

Guide for New Churchwardens

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The Churchwarden

APPOINTMENT

1. Churchwardens are elected annually by a meeting of the parishioners not later than 30th April each year.
2. The rules regarding the election and qualification of Churchwardens are set out in the Churchwardens Measure (CM) 2001 and out in the Church Representation Rules 2006 [ISBN 0-7151-1012-8] a copy of which may be obtained from the SPCK Bookshop in Hereford or from Church House Publishing, Church House, Great Smith Street, London, SW1P 3NZ [www.chpublishing.co.uk] price £7.99.
3. There should be **two** Churchwardens for each parish (CMs.1(1)). There is no legal sanction if a parish does not have the full number, but it is important to ensure a full complement of churchwardens if at all possible. This is because the office is an onerous and time-consuming one, and a single churchwarden acting alone can be placed under an unreasonable burden.
4. It is also unsatisfactory for the parish to be left without cover if a single churchwarden is unable to carry out his or her duties for a time, for example because of illness or unavoidable absence. If the parish fails to produce two candidates for the office, the Archdeacon should be alerted, as he or she may be able to help pastorally in finding someone else who is willing to serve.
5. Where parishes are "related" and thus within the exception to the normal rule that a churchwarden may not serve as such for more than one parish (see paragraph 26 below), it may be possible to arrange for two of them to "share" a churchwarden.
6. Where the parish has more than one parish church and/or parish centre of worship (designated under s 29(2) of the Pastoral Measure 1983), s.1(2) of the Measure provides for **two churchwardens to be appointed for each parish church/parish centre of worship**.
7. All the churchwardens appointed under this provision **are churchwardens of the whole parish** except so far as they arrange to perform separate duties in relation to the individual churches (CM s.1(2)(a)). For example, they may agree that the churchwardens for each church or parish centre of worship will be responsible for duties relating to the fabric of that building. Otherwise, all of them have functions in relation to the parish as a whole. For example, all of them who are entered on the church electoral roll and are actual communicants will be members of the PCC by virtue of their office (CRR r.14(1)(d)). Similarly, if the PCC fails to appoint a treasurer, all the churchwardens who are members of the PCC will share the office (CRR App II para 1(e)(i)).

8. Churchwardens in this category must be ***distinguished from deputy churchwardens*** of district churches or places of worship (“daughter churches” other than parish centres of worship). Deputy churchwardens have a recognised legal status under the Church Representation Rules (or, in some cases of team ministries, under the Pastoral Measure 1983.) However, unlike churchwardens under s.1(2) of the Measure, deputy churchwardens are not “churchwardens” in the strict legal sense and are not within the terms of the Measure, and their functions are confined to the particular church or place of worship. They are not the bishop’s officers, but exercise functions delegated to them by the churchwardens (in some cases on a mandatory basis under the relevant legislation). For example, deputy churchwardens may have delegated authority to deal with some matters relating to the fabric of the church or place of worship concerned.
9. Churchwardens also have to be ***distinguished from “assistant churchwardens”***, who have no formal legal status. They are persons chosen to assist the churchwardens, and act under the churchwardens’ supervision and control.

DUTIES

10. The ***churchwardens’ main duties*** are summarised in Canon E1 paragraphs 4 and 5. Under those paragraphs, once churchwardens take up their office, they:-
 - a. are the officers of the bishop (not the incumbent or PCC) (E1.4);
 - b. must be the foremost in representing the laity and co-operating with the incumbent (E1.4):
 - c. must use their best endeavours by example and precept to encourage the parishioners in the practice of true religion and to promote unity and peace among them (E1.4);
 - d. must discharge the duties assigned to them by law and custom (E1.4). (Examples of this are their duties in relation to the offerings or collections in the church, and the duties imposed on them by section 5 of the Care of Church and Ecclesiastical Jurisdiction Measure 1991 in relation to the church building and the land and articles belonging to it);
 - e. must maintain order and decency in the church and churchyard, especially during the time of divine service (E1.4); and
 - f. hold the title to the movable goods of the church, must keep an inventory of those goods and keep it up to date, and must hand over the goods to their successors, who must check the inventory (E1.5).
11. In addition:-
 - a. if a person chosen as churchwarden is an actual communicant and has his or her name on the church electoral roll of the parish, that person will automatically become a ***member of the PCC*** until he or she either ceases to satisfy those qualifications or ceases to be a churchwarden (CRR r.14(1)(d) and (2));

- b. **if the PCC fails to appoint a treasurer**, the churchwarden or churchwardens who are members of the PCC will be responsible for discharging the office of treasurer (CRR App II para 1(e)(i));
- c. churchwardens may also be **trustees of other parochial charities** by virtue of their office; and
- d. during a vacancy in the benefice, the churchwardens will be the **sequestrators** together with the rural or area dean and anyone else whom the bishop appoints (Church of England (Miscellaneous Provisions) Measure 1992 s.1(1)). (In the case of a team ministry, the team vicars and certain other members of the team take the place of the rural or area dean as automatic sequestrators except so far as the bishop directs that any of them are not to be included.)

