



EMPLOYMENT MATTERS

Introduction

- 1.1 The growth in the number of lay staff employed by parishes and church organisations is to be warmly welcomed. If this employment has a proper framework, this gives confidence and freedom both to employer and employee.
- 1.2 If you are not sure whether someone is employed or not, you may find it helpful to refer to our Checklist for Employing Staff which contains the factors to consider when determining employment status.
- 1.3 There is now available on the internet a comprehensive range of information produced by the Government about employing staff. The GOV.UK website is particularly useful.
- 1.4 The purpose of this guide is not to set out all the information which a parish employing staff needs to know but to give a guide of the main points and the sources of information to turn to for more detailed help. See [Appendix A](#) for more details.
- 1.5 Many small employers feel they don't have sufficient time or resources to devote to employment issues. It is however worth spending time and effort getting the employment relationship right. As well as avoiding problems further down the line, it is an opportunity to model good employment practice and enhance the mission of the parish and the work of the Church.
- 1.6 There are some basic things which all employers are legally required to do which are established in UK and EU legislation. You will find these summarised in the 'Employing people checklist' at [Appendix B](#).
- 1.7 This Guidance does not constitute legal advice. It is provided as information for parishes who may then seek their own legal advice.
- 1.8 Further guidance and template documents can be accessed under Employment on our website <https://www.canterburydiocese.org/guidance-forms-and-fees/>

Central Principles

Don't discriminate unlawfully

- 2.1 The fundamental thing to remember is that employment law applies even before you have made an offer of employment. There is legislation which makes it unlawful to discriminate against potential and current workers on the grounds of:

Age	Sex
Disability	Sexual orientation
Gender reassignment	Marriage and civil partnership

Race
Religion or belief

Pregnancy and maternity

- 2.2 In recruiting for a post, you therefore need to think carefully about what skills, qualifications and experience potential candidates might need to do a job. For example, if you want to employ a parish secretary you cannot assume you can have a preference for employing someone who is a Christian. There are, however, provisions within the legislation for exemptions to meet the reasonable requirements of religious groups. To justify a 'genuine occupational requirement' for a Christian, it is highly likely the detailed duties of the post would contain significant leadership, teaching or representative element. **Approach a genuine occupational requirement with care!** You cannot assume that a genuine occupational requirement exists as an essential requirement and you may want to ask yourself, "Does this role have key spiritual elements that only a Christian can carry out?"

The following wording may be helpful for your recruitment paperwork:

"The successful candidate will understand, and in their work support, the Christian aims and mission of the Church of England and our parish of..."

- 2.3 The Diocese of Canterbury understands the benefits of employing individuals from a range of backgrounds, with diverse cultures and talents and we aim and encourage parishes to create a workforce that:
- values difference in others and respects the dignity and worth of each individual
 - reflects the diversity of the nation that the Church of England exists to serve
 - fosters a climate of creativity, tolerance and diversity that will help all staff to develop to their full potential.

Make it clear in writing on what basis someone is employed

- 3.1 It is good from every point of view that both the parish and its employees understand the basis of the employment. More than this, there are some details which employees have a legal entitlement to be given in writing within 2 months of starting work, and it is sensible to issue these details as a matter of course, to avoid any misunderstanding.
- 3.2 Although this can sometimes seem burdensome, being clear about the terms and details of an appointment is the starting point for trust, respect and good relationships.
- 3.3 The sample employment contract on our website fulfils the requirement as a written set of particulars. You can use this for new staff as well as for existing staff who for whatever reason do not already have a written contract. You must have a grievance and disciplinary procedure. We can provide sample employment policies – please contact HR for details.

Take care of your workers

- 4.1 As an employer you are responsible for making sure your staff have a safe environment to work in. While you will not need a formal health and safety policy unless you employ five or more staff, it is worthwhile for some consideration of risks to be carried out and reported to a PCC meeting. In an office environment the main risks are likely to relate to electrical equipment but it is also necessary to ensure appropriate chairs and that screens are at a correct height etc.

