possible for the statement of particulars to refer to the role description.</p> <p>If someone holds two posts in conjunction that are not both offices, you would need to issue two documents, a statement of particulars and an employment contract. In such a case, the appointment to the office may be made for a fixed term or the statement of particulars may state that it will terminate if and when the employment, with which it is held in conjunction, comes to an end.</p>
<p>11.9.4 Diocesan project or portfolio work in combination with parochial ministry</p>	<p>When an officer holder is primarily engaged in parish ministry but is also spending a proportion of his or her time in a diocesan role There is an understandable desire to keep things simple and to continue to describe him or her as a full time stipendiary office holder. This avoids the inevitable complications where a post holder serves under two different sets of terms and conditions. This also enables a degree of flexibility about who exercises the role. However, this means that the diocesan role is essentially voluntary, which may not be sustainable where the diocesan role is substantial.</p>
<p>11.10 Offices where the holder does not have the right of abode or unlimited leave to enter or remain in the UK</p>	<p>This enables the term of office to be specified as the period during which a priest has have a right to remain in the UK. It is important that the term of office stated in the statement of particulars should not extend beyond the date when the office holder's permission to remain in the UK is due to expire. The appointment may be renewed if the permission is extended.</p>
<p>11.11 Offices designated as Locally Supported Ministry</p>	<p>An office may be designated as a Locally Supported Ministry Post if all of the following conditions are satisfied:</p> <ul style="list-style-type: none"> (i) the office must be held by an assistant curate who is not the priest-in-charge of the benefice to which the parish in which he or she serves belongs; (ii) the PCC must have entered into a legally binding agreement with the DBF to pay the whole cost of the office holder's stipend or other remuneration and expenses (including pension and housing); (iii) the designation must be in writing, signed by the diocesan bishop acting with the consent of the office holder and the PCC.

<p>11.12 Offices designated as interim posts</p>	<p>This new form of post came into effect on 1 November 2015</p> <p>The designation must be made in writing, signed by the relevant diocesan bishop and acting with the consent of:-</p> <p>(a) the office holder, and</p> <p>(b) the mission and pastoral committee of the diocese (or dean and Chapter of the cathedral, in the case of cathedral offices).</p> <p>It may last for up to three years, and may be redesignated once for a further period of up to three years.</p> <p>The bishop is required to have regard to guidance prepared by the Archbishops' Council in making these appointments.⁸</p>
<p>11.13 Alternatives to fixed or limited term posts</p>	<p><i>General Licences</i></p> <p>It is possible to appoint someone on a general licence. See further the section on general licences above.</p> <p><i>Secondments</i></p> <p>Another possible option is a secondment, in which an office holder is seconded on a temporary basis to another benefice or to particular duties. This may be appropriate when an office holder needs mentoring or training in particular skills or possibly even where there is an urgent need to get someone away from ministering in a particular parish because of a breakdown in pastoral relationships (although it would obviously only be a temporary expedient). However, secondments will only work when everyone is full agreement and it is understood that the office holder retains his or her office and has the right to return to it at the end of the secondment period. A secondment might need to be supported by a general licence or a permission to officiate.</p>

⁸ See this guidance and supplementary advice on interim posts

Section 12	Procedures for appointing clergy to parochial office
12.1 Clergy Appointments guidance	Appointments procedures have not changed as a result of the terms of service legislation. However, there have a number of other changes in this area including general advances in good practice, an understanding of the importance of not discriminating, and an increasing awareness of the importance of appointing the best possible person for the job and having procedures that facilitate this. Updated versions of Guidance on appointments and a new standard application form were issued in 2015.
12.2 clergy appointments and the Equality Act	Whilst the Equality Act 2010 does not apply to all parochial appointments, it is best to proceed as though it did. See, in particular, annex A of the guidance.
12.3 Role descriptions	<p>There remains no legal requirement to provide role descriptions, but they perform a number of useful functions. In particular, a good role description:</p> <ul style="list-style-type: none"> •is helpful for ministerial development review and working out objectives; •corrects unrealistic expectations on the part of cleric and parishioners •can be reviewed as the role changes; •helps when making an appointment; •provides something specific to measure someone against if his or her capability is being questioned.