NORMAL MAXIMUM CONTINUOUS PERIOD OF SERVICE

- 10. The general rule is that an individual's **maximum continuous period of service as churchwarden of the same parish is six terms of office** (which, ignoring cases where a person is originally chosen to fill a casual vacancy, in effect means six years), after which the churchwarden must take **at least a two year break before re-appointment**. The reasons for this are the importance of encouraging as many of the laity as possible to serve in a leadership role in the parish and of giving them an opportunity to do so, and also the importance of the churchwardens remaining effective and enthusiastic; a long unbroken period of office in this demanding role may leave a churchwarden "stale" and prevent him or her from developing other interests and other means of service, both within and outside the Church.
- 11. This rule came into force at the annual meetings in 2002 and so Churchwardens elected in 2002 and who have served continuously since then should take at least a two year break from the APCM of 2008.
- 12. It is **normally desirable to "stagger" the two churchwardens' periods of office** so that the parish has an experienced churchwarden working with a new one while the latter gains experience. Where the parish has two long-serving churchwardens in office when the Measure comes into force, the fact that the six year period only begins to run after that date will give the parish an opportunity to consider how best to implement the new principle and stagger retirements.
- 13. While the **six-year period is the norm, a meeting of the parishioners may pass a resolution that it is not to apply in the parish**. A subsequent meeting of the parishioners may also revoke the resolution (CM s.3) The parishioners have an absolute discretion as to the reasons why they may wish to pass or revoke the resolution, but it is recommended that they should consider whether dispensing with the general rule, at any rate for the time being, is appropriate for the particular circumstances of the parish. For example, the parishioners may decide that the general rule should not apply to the parish concerned because there is a shortage of people able and willing to serve as churchwardens, or because it would be preferable to keep an experienced team of two churchwardens in office during a forthcoming interregnum.
- 14. It is desirable to **consider well in advance whether a resolution under paragraph 36 above should be passed**, and to discuss it at the annual meeting of parishioners at least a year before it is required, so that potential candidates for

election in the following year will know the position before deciding whether to stand for office.

15. However, if the parishioners pass the resolution under s.3 of the Measure it has **immediate effect** (CM s.3). If necessary (for example, because of the unexpected death of a churchwarden or an unexpected interregnum) passing the resolution will make it possible for a person with six years' continuous service and without the necessary two year break to be re-appointed in the same year. There are two ways of achieving this in practice:-

(a) for the person concerned to be nominated, seconded and give his or her consent to serve before the annual meeting of parishioners begins, in the normal way (see paragraphs 46 and 48 below). The resolution will then need to be passed at the beginning of the meeting, followed by the election of the churchwardens; if the resolution is not passed, the candidacy of a person who falls within the "six year" rule will fall. Where the election is taking place in order to fill a casual vacancy (see paragraph 58 below) the same will apply, but in relation to a special rather than an annual meeting of the parishioners; or

(b) to hold a special meeting of the parishioners to consider passing the resolution before the annual meeting to elect the churchwardens is convened.

FILLING CASUAL VACANCIES

16. **Casual vacancies** may be filled at any time (CM s.4(7)). A person is chosen to fill a casual vacancy in the same way as the churchwarden whose place is being filled was chosen, and this will normally involve a special meeting of the parishioners (CM s.4(8)). The exception is that where that churchwarden was chosen by the minister under the special procedure set out in paragraphs 53-57 above, and the minister concerned has subsequently ceased to hold office, the new churchwarden will be elected by a meeting of the parishioners (CM s.4(8)).

SPECIAL CUSTOMS

17. The Measure provides that where there is an "existing custom" in the parish which regulates the number of churchwardens or the manner in which they are chosen, that overrides the general provisions of the Measure (CM s.11(2)).

18. Such customs may be abolished by resolution of the PCC except where the existing custom involves a person other than the Minister in the choice of the Churchwardens. In such cases advice should be sought from the Diocesan Secretary

TERM OF OFFICE

19. A churchwarden holds office for **one year at a time**. The rules laid down by the Measure (CM s.6(1), (2) and (3)) are that his or her term of office begins at the date of admission and continues until:-

- a. the date, not later than 31st July, when the person chosen for the following year (whether the original churchwarden or someone else) is admitted to office (CM s.6(2)(a)(i) and (b)(i)), or
- b. 31st July, if no one is chosen to fill the same place as churchwarden concerned, or if the person chosen (whether the original churchwarden or someone else) is not admitted by then (in which case there will be a casual vacancy) (CM s.6(2)(a)(ii) and (b)(ii)). (The bishop has power to decide, if necessary, which of the churchwardens chosen for a particular year is to be treated as succeeding to the place of any given churchwarden for the previous year (CM s.6(2)). The reason for these provisions is that it is important not to leave a churchwarden to continue in office indefinitely if he or she has not been re-elected or indeed has not stood for re-election, or if he or she has been re-elected but has failed to be readmitted.