- 4.2 Lone working can be a particular concern for some PCCs if someone spends some or all of their working hours working alone or in an isolated location. A Lone Working policy guidance and a template Risk Assessment form can be found by scrolling down on our website <https://www.canterburydiocese.org/guidance-forms-and-fees/> to Employment .
- 4.3 There are a number of other things to bear in mind when taking care of your workers and it is good to set aside regular times to discuss how things are going. You will also need to be aware of your responsibilities in specific circumstances e.g. when staff are ill, or become disabled, or want to take time off, or want to change their working pattern to manage caring responsibilities. And remember that a timely 'thank you' is likely to be appreciated by even the most dedicated of individuals.
- 4.4 It is helpful to provide an induction period to ensure that staff are equipped for the particular role. An induction should include:
The People they will have contact with and team relationships and roles
The Organisation itself and its structures
Practicalities of the place of work (fire procedures/locking up etc.)
Health & Safety
Terms and conditions
Training needs
- 4.5 Ongoing training and support should be offered and may include
Professional Development
Personal Development
Spiritual Development
Organizational development
- 4.6 Employers **are required** to take out employer`s liability insurance and to display a certificate from the insurance company in the place of work. Accidents at work do happen.

Resources available from the Diocesan HR Manager:

- *Checklist for Determining Individual Employment Status*
- *Template Employment Contract for PCCs*
- *Template Self Employment Contract for PCCs*
- *Lone Working Policy*
- *Template Risk Assessment form*

Recruitment

- 5.1 The starting point of any recruitment is to work out what job you want done, how many hours are required to do the job and what rate of pay you are offering. If you don't know exactly what you want done, it will be hard to choose who would be suitable to do it.
- 5.2 Once you know what you want done it is reasonably simple to define this into a job description. It doesn't need to outline every last task but instead should outline the main areas and levels of responsibilities. This will then make it possible to draw up a person specification which will set out what skills and qualifications a person will need to undertake

the role. A sample job description can be found on the Diocesan website (and the ACAS website (www.acas.org.uk – search job description)).

- 5.3 The basic principle of advertising a post is that you should seek to make any employment opportunity available to a wide range of people so that no one who might be suitable is excluded from applying. This does not mean that you have to spend vast sums of money advertising since there are usually low cost or no cost alternatives: eg church notice boards, Diocesan web sites, job centres, local shops.
- 5.4 In considering applicants, the key is to ensure that you have the same range of information about each candidate before you make a decision. Using an application form will mean the information about each candidate is presented in the same format. Prepare a set of interview questions in advance and make sure you cover the same areas for each candidate so you will be able to make a fair comparisons against the job description. If you ask some candidates about a particular area but not others you may be in danger of assuming that the person you failed to ask knows nothing about the area concerned. Remember discrimination law applies and you should not ask questions which could lead to the impression that you are seeking to use as a selection criterion something which is unlawful, eg if you only ask female candidates about child care arrangements then, whatever your intentions, it might be assumed that you are seeking to apply a criterion to female candidates which you would not apply to males. You should keep records of your shortlisting and interview decisions.
- 5.5 It is now generally unlawful to ask job applicants about their health or any disability until after they have been offered a job. So you should not include health-related questions on application forms or in interviews. There are however a few specific circumstances when early questions about health and disability *are* allowed. These include to find out if any adjustments need to be made for the interview, or in relation to an **intrinsic** part of the job. For example, an intrinsic part of a caretaker job may be to lift and move furniture, so you can ask health questions to determine whether they are able to do that.
- 5.6 As well as the interview, it is also worth considering other methods of selection. You could devise some simple tests or exercises as part of the selection procedure, making sure that they are focused on skills which are essential to the job. So, when recruiting a secretary, it may be helpful to give a typing exercise or ask them to draft a letter.
- 5.7 There are document checks which have to be carried out by a prospective employer before anyone can begin working for them. These are to make sure that employees are entitled to work in the UK. GOV.UK's guide 'Full guide for employers on preventing illegal working' provides a useful summary on this.
- 5.8 You will also need to be aware of and follow the procedures in the Diocesan **Safeguarding Guidelines relating to Safer Recruitment** manual e.g. getting DBS clearance for some posts.
- 5.9 Whether "successful" or not, all applicants should be informed of the outcome as soon as possible. Most people will want to know why they have not been appointed. So prepare some feedback that is honest, constructive and not discriminatory

Resources available for parishes from the Diocesan HR Manager:

- *Application Form template*
- *Job Description Form template*
- *Advert template*
- *Shortlisting template*
- *Reference Request form*
- *Offer letter template*
- *Template Annual Leave form*
- *Template Sick Certificate*

Following these methods can never guarantee that your appointee will be a perfect fit, but having good procedures in place has regularly been proven to help.

