**Hiring of Church Premises**

Guidance Notes

September 2022

These guidance notes are believed to be correct at the time of writing in September 2022 but they can never be a substitute for detailed professional advice, which should be sought on a case by case basis, if in any doubt.

If you have any questions about this guidance, in the first instance you should contact the Property and Legal department of the Diocese of Rochester, St Nicholas Church, Boley Hill, Rochester.

**Introduction**

Under the provisions of the PCC (Powers) Measure 1956, Parochial Church Councils may not own property in their own right. Instead, Parish property, such as a Church Hall or a curate’s house or flat, is typically held by the Rochester Diocesan Society and Board of Finance (the Board) as **Custodian Trustee** with the PCC having the role of **Managing Trustee**, taking ‘day to day’ responsibility for the property. In the event of a sale, lease or license of any Parish property, other than a casual hiring, the consent of the Board must be obtained. Any restrictions in any trust deed must be taken into account and the requirements of the Board obtained. Any restrictions in any trust deed mustbe taken into account and the requirements of the 2011 Charities Act met.

**General**

The majority of churches allow other organisations or individuals to use the church premises for various activities. Arrangements vary from informal and unwritten understandings to a formal lease of part of the church premises. Whether or not the arrangement is recorded in writing, legal obligations arise by virtue of permission being given for the use of the church premises.

These notes are intended to assist churches in the Diocese of Rochester in making effective arrangements, bearing in mind that it is generally sound stewardship of resources for church premises to be hired by others when not required by the church for its own use. You should ensure that any agreement is in writing and, except in very exceptional circumstances, drafted by a solicitor. The Property and Legal Team can advise and put you in touch with one.

**Church Halls – Casual Hiring**

There is no legal definition as to what type of lettings can be classed as casual hiring. The distinction has more to do with whether the document used is characterised as a licence or a lease. As a guide, a casual hiring agreement would be more appropriately documented by way of a licence and may be more appropriate for individuals or groups who rent a hall or other accommodation for a single occasion only or for one or two periods a week. Some examples of this type of user are:

* A church-based under 5s group
* Fellowship Club
* Women’s Institute
* Mothers’ Union
* Alcoholics Anonymous
* Birthday parties or Wedding Receptions

A couple of suggested forms of casual church hall hiring agreements that may be adapted by Parishes for their own use are available from the Diocesan Office. However, you should note that in certain circumstances, exclusive use of premises at particular times and on particular days may be interpreted as a tenancy for which a lease may be more appropriate. Please speak to the Property and Legal department of the Diocese if you are in any doubt.

**Church Halls – Formal Lettings**

Any letting other than a casual hiring may require a more formal agreement between the Custodian Trustee and the user. The PCC may be joined in the agreement as Managing Trustee. This can still take the form of a licence rather than a lease and, indeed, a license is often preferable from the Church’s point of view, as it is more flexible and more easily terminated.

Some examples of this type of user are:

* Nursery Schools
* Small businesses
* Theatre Groups
* Scouts and Guides
* Martial Arts Clubs

If anything other than a short term hire of less than six months duration is contemplated, specific legal advice should be sought in advance.

If you do not do this, you could inadvertently grant rights to an occupier that you had not intended to give. It will also make it more difficult to obtain vacant possession when you want the property back.

You should ensure that any lease is contracted out of the security of tenure provisions of the Landlord and Tenant Act 1954. It is important to be clear about what type of agreement is being entered into; it may in fact be the case that the agreement is a lease even though it is called a licence. Specific legal advice should be sought.

**Matters to Consider**

If you are considering letting out your church hall (the premises), there are a number of matters to consider:

1. whether you have the power to let/hire out the premises;
2. whether the specific use of the premises is authorised; and
3. whether there are any restrictions on how any income arising from the arrangement is applied.

In order to check these things, the following documents will need to be considered:

1. the trust deed (if any);
2. the lease (if the church holds the premises under a lease);
3. the title documents for the premises (i.e., are there any restrictive covenants which prevent the intended use?); and
4. whether there are any relevant planning conditions affecting the premises.

If it is necessary to change the lease, trust deed or title documents in order to obtain the required power or allow the proposed use and there is no power of amendment in the relevant document, then Charity Commission consent may be needed in order to do this (as well as any landlord’s consent, if applicable).

At all times you should check with the Property and Legal Team. The Board’s consent may be needed as well, but they will also be able to advise you on the process and put you in touch with their professional advisers, if necessary.

It is also important to check with any mortgage provider that the letting will not conflict with any terms of the mortgage agreement, if the premises are subject to a mortgage.