RESIGNATION

20. A churchwarden may **resign by giving the bishop written notice of his or her intention to do so** (CM s.7(1)). This must be sent to the bishop by post (CM s.7(2)).
21. The notice takes effect **at the end of two months**, and the churchwarden then ceases to hold office, **unless the bishop**, after consulting the minister and the other churchwarden (if any), **fixes a date before then** when the resignation is to take effect (CM s.7(3)).
22. Although there is no statutory provision for this, there is no objection to the minister and the other churchwarden informing the bishop at once that they consent to the resignation taking effect before the end of the two month period. Nevertheless, it is recommended that, wherever the bishop thinks it appropriate, he makes arrangements to establish whether there were any pastoral problems which led to the resignation and which still need to be addressed, and whether any special arrangements need to be put in place for the resigning churchwarden's pastoral care. He may need to consult the minister, the other churchwarden and possibly others in the parish about these matters even if he is not minded to allow the notice to take effect before the end of the two month period.
23. However, the bishop should respect the confidentiality of the reasons for the resignation if the churchwarden asks him to do so, unless there is some legal reason to the contrary. Whether or not the resigning churchwarden has requested confidentiality, the bishop should always consult the diocesan registrar beforehand about any proposed disclosure of the reasons for the resignation, the manner in which it should take place and what is to be said to the resigning churchwarden about it.

DISQUALIFICATION DURING TERM OF OFFICE

24. A churchwarden automatically ceases to hold office if his or her name is **removed from the church electoral roll of the parish** under r.1 of the Church Representation Rules **or is not entered on the new roll** prepared every six years under r.2 of the Rules (CM s.8(1)(a) and (b)). Under the Church Representation Rules (CRR r.1(9)) a person's name will be removed from the roll if he or she:-

- a. is ordained to Holy Orders;
 - b. states in writing that he or she wishes it to be removed;
 - c. ceases to be resident in the parish, unless he or she continues to attend public worship habitually in the parish during a six month period or is prevented from doing so by illness or other sufficient cause;
 - d. was not originally resident in the parish and has not attended public worship habitually in the parish during the preceding six months, unless he or she was prevented from doing so by illness or other sufficient cause; or
 - e. was not entitled to have his or her name on the roll when it was originally entered.
25. A churchwarden will automatically cease to hold office if he or she **becomes disqualified under section 2(1), (2) or (3)** of the Measure (CM s.8(1)(c)) This covers disqualification under section 72 of the Charities Act 1993 or under s.10 of the Incumbents (Vacation of Benefices) Measure 1977, or a conviction within Schedule 1 to the Children and Young Persons Act 1933. (See Appendix 1 to this Guide)
26. Such disqualification apply if the event in question occurs either **during the churchwarden's term of office or after the person concerned has been chosen** as churchwarden but before he or she has been admitted to office (CM s.8(2)).
27. In any case of doubt advice should be sought from the Diocesan Secretary.

SPECIAL POWERS OF THE BISHOP

28. The **bishop has wide powers to deal with difficulties**. Section 10(1) of the Measure gives him power, in carrying out the provisions of the Measure:-
- a. to make provision for any matter not provided for by the Measure;
 - b. to appoint a person to do anything in respect of which there has been a neglect or default by a person or body on whom the Measure imposes a duty;
 - c. so far as may be necessary to give effect to the intention of the Measure, to extend or alter the time for holding a meeting or election or alter the procedure laid down by the Measure for a meeting or election;
 - d. where there has been no valid election, to direct a fresh choice to be made, and to give any directions the bishop thinks necessary in connection with it; and
 - e. in any case where a difficulty arises, to give whatever directions the bishop considers expedient to remove the difficulty.

However, these provisions do not give the bishop power to validate anything which was invalid when it was done (CM s. 10(2)).

29. The bishop has **similar powers under the Church Representation Rules** to deal with aspects of the choice of churchwardens covered by those Rules (see paragraph 51 above) (CRR r.53).

