

## **DIOCESE OF LICHFIELD**

### **GUIDANCE NOTE AS TO PATRONAGE**

1. The main legislation in this area is contained in the Patronage (Benefices) Measure 1986 (PBM1986). The meaning of the word benefice is difficult to define precisely, but it is the ecclesiastical office whose holder is required to perform spiritual duties whilst being supported by revenues attached to the office (the temporalities). The spiritualities are almost always reflected in the cure of the souls of a parish. They include the obligation to observe the vows of the Holy Order of priests and the care for the moral and spiritual welfare of the parishioners.
2. Each benefice of the Church of England has a patron, and originally the patron would have given the temporalities as well, so as to support the incumbent rector or vicar. The glebe, church, and parsonage house would all have been part of this temporality, and they were permanently endowed to the incumbent, being held on a fee simple during the incumbency, leading to the legal fiction of ownership. Having given this, the patron and his successors in title exercised the right to present successive incumbents to the benefice, subject only the right of the Bishop to consider whether the clerk so presented was fit to hold that office, before admitting them to the office.
3. Once admitted to the office, the person is then inducted into the temporalities by the Archdeacon, on the direction of the Bishop.
4. The right of patronage (known as the advowson) is legally a piece of real property. It can be held by an individual in his/her own right; or by someone in virtue of an office; it can also be held in trust by a body. It can be transferred to others.
5. Nowadays the main right of a patron is to present a candidate as incumbent each time there is a vacancy in the benefice, but patrons are also consulted on various important issues in relation to the benefice, such as pastoral re-organisation, and the appointment of Priests in Charge.
6. Under the provisions of the PBM 1986 a register of all patrons had to be compiled; this is now maintained and kept continuously up to date by the Registry. It is

conclusive as to the identity of the patron from time to time, and so it is important that a patron keeps the Registry informed of any changes.

7. A Church of England benefice is presided over by an Incumbent (who may be styled as the *Vicar* or *Rector* – the two titles are for practical purposes identical). An incumbent is presented to the Bishop by the patron, and is then instituted and admitted into the spiritualities of the benefice by the Bishop, who directs the Archdeacon to induct the incumbent into the temporalities. The benefice is then said to be 'full'.
8. During a 'vacancy' in the benefice, there is no obligation to appoint a priest to take over the role of the incumbent. But the Bishop may licence a priest to serve as an interim minister (technically an assistant curate). Under the Mission and Pastoral Measure 2011 the Bishop may suspend the right of the patron to present a clergy person for admission to the benefice so that pastoral reorganisation can be considered. The Bishop may then appoint a Priest in Charge to run the parish during the suspension. Even when the right to present to the benefice is not suspended the Bishop may decide to appoint a Curate in Charge to run the parish on an interim basis. The difference between these roles is considered in a guidance note on Licensing.
9. The right of patronage may be held by an individual, or a group of trustees, or a body (e.g. The Diocesan Patronage Board).
  - a. If held by an individual, the right of patronage may be either
    - i. personal (and such a patron is referred to in this document as a "private patron") or
    - ii. by virtue of the person's office e.g. The Diocesan Bishop or the Incumbent of St Domegood, East Bromwich (and such a patron is referred to in this document as an 'ex officio patron'). An ex officio patron will need to demonstrate that they indeed hold the office to which they claim to have been appointed if it is not within the diocesan umbrella
  - b. The right may be held jointly by more than one person.
  - c. The right may be held by a group of trustees of named individuals appointed in accordance with the terms of a Deed of Trust. There are several Patronage Trusts which operate at national level, examples being the Church Pastoral Aid Society Patronage Trust; Martyrs Memorial and Church of England Trust. There are one or two benefices in the diocese which have their own Patronage Trusts.