Section 13	Sources of advice
13.1 HR advisers	The majority of dioceses have an HR adviser who can advise on good practise.
13.2 Diocesan Registrars	<p>The diocesan registrar is paid an annual retainer to cover, amongst other things:</p> <p>‘Giving of advice to the diocesan bishop, suffragan bishops, archdeacons, chairmen of the houses of the diocesan synod, rural deans and lay chairmen of deanery synods, incumbents and all other clergymen, beneficed or licensed in the diocese, on any legal matter properly arising in connection with the discharge of their respective ecclesiastical or synodical offices’</p> <p>‘Giving of advice to chairmen and secretaries of diocesan boards, councils and committees on any legal matter properly arising in connection with the business of the respective boards, councils and committees’</p> <p>There are stated exceptions to this very wide provision. For instance, drafting of documents is limited to the documents specified in the [Ecclesiastical Judges and Legal Officers Fees Order], which includes licences but not statements of particulars. Litigation is not included and nor are proceedings related to misconduct. Nothing is said about capability or grievance procedures but by analogy they should probably be regarded as outside the scope of the retainer too. However, it is sensible to explore the possibility of obtaining legal advice in any case where this may be warranted (most particularly, in cases where the risk of legal challenge - either at present or in the future - is high). A great number of legal disputes arise out of avoidable errors (e.g. the failure to follow proper procedures).</p>
13.3 The NCIs	<p>We are able to give general advice about what would normally apply in a particular kind of situation. What we can’t do is give you advice for specific cases (due to insurance and professional regulatory issues).</p> <p>The Church of England website has a section on common tenure which may be helpful (www.commontenure.org).</p>

Section 14	Glossary
Archbishop	Senior bishop with authority over a Province - of Canterbury and of York.
Archdeacon	An office held by a senior clergy person appointed by the bishop with an administrative responsibility over an archdeaconry. Some of his or her duties are laid down by law but in other respects his or her duties vary according to diocesan practice: they include care for church property.
Archdeaconry	Sub-division of the diocese over which an archdeacon has administrative responsibility
Assistant Curate	Often referred to as curate for short, this is a member of the clergy who is licensed to serve in a parish or benefice and who works under the direction of an incumbent or priest in charge. Where this is a training post, it may be for a fixed term. A bishop may direct, by instrument under section 99 of the Mission and Pastoral Measure 2011 that a person holding the office of assistant curate should be referred to by a different title.
Benefice	An ecclesiastical office carrying certain duties. An incumbent's benefice is therefore not a geographical area (see parish) but the office to which he or she is appointed and may comprise one or more parishes. A benefice may be a rectory or vicarage in respect of which the incumbent is called the rector or vicar.
Bishop (Diocesan)	In the Church of England the diocesan bishop is the central focus of organisation and ministry within his or her diocese. He or she is the chief pastor and authority and shares the cure of souls with all the incumbents of that diocese. He or she is also, in his or her own person, the chief representative of the diocese in the work of the wider church. He or she may be assisted by suffragan or assistant bishops.
Common Tenure	The basis on which all Church of England offices are held under the Ecclesiastical Offices (Terms of Service) Measure 2009. (Holders of certain freehold offices at the time common tenure was introduced may decide not to opt-in to Common Tenure but all new appointments to office from 31 January 2011 are on Common Tenure.)
Chapel of Ease	A consecrated church that it is not a parish church but is within a parish that does have a parish church. Originally for the ease of parishioners who could not attend the parish church.
Church Representation Rules	Schedule 3 to the Synodical Government Measure 1969 but updated as a separate booklet. They contain the mechanism for the setting up of representative bodies in the Church of England from parochial church councils to the House of Laity of the General Synod.

Cure of Souls	'Cure' means 'care'. The bishop has the universal cure of souls in a diocese but, subject to this, the incumbent of a benefice (or team rector and team vicar(s) in a team ministry) has the exclusive cure of souls within his or her parish or parishes. The expression should not be confused with the more general phrase 'pastoral care'. The priest in charge should also be considered as having the cure of the souls.
Deanery	A sub-division of an archdeaconry usually comprising between 10 and 20 parishes.
Diocesan Board of Finance	A company constituted by the diocesan synod and regulated by the Companies Acts. A board of finance holds property for Church of England purposes, transacts business in that connection and acts as a committee of the diocesan synod. It normally also acts as the diocesan trust.
Diocesan Mission and Pastoral Committee	A statutory Committee established by the diocesan synod for each diocese under the Mission and Pastoral Measure 2011. Its duty is to review the arrangement for pastoral supervision in the diocese and, as appropriate, to make recommendations to the bishop.
Diocese	One of 41 main territorial units of the Church of England over which a bishop has responsibility. Divided into archdeaconries, deaneries and parishes. Different legislation applies in the Diocese of Sodor & Man, the Diocese in Europe and the Channel Islands.
District Church Council	If a parish comprises two or more places of worship or churches then individual councils can be set up for the districts in which each place of worship or church is situated to exercise such functions as may be delegated by the parochial church council.
Glebe	Land or buildings vested in the Diocesan Board of Finance that either provides a rental income to augment the Diocesan Stipends Fund or provides housing for those involved in the cure of souls.
Group Council	Where a group ministry is established the parochial church councils of the individual parishes can form a group council to act in the area as a whole in such matters as the individual PCCs together decide.
Group Ministry	An arrangement, authorised by the Mission and Pastoral Measure 2011, whereby the clergy (whether incumbents or priests in charge) of two or more separate benefices are under a legal duty to assist each other to make the best possible provision for the cure of souls in the area as a whole. A benefice for which a team ministry has been established can be included in a group ministry.
Incumbent	Holder of a benefice (which can be either on historic freehold (if the holder was in the office before 31 January 2011) or a Common Tenure office) with responsibility for the cure of souls. May be called rector or vicar. May be assisted by curate, deacon, licensed lay worker, retired priest etc. .