Performance Management

6.1 People often immediately link performance management with appraisals – and this is a good link because the appraisal process is a critical factor in delivering good levels of individual performance. However, it is only one example of performance management and other methods may work better when dealing with particular performance problems. Managing performance begins from your very first interactions when someone is offered a job and starts with making them feel valued and that their contribution is important. There are many ways to manage an individual's performance. The most common methods are listed below.

Methods for improving performance include:

- Induction
- Probationary period
- One-to-ones (121s)
- Appraisals
- Disciplinary procedure
- Capability procedure
- Mentoring
- Coaching
- Pep talks
- Instruction
- Counselling
- Dismissal procedures

6.2 Induction & Probation

This is the final step in the recruitment process and the first real contact that a new person has with the PCC team. Induction is part of the foundation of good performance management. During induction the new employee should be made fully aware of their job duties, responsibilities and standards and the expectations of performance within their new role. The induction period could last for a number of days or weeks depending on the complexity of the role and runs concurrent with any probationary period. Induction training is good for setting the initial standards and expectations for new staff.

Probationary period

A job offer should be conditional upon successful completion of a probationary period. During the probationary period, employees need to demonstrate their suitability to their new role. The line manager should set suitable preliminary objectives and hold regular one-to-ones so that the new team member is fully aware of their progress. The process should specify what they are doing well and if there is anything they need to improve. It is a good opportunity for praise and to recognise progress. The period is generally set at six months' but can vary depending on the role. It is well recognised that people leave a new employer in the first few months if they do not feel that they are settling in.

6.3 One to ones (121s) & Appraisal

121s are meetings that take place regularly either weekly or monthly on a face-to-face basis. 121s are a 'conversation' focusing on key areas that will make a difference to the performance of the individual. These meetings should be:

- Uninterrupted
- Structured
- Planned
- Recorded (take notes or recording agreed actions by email).

They are an opportunity to give and receive feedback, review the employee's objectives, cover issues and problems and discuss training and development needs and plans. It is also an opportunity to correct and praise performance, and is part of building and maintaining a long-term relationship with individuals.

Appraisal

Appraisals are formal reviews that take place on an annual or biannual basis. Appraisal is normally part of the formal performance management process. It requires that both parties to prepare well, in advance of meeting. Appraisal forms must be completed and logged on the employee's personnel file. The aim of the appraisal is to align the energies of the appraisee with the goals and objectives of the parish (Mission Action Plan). By providing clearly defined individual objectives, the manager enables the employee to see how their achievements contribute to the parish's success. Many employees report that their appraisal, when done well is highly motivating.

Appraisals are good for ongoing performance management and maintaining performance standard, reviewing longer-term performance achievements and in correcting performance issues that are significant but do not present a major problem. It is also an opportunity for the employee to let you know of any larger issues that need to be addressed, for example a problem with another department that is affecting the employee's performance. This is the opportunity to spot trends in performance and set objectives for the next year.

6.4 Disciplinary procedure & Managing Capability

The disciplinary procedure is in place to ensure the parish acts in a fair and consistent manner in a disciplinary situation [Guidance from ACAS is available](#). In all cases problems should be dealt with as quickly as possible and in a way that encourages improvement. Where possible you should start with an informal approach or a counselling interview. If the problem persists or is of a serious nature, you must give the employee written confirmation of the problem and invited to attend a meeting to discuss the issue. Any formal disciplinary matter must be thoroughly investigated before you proceed to a disciplinary meeting. The

employee has the right to be accompanied at this formal meeting. Please note within any disciplinary procedure there are a number of formal stages which should not be less than two unless there is an instance of gross misconduct: the final written warning and then dismissal.