- d. The right may be held by a body such as the Lichfield Diocesan Board of Patronage, or a particular board established by a pastoral scheme. There are some particular parochial boards of patronage, usually composed of the Bishop, the Archdeacon certain people *ex officio* and perhaps a number of persons nominated on each occasion by the Parochial Church Council.
  - e. The right may be held by a corporation such as the Dean and Chapter of a Cathedral, or one of the great collegiate churches, or a university or Eton or Winchester colleges
10. The Registry takes care to record details of the address for service of the registered Patron. Some patrons are very conscientious about informing us of any changes; others are not, and contact can be lost as a result. It is important that Patrons take care to inform the Registry of any change of address.
11. **Transference of the Right of Patronage:** In the case of an individual Patron, the right of patronage or advowson can be specifically dealt with in their will; if not, it will pass along with the residuary estate. Inevitably it may take some time before a will is proved in the Probate Registry and before the estate is finally administered. It is very important that Patrons make sure first that they think about the advowson when giving instructions as to the writing of their will, and that their executors or personal representatives are informed that on the Patron's death the Registry is informed as to progress of the administration of the estate. It can take years before things are finalised and in the meantime, the personal representatives stand as patrons.
12. The same applies to a patronage trust or board in relation to changes of personnel.
13. The transfer of the advowson by a living patron (transfer *inter vivos*) cannot be done whilst the benefice is vacant, *unless* the right of presentation has been suspended and a Priest in Charge has been appointed. But if there is an incumbent or a priest in charge, a patron may choose to transfer the advowson during his or her lifetime.
- a. The patron may not take any valuable consideration (for example money) in exchange for the transfer, and any attempt to do so renders the transfer void (s3 PBM1986).
  - b. It is wise to ensure that there is informal consultation with both the Diocesan Bishop and the PCC as to the intended transferee, but once it is clear that the transfer is likely to be uncontentionous (although transfers without consents are possible), formal notice is given by the Patron to the Bishop using Forms 8.

- c. The Registrar then gives the PCC notice using Form 9. The PCC may make formal representations to the Bishop.
  - d. The Bishop then considers the representations and makes a decision.
  - e. Then the relinquishing patron completes and executes Form 11 to effect the transfer.
  - f. The transfer is then registered by the Registrar.
14. The transfer of patronage by a corporate body is dealt with in a similar manner, but the consent of the Bishop is required if the corporate body is an 'ecclesiastical corporation', a term sometimes requiring interpretation by the Registrar in specific situations.
15. Other transfers can take place during vacancies:
16. Powers of Attorney: a private patron may give the power to someone by a specific power of attorney. This is a legal deed granting the authority to exercise the right. The Registry would have to be supplied with a legally certified copy of the original document. The Power cannot be either a Lasting or an Enduring Power of Attorney (s5 PBM1986).
17. When a patron dies the Personal Representatives should notify the Registrar of the death and provide evidence: first producing a death certificate and a copy of the will; and then they should provide a legally certified copy of the Grant of Probate once it has been obtained together with the annexed will and all codicils referred to in the grant. The Personal Representatives will then need to complete and provide Form 14. *From the point of death until the registration of Form 14, the advowson is vested in the personal representatives and the Registrar will deal with any question of proof of their interest until the Grant of Probate specifically.*
18. The transfer of patronage upon the appointment of new trustees: Form 13 is used by the continuing trustees to acknowledge the fact and to appoint a new trustee who applies to be registered as such. The document is signed by all parties
19. Transfers of rights of patronage can also be made by Schemes under the Mission and Pastoral Measure 2011
20. **Rectification:** The Register can be rectified if it is in error. This can be sanctioned by the Registrar if it is demonstrated that all relevant parties are in agreement with the proposed rectification; or if the Registrar (or the Chancellor on appeal from the

Registrar) considers on the basis of evidence produced to him that the rectification ought to be made after due notice etc has been given. The procedure is rare and is governed by s4 PBM1986 and Schedule 1. There are also rules as to 'limitation' in relation to entries that have been in place for 30 years. Since the Register will have been in operation for 30 years with effect from 1 October 2017, this provision is now of some importance.

21 April 2017

Niall Blackie

Lichfield Diocesan Registrar