Ministry Team (as distinct from a Team Ministry)	A ministry team (unlike a team ministry) is not a statutory body but is an informal arrangement whereby not only stipendiary clergy or non-stipendiary clergy (NSMs, OLMs and retired clergy) but also readers, lay workers, and other lay people (such as churchwardens, church musicians and leaders of group activities) are involved in the provision of ministry in a particular district, parish or benefice. This reflects the growing emphasis on involving the congregation as a whole in the Church's mission. Ministry teams may exist in benefices both with and without a formal team ministry but in the former some (but not necessarily all) members of a ministry team may also be members of the formal team.
Mission and Pastoral Measure 2011	The Measure of the General Synod which authorises changes in pastoral reorganisation (amongst other things). Designed to "make better provision for the cure of souls". Part of the law of the land and equivalent to an Act of Parliament.
Parish	The basic geographical unit over which an incumbent has cure of souls. There may be several parishes within the area of one benefice.
Parish Church	A consecrated building in a parish in which, subject to canon law, the statutory services must be held. Parishioners have a right to be married, baptised etc. in the parish church. S.41(2) of the Mission and Pastoral Measure 2011 requires that any new church or existing building which is to become a parish church must be approved by the bishop, subject to the bishop having consulted both the Diocesan Pastoral Committee and the Diocesan Advisory Committee.
Parochial Church Council	Representative body of parishioners largely 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 incumbent has legal title to house by right of his or her office. Where a priest in charge occupies the parsonage house, he or she will do on terms specified in a licence from the sequestrators.
Pastoral Committee	A Committee of the Church Commissioners' Board of Governors which makes decisions on representations on pastoral, houses and glebe matters. It is chaired by the Third Church Estates Commissioner.
Pastoral Order	A document which effects changes in pastoral reorganisation made under the Mission and Pastoral Measure 2011. Differs from a pastoral scheme mainly in that it deals with lesser matters.
Pastoral Scheme	A document which effects more complex changes in pastoral reorganisation made under the Mission and Pastoral Measure 2011.
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).

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 2011.
Priest in Charge	A priest given charge of a benefice by licence of the bishop. The priest is not presented and is not the incumbent. He or she holds office under common tenure.
Representations	The Mission and Pastoral Measure 2011 requires that any draft scheme or order be published and made available to the public. Any person can make written representations to the Commissioners either for or against what is proposed.
Team Council	Where a team ministry is established a team council can be established, either under the authority of a scheme or under the Church Representation Rules. Such a council is similar to a joint parochial church council and provides a formal structure for all the parishes in the team to discuss matters of mutual concern.
Team Ministry	A special form of ministry whereby a team of clergy and possibly lay people legally share the pastoral care of the parish or parishes of a single benefice, or two or more benefices held in plurality. A team ministry 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. He or she 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. He or she shares the cure of souls with the team rector and other team vicars.