The disciplinary procedure should be used with breaches of rules, e.g. persistent lateness or short-term absence where there is no genuine reason or illness is detected and handling serious breaches, for example fighting or theft. You should not use this procedure when there are capability issues, disability, and genuine illness or for resolving minor issues.

Managing Capability

The capability procedure mirrors the disciplinary procedure. This is because, even though the procedure aims to rectify the problem, there is a possibility that the employee may be dismissed. The capability procedure focuses on the individual's capability to do the job. Incapability may be caused by illness, disability, inability to meet the requirements of the role even though others can. The capability procedure should be used for handling issues related to long-term illness, disability, or just long-term absence from work. It is also helpful where an employee cannot meet the demands of the job – and can be used to send a clear message about performance levels required and the consequences of continued incapability to meet standards. You should redeploy the person in a more suitable job where possible.

6.5 Mentoring & Coaching

This is the process by which a more senior person provides 'wise counsel'. The mentor is not normally the direct line manager. A mentor could be found either inside or outside the parish. Mentoring may be used to help someone meet a certain performance challenge or a stretching objective. A mentor can help spot issues, give direct feedback and point out the consequences if problems aren't remedied. They can do all of this without there being any direct consequences for the employee because the conversation is outside of the line relationship. Mentoring is particularly good for talent management and challenging people, in a non-threatening way, to develop further. Addressing potential future performance problem e.g. many high flyers derail because of overuse of a strength: they may be forceful, which helps them to achieve goals in the early stages of their career but later this starts to look like bullying.

Coaching

Coaching is the process by which one person helps another to improve a particular aspect of their performance. There are numerous models, but they all follow a simple four-stage approach:

1. Identify the current performance level for a particular task
2. Discuss and agree the goal or objective for that task. The coach may demonstrate what 'good performance' looks like.
3. Give the person time to practise, with direct feedback on how they are doing.
4. Review progress. Give feedback on successes and agree what steps the coachee will take to reinforce the learning when they are on their own.

Coaching is a simple, relatively quick way for a manager to directly helping an employee to improve. The results can normally be seen immediately and the employee benefits from focused attention on a specific issue. Coaching should be used when managers can observe what's happening and the task is discrete and can be performed by the employee

without the need for others' input. It is a good method to use where the employee has the required skills and knowledge but needs a bit more support or direction.

6.6 Pep talks

Pep talks can be used regularly with staff who perform to variable standards. Sometimes a short chat with a focus can help an employee to regain their commitment or confidence. These are similar to 121s but are impromptu. They are useful in building an individual's confidence and competence by supporting and rectifying issues quickly.

6.7 Instruction

Instruction is detailed training and explains what is required and how to do a particular task or approach an issue in detail. The task is broken down into its component parts and each stage is explained, demonstrated and notes may be provided. When the instructor believes the trainee is ready they may be allowed to practise under the supervision of the instructor (e.g. driving instruction). It requires that the manager has adequate time available and has been trained to give instruction. Detailed instruction can be useful where an employee is new to a task or role or when introducing new equipment e.g. upgrading software.

6.8 Counselling

This is used where an employee has a deep-rooted problem and you should only use this approach if you have been fully trained in counselling techniques. Employees you manage may be too close and you may have too vested an interest in any counselling outcome to be involved in the counselling itself. It may be better to refer the employee to the Employee Assistance Programme (EAP) which provides external confidential support. There are many good providers available, please speak to a member of HR for further guidance.

6.9 Dismissal procedure

Where an employee has failed to meet the required standards of performance, conduct or capability, you may have no choice but to commence dismissal proceedings, once a disciplinary or capability procedure has been followed. ACAS has published a [guide to discipline and grievances at work](#). You should use this procedure in cases of gross misconduct and consider it in cases of continued misconduct where previous warnings have been given. Also for cases of incapability where previous warnings have been given and there is no suitable alternative. This procedure should not be used for the first stage in any situation or for minor breaches of conduct or low level performance issues.

