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CIRCULAR NO. 2

To: Churchwardens

cc: Archdeacons

Dear Colleague

PCC Remuneration

Several parishes have approached the Diocese on the question of remuneration to PCC members, and I am writing to tell you of new provisions in the Charities Act 2006 which relate to this.

Background

The debate arises over whether PCC members can be paid for services they provide for the church because the PCC is a charity, and PCC members act as trustees of that charity. By law, trustees cannot receive a benefit from the charity for which they are trustees unless they have express legal authority to do so, and the Charity Commission has taken this to include payments for goods and services supplied to the PCC by members who are, for example, organist, vergers, youth worker etc. The purpose of this prohibition is to prevent a conflict of interest arising when the trustees come to decide on how to allocate the charity's resources. This situation is further complicated by the fact that the Church Guidance Booklet, ("The Charities Act 1993 and the PCC" – Green Guide) which governs the conduct of PCCs in financial matters and which has the approval of the Charity Commission, does envisage payments being made to PCC members, although stating that these payments must be noted on the PCC accounts.

However, the new Charities Act 2006 (the 2006 Act), will fortunately deal with this issue. From early 2008 the 2006 Act will enable charities to pay a trustee "..... for services provided to the charity provided that:

- (a) such payment would be in the best interests of the charity;
- (b) there is a written agreement between the charity and the trustee;

- (c) at all times the number of trustees receiving such payments are in the minority; and
- (d) the charity's governing document does not include an express provision prohibiting the relevant person from receiving such payment."

As regards (d), a PCCs "governing document" is in effect the Parochial Church Council (Powers) Measure 1956 and the Church Representation Rules. These show no express prohibition against a PCC member being an employee, but Appendix II to the Rules, made under Rule 15, does state that the PCC Secretary and Treasurer can only be paid if they are **NOT** PCC members.

Since the new provisions for PCC remuneration will not come into effect until early 2008, it is recommended in the meantime that the PCC either:

1. Where an employed PCC member comes up for election or re-election, invite them instead to be simply in attendance at PCC meetings, rather than being elected members. This does, however, mean they cannot vote;

or

2. Applies to the Charity Commission under Section 26 of the Charities Act 1993 to authorise the PCC to make payments to a trustee employee. Authority will not be given retrospectively, so application would need to be made before election or re-election. For those with internet access:

www.charity-commission.gov.uk/publications/cc36.asp

gives an explanation of the application procedure, otherwise the Diocese will gladly send you this information on request.

ADDENDUM 2012:

The new Charities Act 2011 has changed section numbers from the previous Charities Acts, so please note that A SECTION 29 (or 26) APPLICATION WILL NOW BE A SECTION 110 APPLICATION."

Yours sincerely

G R Marsh
Assistant Diocesan Secretary