Ways in which clergy can exercise ministry

Beneficed		Licensed		Other	Permission to officiate
Historic freehold - only appointments that commenced before 31.2011 where the post holder has not opted to be on common tenure Team rectors on limited term posts will lose their office if they do not opt for common tenure before their transfer	Freehold office holders on Common tenure	Employees are subject to the terms of their employment contract Terms of service regulations disappplied	Office holders on common tenure	Common tenure does not apply	
Incumbents (vicar, rector, team rector) Bishops Archdeacons Residentiary canons not on fixed terms Deans Unlikely to be reg 29 posts although may be in exceptional circumstances Incumbents may be in reg 30 posts Usually but not necessarily stipendiary and can be house for duty		DDOs and Directors of ministry and CMD officers Other diocesan posts Bishops chaplains Hospital, university educational industrial and other chaplains Posts doable by lay people These would all have posts on a general licence or under the extra parochial ministry measure 1967 They would all have a stipend or salary as employment requires consideration	Priests in charge Team vicars Assistant curates (including assistant curates described as something else on their licence for example Associate Priest) Clergy on general licences (including clergy in LEPs?) Can be in reg 29 posts (if they meet the criteria) and stipendiary or non-stipendiary	Honorary canon Area/rural dean Forces chaplains	Ministry will be informal and ad hoc and probably not have a named role The bishop may withdraw permission at any time

Annex 2

Historic freehold compared with common tenure

	Historic freehold	Incumbents on Common Tenure
The Canons	Apply	Apply
Continuing Ministerial Development (CMD)	No legal requirement to participate.	Bishop has duty to ensure opportunities are afforded to participate in appropriate education or training. Office holders required to participate under the Ecclesiastical Offices (Terms of Service) Regulations 2009 where it is required by the Bishop following MDR.
Grievance Procedure	No legal entitlement to make use of grievance procedure, although it may be appropriate to use the common tenure procedure in order to ensure that a grievance is properly addressed.	Legal entitlement to seek redress for grievances under procedure set out in a statutory code of practice.
Ministerial Development Review (MDR)	No legal requirement to participate.	Bishop has duty to set up and keep under review a scheme for MDR Office holders required to participate in MDR under the Ecclesiastical Offices (Terms of Service) Regulations 2009.
Capability Procedure	Does not apply	Applies
Clergy Discipline Measure	Applies	Applies
Removal from office	Only following: <ul style="list-style-type: none"> • a breakdown of pastoral relationships; • after pastoral reorganisation • ill health; • reaching retirement age; • disciplinary proceedings. 	Only following: <ul style="list-style-type: none"> • a decision to remove from office under the capability procedure; • pastoral reorganisation; • reaching retirement age; • disciplinary proceedings.
Severance	Schedule 4 to the Mission and Pastoral Measure 2011.	Schedule 4 to the Mission and Pastoral Measure 2011.

Statement of rights and responsibilities conferred by the Regulations	No.	Statement of particulars has to be provided within one month of starting the post.
Parsonage house	Legal title vested in incumbent as corporation sole.	Legal title vested in incumbent as corporation sole.
Sale of parsonage house	An absolute veto over the sale of the parsonage house.	An absolute veto over the sale of the parsonage house.
Right to a minimum stipend	No.	Yes.
Right to specified time off	Not stated but required to reside on benefice for minimum 9 months per year.	A minimum of 36 days' annual leave and one day off per week.
Unfair dismissal	No right of appeal.	Right to appeal to Employment Tribunal if dismissed following capability procedure.

Annex 3

Differences between priests in charge and incumbents

	Incumbents on Common Tenure	Priests in charge - Common Tenure
Financial compensation for loss of office resulting from pastoral reorganisation	Schedule 4 to the Mission and Pastoral Measure 2011.	Schedule 4 to the Mission and Pastoral Measure 2011 but limited to a maximum of 12 months.
Parsonage house	Legal title vested in incumbent as corporation sole.	Legal title vested in (vacant) corporation sole, not the priest in charge. Sequestrators responsible. The priest in charge generally occupies the parsonage house under licence which will contain terms equivalent to those in regulations 12 to 15 of the Ecclesiastical Offices (Terms of Service) Regulations 2009.
Sale of parsonage house	An absolute veto over the sale of the parsonage house.	A right of objection to the Church Commissioners in the event of a proposed sale. The Diocesan Parsonages Board would need to convince the Commissioners that the sale was appropriate, as their consent is required.
Appointment	Patron presents: bishop and parish representatives have right of veto. Appointment requires meetings and process as specified in Patronage (Benefices) Measure 1986.	The bishop appoints, but patron and parish representatives need to be consulted. The Bishop can appoint more quickly as the appointments process is not subject to the Patronage (Benefices) Measure 1986, although a proper appointments process should still be followed.
Effect of reaching the age of 70	May not be appointed after 70 and has to retire at 70 unless the bishop agrees there is pastoral good reason for a temporary extension of up to two years.	May be appointed after 70, or continue indefinitely after reaching 70, provided that the appointment is for a fixed term.

Cure of souls	Held independently of the bishop.	Not held independently of the bishop, who has it during a vacancy, although in practical terms this may make little difference.
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