APPENDIX 1

GENERAL DISQUALIFICATIONS FROM HOLDING OFFICE

AS A CHURCHWARDEN

A. DISQUALIFICATION AS A CHARITY TRUSTEE UNDER s.72 OF THE CHARITIES ACT 1993 (s.2(1) OF THE MEASURE)

A person is disqualified from being a churchwarden if he or she is disqualified from being a charity trustee or trustee for a charity under section 72 of the 1993 Act. The grounds for disqualification under s.72 are that the person concerned:-

- (i) has a conviction for an offence involving dishonesty or deception (other than one which is a "spent conviction" under the Rehabilitation of Offenders Act 1974);
- (ii) has been adjudged bankrupt or has had sequestration of his/her estate awarded, and has not been discharged;
- (iii) has made a composition or arrangement with or has granted a trust deed for his/her creditors, and has not been discharged;
- (iv) has been removed as a charity trustee by order of the Charity Commissioners or the High Court on grounds of misconduct or mismanagement in the administration of a charity for which he/she was responsible or to which he/she was privy, or which he/she contributed to or facilitated by his/her conduct;
- (v) has been removed from being concerned in the management or control of a body under s.7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990; or
- (vi) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986, a disqualification order under the corresponding Northern Irish legislation, or an order under s.429(2)(b) of the Insolvency Act 1986 (dealing with failing to pay under a county court administration order);

unless one of the exceptions in s.72 applies or the Charity Commissioners have granted the person concerned a waiver from the effects of s.72 for all charities or all ecclesiastical charities whose purposes relate to the parish in question.

B. CONVICTION FOR AN OFFENCE WITHIN SCHEDULE 1 TO THE CHILDREN AND YOUNG PERSONS ACT 1933 (s.2(2) OF THE MEASURE)

These offences are as follows. (Except where stated otherwise, "child or young person" covers those under the age of 18.)

- (i) murder or manslaughter of a child or young person;
- (ii) infanticide;
- (iii) aiding, abetting, counselling or procuring the suicide of a child or young person;
- (iv) common assault on or battery of a child or young person;
- (v) abandonment or exposure of a child under 2 so as to endanger the child's life or so as to injure the child's health permanently or be likely to do so;
- (vi) cruelty (covering assault, ill-treatment, neglect, abandonment or exposure in a manner likely to cause unnecessary suffering or injury to health) to a child or young person under 16;
- (vii) allowing a child or young person under 16 to be in a brothel;
- (viii) causing, procuring or allowing a child or young person under 16 to be used for begging;
- (ix) exposing a child under 7 to risk of burning;

- (x) allowing a child or young person under 16 to take part in a dangerous performance;
- (xi) procurement (or attempted procurement) of a girl aged under 18 by threats or intimidation;
- (xii) procurement of a girl under 18 by false pretences;
- (xiii) administering drugs to a girl under 18 to obtain or facilitate sexual intercourse;
- (xiv) sexual intercourse (or attempted sexual intercourse) with a girl aged under 13 or between 13 and 16 or with a mentally handicapped girl under 18;
- (xv) incest (or attempted incest) by a man where the female is under 18 or by a woman where the male is under 18;
- (xvi) inciting a girl under 16 to have incestuous sexual intercourse;
- (xvii) certain cases of buggery (or attempted buggery) or gross indecency between males involving a child or young person;
- (xviii) indecent assault on a child or young person;
- (xix) assault on a child or young person with intent to commit buggery;
- (xx) abduction of an unmarried girl under 18 from her parent or guardian with the intention that she is to have unlawful sexual intercourse;
- (xxi) abduction of an unmarried girl under 16 from her parent or guardian;
- (xxii) causing (or attempting to cause) prostitution of a girl under 18;
- (xxiii) procuration (or attempted procuration) of a girl under 18;
- (xxiv) detention of a girl under 18 in a brothel or on other premises with the intention that she is to have unlawful sexual intercourse;
- (xxv) permitting a girl under 13 or between 13 and 16 to use premises for sexual intercourse;
- (xxvi) causing or encouraging prostitution of, or sexual intercourse with, or indecent assault on, a girl under 16;
- (xxvii) indecent conduct toward a child under 14
- (xxviii) taking an indecent photograph of a child or young person under 16;
- (xxix) abduction of a child or young person under 16 out of the UK by a parent or guardian etc;
- (xxx) abduction of a child or young person under 16 by a person other than a parent, guardian etc;
- (xxxi) any other offence involving bodily injury to a child or young person.

C. DISQUALIFICATION UNDER S.10(6) OF THE INCUMBENTS (VACATION OF BENEFICES) MEASURE 1977 (S.2(3) OF THE CHURCHWARDENS MEASURE)

Where, following a hearing before a provincial tribunal under the 1977 Measure (as amended) in relation to a particular parish, the bishop disqualifies a person from holding the office of churchwarden in the parish concerned, or that and other parishes, for a period of up to five years, and that disqualification remains in force.