!The Diocese would recommend that independent legal advice is sought if the PCC is considering an employee's dismissal

Resources Available from the Diocesan HR Manager:

Capability Procedure
Disciplinary Procedure
Grievance Procedure

Pay, national insurance and income tax

7.1 If your parish pays anyone for services rendered, then unless it is for reimbursement of expenses incurred or they are a self-employed contractor who supplies a legitimate invoice,

it is likely that an employment relationship exists. You need to make National Insurance and income tax deductions for any employee who earns over a certain amount through the PAYE system. You are obliged to provide HMRC with a certain amount of information.

7.2 You should contact HMRC for detailed advice on your obligations regarding reporting, tax and national insurance.

7.3 Employees have certain rights regarding pay, including:

- To be told when, how and how much they will be paid
- To be paid at least the minimum wage
- To have itemised pay statements
- Not to have unlawful deductions made from their pay
- Where appropriate to be paid, statutory levels of maternity, paternity, adoption and sick pay

7.4 It is important to remember that unless there is an agreement between the employer and employee, most deductions from pay are unlawful.

7.5 There are computer packages available to help you run your payroll, including free HMRC software. You can outsource it – most accountants offer payroll services - though obviously it will be cheaper to do it in-house if you have the resources. You can get information and advice from GOV.UK.

Pensions

8.1 If you have an employee earning above the minimum earnings limit you will need to enroll them in a qualifying pension scheme and contribute to that pension (unless they are under 22 or over the state pension age). This is called Pension Auto Enrollment.

8.2 A guidance note on Auto Enrolment and Pensions can be accessed by scrolling down to Employment on our website <https://www.canterburydiocese.org/guidance-forms-and-fees/>

Changing a contract

9.1 Most changes to a contract of employment need the consent of both employer and employee. They can be agreed either orally or in writing but written consent can avoid later disagreement. Contracts can also be changed if an employee works under new terms without objecting to the changes, or through a 'flexibility clause' which might require them to transfer to a different location with the job. It is important that any such changes are discussed and agreed and that this is recorded somewhere.

9.2 A contract can be ended by the employer or the employee, normally by giving the required notice of termination. Where the employer gives notice, this is usually deemed to be a dismissal. In order for a dismissal to be fair, it must be for one of the potentially fair reasons:

- Capability
- Conduct

- Redundancy
- Breach of statutory provision
- For some other substantial reason

9.3 Whatever the reason, you need to be able to demonstrate that you have acted reasonably and in line with statutory or contractual procedures. We strongly advise that you seek advice before terminating someone's employment. If someone feels their employment has ended unfairly, it may give rise to a claim at an Employment Tribunal.

9.4 The qualifying period for claims of unfair dismissal is 2 years for staff appointed on or after 6th April 2012. For staff recruited before 6th April 2012, the one-year qualifying period will continue to apply.

In conclusion

10.1 I would like to emphasize again that this is not a comprehensive guide to employing staff. It should also be borne in mind that employment law is changing all the time and it is important to seek out the most up to date information and guidance.

This website provides useful information:

www.gov.uk/browse/employing-people

10.2 Do feel free to contact me with your queries or if you just want to check your understanding of something. Please also let me have any suggestions for improving the guidance we provide.

**Human Resources
Diocese of Canterbury
June 2017**

Disclaimer:

Great care has been taken in creating these pages. However, they are not intended to be a substitute for specific legal advice. The CDBF cannot be held responsible for any errors or omissions.

Appendix A

Sources of advice and help

Diocesan HR

The Diocese employs 2 part time HR Managers, Sarah Marsden and Tessa Metcalfe.

Both can be contacted on 01227 459401 and smarsden@diocant.org and tmecalf@diocant.org

“Safeguarding Guidelines relating to Safer Recruitment” manual

The Diocesan DBS (Disclosure & Barring) Adviser is Sheila Rooke and her contact details are:

srooke@diocant.org (01227 459401)

Church Workers Pension Fund

You can write to the Church of England Pensions Board, 29 Great Smith Street, London SW1P 3PS or contact them on:

cepb.enquiries@churchofengland.org 020 7898 1800 (Switchboard)
020 7898 1802 (Pensions Helpline)

Websites

Canterbury Diocese website:

<https://www.canterburydiocese.org/guidance-forms-and-fees/> and scroll down to **Employment**.