**Rating Liability**

Provided that the church is a registered place of worship, then the church building and the halls and rooms used by the church in connection with the place of worship will not have a rateable value and, therefore, will not attract business rates when let out on a non-exclusive basis to another user.

The position may be different if part of the church premises was exclusively let to an outside organisation or individual. The Rating Authority may, in that case, take the view that the particular part of the premises would cease be church premises and should be given a rateable value. In these circumstances, it would be appropriate for the tenancy agreement to provide that the tenant was to be responsible for the business rates payable. Most professionally drafted leases will contain such a provision and legal advice should always be sought.

**Taxation**

Where the church offers no other services as part of the hiring arrangements, the church, as a charity, is entitled to receive income from the use of its premises without being liable for tax.

**Planning Legislation and Faculty Jurisdiction**

Any occupational arrangement on consecrated land, such as parish churches (and sometimes church halls) will require a licence or lease under a Faculty. Even a church hall that is not itself consecrated, but which comes within the curtilage of the consecrated church building itself, will be subject to the Faculty jurisdiction. A Faculty is basically a permission to use or undertake works to a consecrated church building or its contents. Diocesan staff can advise you should this be the case.

Separate from the Faculty jurisdiction but in addition to it, general planning law allows church premises to be used for a very wide variety of uses without the need for further planning permission. These uses are listed in the Town and Country Planning (Use Classes) Order 1987, the relevant paragraph of which is D1, set out below:

Any use not including a residential use:

1. For the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner;
2. As a crèche, day nursery or day centre;
3. For the provision of education;
4. For the displaying of works of art (otherwise than for sale or hire);
5. As a museum;
6. As a public library or public reading room;
7. As a public hall or exhibition hall;
8. For, or in connect with, public worship or religious instruction; and
9. As a law court.

Notes:

1. ‘Day centre’ is defined as meaning:

‘premises which are visited during the day for social or recreational purposes, or for the purposes of rehabilitation or occupational training, at which care is also provided.’

1. ‘Care’ is defined as meaning:

‘personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.’

**Charities Act – Getting the Best Deal For Your Church**

Under the various Charities Acts, any “disposal” (which will include sales or lettings) must be at full market value unless the charitable objects of the proposed user can be deemed to be parallel with the charitable objects of the parish.

Every charity trustee is under a duty to get the best deal for their charity. If the letting is for more than 7 years, it will be necessary to obtain written advice from a surveyor, including a valuation. It may also be necessary to advertise the arrangement (unless your surveyor confirms that this is not necessary).

If the letting is for less than 7 years, you should obtain advice on the proposed disposition from a person whose ability and practical experience makes them competent to advise you. This could be a local lettings agent but diocesan staff can advise you further. On the basis of that advice, you must be satisfied that the terms agreed are the best that can reasonably be obtained for the charity.

**Safeguarding**

You should ensure that that any occupier/user complies with the PCC’s safeguarding policy and:

* Bishop’s Council Policy and Practice Guidance: [Policy and practice guidance | The Church of England](https://www.churchofengland.org/safeguarding/policy-and-practice-guidance)
* Bishop’s Council Parish Safeguarding Handbook: [Parish Safeguarding Handbook](https://www.churchofengland.org/sites/default/files/2019-10/ParishSafeGuardingHandBookAugust2019Web.pdf)
* Church of England Environment and Activities policy: [Safer Environment and Activities Oct19\_0.pdf (churchofengland.org)](https://www.churchofengland.org/sites/default/files/2019-11/Safer%20Environment%20and%20Activities%20Oct19_0.pdf)

Written and signed confirmation should be obtained from the occupier/hirer/organisation/user to ensure that children, young people and vulnerable adults are protected at all times, by taking all reasonable steps to prevent injury, illness, loss or damage occurring; and that they carry full liability insurance for this. The following should be written into a hire agreement:

Any occupier/hirer/organisation/user will:

