



DIOCESE OF WINCHESTER

Clergy Terms of Service

November 2011 edition

Introduction

From February 2011 many clergy in the Church of England hold their Ecclesiastical Office under a new form of tenure. This new **Common Tenure** conferred through the Ecclesiastical Offices (Terms of Service) Measure 2009 and the Ecclesiastical Offices (Terms of Service) Regulations 2009 aims to help clergy to grow in their ministry by providing fair terms of service, enabling more effective support and development, ensuring a just framework of accountability, and providing protection for clergy who do not currently have the freehold.

Providing support and enabling development has always been a priority in the Winchester Diocese. Over the years we have supplemented the provisions of Canon Law and regulations issued at national level with our own guidelines, policies and procedures. These practices, detailed in the Diocesan Handbook, have set us in good stead for the implementation of the new Clergy Terms of Service Measure.

Obviously there is some more work to do to meet the requirements fully but our ethos is to grow our existing practices wherever practical and embrace and improve through best practice.

Please read on to find a little more information on how existing practices are meeting the requirements of the new Measure and what we plan to do next. We hope that you find this basic overview useful. Do not hesitate to contact us if you have any questions or concerns.

Background to Clergy Terms of Service

In 2002 the Government consulted on a proposal that, (under Section 23 of the Employment Relations Act 1999), 'atypical workers', including ministers of religion, should be given most of the rights afforded to employees within the scope of the law.

The then Department of Trade and Industry (DTI) - now the Department of Business Enterprise and Regulatory Reform - developed a statement of good practice on clergy working conditions.

The Archbishops' Council set up a working group to review the terms under which Church of England clergy hold office, and in 2005 committed itself to the aspirations set out in the DTI's statement.

Church of England clergy already benefited from many of the provisions of the statement, but in some areas reform was needed to bring working conditions as far as was possible in line with the aspirations.

To do this, the working group developed proposals for new Ecclesiastical Terms of Service Legislation.

General Synod debated the draft legislation over a series of sessions in line with the statutory processes by which ecclesiastical legislation must be approved – a draft stage, a revision stage, and a final approval stage.

The Ecclesiastical Offices (Terms of Service) Measure 2009 received Royal Assent on 2nd April 2009.

(continued overleaf)

Background and Introduction to Clergy Terms of Service (continued)

In July 2009, the General Synod gave final approval to the Ecclesiastical (Terms of Service) Regulations 2009. In February 2010, General Synod approved the Capability and Grievance Codes of Practice. The Archbishops' Council has also issued guidance on

- Ministerial Development Review
- Continuing Ministerial Development
- Maternity, Paternity, Parental and Adoption Leave and care for dependents.

The legislation came into effect on the 31st January 2011.

For the text of the Measure and/or Regulations, and for much more information, please visit the national website: www.common tenure.org

Office holders or employees?

Working relationships between employees and employers in the secular world are largely based on the ability to manage and delegate.

The relationships between parishes, clergy, congregations and bishops are not like that: each has their own degree of autonomy.

Many clergy will therefore retain their legal status as Office Holders and will be afforded a range of employment rights, responsibilities and accountabilities which will be clarified through this legislation.

Common Tenure Appointments

The Terms of Service Legislation confers a new form of tenure (Common Tenure) on clergy, and on canonically licensed lay workers in receipt of stipend and/or housing. Since the 31st January 2011,

- all new appointments are on Common Tenure;
- most existing licensed office holders (e.g. priests-in-charge, team vicars, assistant curates, residentiary canons on fixed term appointments as well as the Archbishops of Canterbury and York) were automatically transferred to Common Tenure;
- all other freeholders have been invited to indicate whether they wish to move to Common Tenure, and if they do not, they continue to hold their current appointment on its existing terms.