You can access advice documents on the following:

Contracts

Grievance Procedure

Disciplinary Procedure

Recruitment

Family Leave

Lone Working

Pensions

Calculating Holiday Entitlement

Genuine Occupational Requirements

Parish Resources website:

This website has a link to a valuable Employment Guide for faith based organisations. It can be accessed on http://www.parishresources.org.uk/wp-content/uploads/Just_Employment.pdf

GOV.UK

This is the most comprehensive Government sponsored web site containing information for employers. There is useful information, advice and guidance on virtually every aspect of employing staff and a number of interactive tools are provided. Most of the information is in the Employment and Skills section.

ACAS

ACAS contribute to the GOV.UK site but also have their own site with additional material including sample policies. They also have a free telephone helpline.

<http://www.acas.org.uk>

08457 47 47 47

Other Sites

Although their main resources are subscription only, the following sites do have some useful employment law information:

<http://www.cipd.co.uk>

'Employing people checklist'

RECRUITMENT

You must make your recruitment decisions in a fair and non-discriminatory way

You must check the eligibility of new staff to work in the UK:

<https://www.gov.uk/legal-right-work-uk>

You must give your employees a written statement of employment particulars within two months of their starting work for you.

PAY, TAX AND PENSIONS

Your employees' tax and NI contributions must be deducted from wages and paid to HM Revenue & Customs.

Your pay rates must comply with the national minimum wage legislation and we support and encourage parishes to pay staff in line with The Living Wage.

Your employees must be provided with itemised pay statements.

You must not make unauthorised deductions from your workers' wages.

You must pay statutory sick pay to all qualifying workers from the fourth day of Incapacity onwards.

If you have an employee earning above the minimum earnings limit you will need to enroll them in a qualifying pension scheme and contribute to that pension (unless they are under 22 or over the state pension age). This is called Pension Auto Enrollment.

WORKING HOURS AND TIME OFF

You must give your workers a minimum of 5.6 weeks' paid annual leave a year. *[NB This can include public and bank holidays]*

You must not ask your workers to work an average of more than 48 hours per week, unless they give you their voluntary consent in writing. You must also allow workers to have minimum daily and weekly rest periods.

You must allow your employees time off work in specified circumstances other than annual leave eg to deal with an emergency involving a dependant or attend an antenatal appointment.

You must give serious consideration and follow the statutory procedure when considering requests from certain employees to work flexibly.

MATERNITY, PATERNITY AND ADOPTION RIGHTS

You must ensure that entitlements to maternity, paternity and adoption leave and pay (including unpaid leave) are correctly calculated and given.

CONTRACTUAL CHANGES

You must ensure that changes to employment contracts are discussed and agreed with your employees or, where there is a collective agreement, with their trade union representatives.

EQUAL TREATMENT

You must treat part-time workers no less favourably than their full-time equivalents, and fixed-term employees no less favourably than permanent ones.

You must ensure that work of equal value gets paid at equal rates.

You must not treat any of your workers less favourably on the grounds of their race, nationality, colour, national or ethnic origin, sex (eg in connection with maternity), gender reassignment, disability, age, sexual orientation, religion or belief, membership or non-membership of a trade union, or marital/civil partnership status. You must meet this requirement at every stage of employment, ie from recruitment to dismissal.

You must make reasonable adjustments to enable people with disabilities to work.

HEALTH, SAFETY AND WORKING ENVIRONMENT

You must provide your workers with a secure, safe and healthy working environment.

You must also have a written health and safety policy if you employ five or more people.

You must ensure that valid employer liability insurance cover is in force at all times.

GRIEVANCES, DISCIPLINE AND DISMISSAL

You must ensure that you set your disciplinary/dismissal and grievance procedures in each employee's written statement of employment particulars.

You must ensure that any dismissals are not unlawful or unfair.

You must ensure that employees who are dismissed are given the correct notice period. Where redundancy applies, you must pay eligible employees the correct amount of statutory redundancy pay.