Under Common Tenure, appointments will generally be held until retirement age. Posts may only be held under Common Tenure for a fixed term if the appointment is:

- designated as covering another office holder's absence from work; or
- held by an office holder over 70 on a part time basis; or
- designated as a training post ; or
- designated as subject to sponsorship funding; or
- designated as probationary office; or
- created by bishop's mission order under the Dioceses, Pastoral and Mission Measure; or
- designated as held in conjunction with another office or employment;
- an assistant post funded by the parish concerned;
- of a foreign national with limited right to stay.

An appointment may also be for a limited period because of proposals for pastoral reorganisation.

New rights conferred on clergy in the form of Common Tenure

The legislation confers new rights on clergy and some other ecclesiastical officers, including a right to be provided with a written statement of particulars setting out various matters, and among them:

- the nature of the appointment
- entitlement to stipend and reimbursement of expenses
- terms and conditions relating to rest periods and public holidays
- incapacity for work due to sickness or injury including provision for sick pay
- housing provision
- access to a grievance procedure;
- maternity, paternity, parental and adoption leave, and time off to care for dependants in accordance with directions given by the Archbishops' Council as Central Stipends Authority.

In addition, office holders other than incumbents (principally bishops, archdeacons, cathedral clergy, team vicars, priests in charge and assistant curates) will have the following:

- the right to accommodation 'reasonably suitable for the purpose';
- the right to object to regulated transactions (i.e. the disposal, improvement, demolition or reduction of their house of residence);
- the right to have the house of residence kept in good repair by the housing provider
- access to arbitration where there is a dispute which cannot be resolved by the grievance procedures.

Obligations conferred on clergy and other office holders

Ecclesiastical office holders, including diocesan bishops, will be required by the legislation:

- to participate and co-operate in Ministerial Development Review (known as Pastoral Consultation in this diocese);
- to participate in appropriate Continuing Ministerial Development;
- to vacate the property they hold as part of their office within one month of ceasing to hold office or longer if agreed by the housing provider;
- to inform the nominated person when unable to perform the duties of office through sickness;
- to undergo a medical examination where the (arch)bishop has reasonable grounds for concern about the office holder's physical or mental health;

The diocesan bishop will also have the right to initiate a capability procedure if he has concerns about the performance of an office holder under Common Tenure. This procedure is designed to be supportive. Only in the very last resort can an office holder be removed from office for incapacity, and in such a case he or she has the right to bring a claim for unfair dismissal in an Employment Tribunal.

What are we doing in the Winchester Diocese to implement Clergy Terms of Service?

As mentioned earlier we are developing existing diocesan practices to fit Clergy Terms of Service requirements.

The Winchester Diocesan Handbook remains the source of information on policies and procedures. We have updated the text to link the existing information with the new Statement of Particulars and add references to other useful information. We have also made all of this information more accessible through the diocesan website.

The current Pastoral Consultation process met most of the requirements detailed under Ministerial Development Review. The process needed only slight adjustment and this has been achieved through tweaking a form or two and introducing the opportunity for office holders to collect feedback from those among whom they minister.

Our Continuing Ministerial Development principles already meet the requirements. We plan to monitor the link between CMD and our Pastoral Consultations' process to ensure that our programme meets identified needs as far as possible and that office holders continue to access CMD.

We have now sent a Statement of Particulars to all those who automatically transferred to Common Tenure, and will send a Statement to all new appointments under Common Tenure within a month of the postholder beginning work. We have also sent such Statements to those freeholders who have asked to transfer to Common Tenure.

We have also revised the Maternity, Paternity, Parental and Adoption Leave policy and procedure, to ensure that they meet the

specified requirements, and details of these are available from our website through the Clergy HR Adviser's page - Diocesan Handbook section B4. We are currently working on establishing a mediation procedure and an anti-harassment and anti-bullying policy.

We have already given presentations about Clergy Terms of Service to clergy and churchwardens across the diocese.

We have produced new guidelines to assist benefices in producing profiles when moving towards filling a vacancy, with guidance and support for the writing of role descriptions.

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This is the text of a leaflet (Simplifying CtoS) circulated to all licensed and freehold clergy in the Diocese in March 2010, and made available in revised formats in July 2010 and April 2011. This is the latest updated version (November 2011).