1. comply with the church Safeguarding Policy or the House of Bishops Safeguarding Guidance (put a link to the church website or a link to the [Policy and practice guidance | The Church of England](https://www.churchofengland.org/safeguarding/policy-and-practice-guidance))
2. If applicable, provide the church with a copy of the organisation’s Safeguarding Policy/ies or if you do not have one adopt the current parish policy or the House of Bishops Safeguarding Guidance [Policy and practice guidance | The Church of England](https://www.churchofengland.org/safeguarding/policy-and-practice-guidance);
3. If applicable, will safely recruit all current paid and voluntary workers who work with children and/or vulnerable adults, by obtaining satisfactory disclosures from the Disclosure and Barring Service where eligible, and keep records of dates and disclosure numbers in accordance with their own organisation’s guidance;
4. If applicable, will keep a list of the names of all paid and voluntary workers with regular and direct contact with children/vulnerable adult, and update it annually;
5. will always have at least two responsible persons over the age of 18 years (who may be leaders or chaperones) in any group of children and young people, no matter how small the group;
6. no person under the age of 18 years will be left in charge of any children or young people of any age;
7. no child or group of children or young people will be left unattended at any time;
8. will ensure a register of children, young people or adults attending the activity will be kept securely. This will include details of their name, contact details of parent/guardian/carer etc., date of birth and next of kin;
9. will immediately (within 24 hours) inform the Parish Safeguarding Officer (PSO) of: the occurrence of any incidents or allegations of abuse or causes of concern relating to members or leaders of your organisation if appropriate, or attendees to the event, and contact details for you or the person in your organisation who is dealing with it.
10. If applicable, manage any known offenders against children or vulnerable adults seeking to join the User’s membership and manage such allegations or agreements with offenders in co-operation with statutory agencies, and with the church.
11. The Parish Safeguarding Officer is [X] and can be contacted on: [X]
12. The User will supply to the parish the name and contact details of their Safeguarding Lead within the organisation or, the event organiser.
13. If the Users’ activities/service is required to register with Ofsted they will provide evidence of the registration

Diocesan staff can advise you further on this.

**Equality Legislation**

Landlords are under a duty under the Equality Act 2010 to make “reasonable adjustments” for disabled people - for example, providing disabled access to the premises. Please note that this is not an absolute duty and depends on the circumstances (for example, the size of the premises and the cost of the changes). Please also note, however, that unlike the duty that applies to employers, the duty on service providers is anticipatory, meaning that they must actively review how accessible their premises are to disabled persons generally rather than waiting for a specific request to be made.

**Insurance**

It is important that the PCC’s Public Liability Insurance Policy covers the use of the premises by outside organisations or individuals. This should cover the Charity Trustees (the PCC) as managing trustees of the premises, if they are held legally liable for accidental bodily injury to members of the public or accidental damage to their property whilst the premises are being hired out.

An additional premium may be required for regular use by outside users, particularly if the premises are used by a playgroup.

Although the PCC is responsible for the safety of the premises, the users of the premises should be required to take responsibility for the activity carried on. For this reason, in appropriate cases (for example a playgroup), the organisation or individual carrying on the activity should be required to produce evidence of their own public liability insurance cover so that if there is an injury because of the activity itself, compensation will be payable through their insurers.

The PCC should check the terms of its Public Liability Insurance Policy and (if necessary) seek confirmation from their Insurance Company concerning:

* the risks covered in relation to the church, its activities, building, church groups, their leaders and volunteers, operating as part of the church;
* whether additional insurance is required because of the hiring arrangement; and
* the implications of the hirer obtaining their own cover for their own activities on the church premises, as some insurance companies may not pay out on a policy if they think the risk is covered by an alternative policy.

The hirer should produce evidence of their own insurance. The risks will vary. There may be less risk of injury to members of a Poetry Club than to members of a Judo Club. The PCC, as Charity Trustees, will want to be satisfied that, in the event of accident, injury or loss as a result of activities operating from the church premises, they are indemnified against any personal liability.

It is also important to ensure that the premises are safe for the intended use and this should form part of the PCC’s health and safety policy.

You must also ensure that the kitchen, toilet and hall all meet current health and safety standards. It is also necessary to ensure that the relevant health safety checks are carried out. This will include testing on electrical appliances (PAT testing), fire safety, asbestos, intruder alarms and first aid.

If food is to be prepared on the premises, the relevant food hygiene legislation and regulations will need to be followed.

**Alcohol**

It is illegal to sell alcohol unless:

* you already have a licence to do so; or
* the venue you are using has a Premises Licence and there is a named supervisor who holds a Personal Licence to sell alcohol; or
* you have served a Temporary Event Notice (for which see below) on the police and the local authority.

Giving bottles of alcohol as prizes in raffles is exempt from the licensing regulations but it is not permissible to sell tickets, which can be exchanged for an alcoholic drink or to ask for a donation in return for alcohol.

**Will you need a premises licence?**

In the first instance, the appointed person must check with the local authority’s Licensing Officer to make sure that the licence you wish to apply for covers entertainment, whether or not the majority of the event will comprise music and/or dancing. The appointed person will need to indicate on the application form what is being applied for and what the licence is to cover.

Only twelve Temporary Event Notices can be given for the same premises in any one year (including outdoor venues).

The appointed person must submit the Notice in his or her own name; and a single individual cannot have more than five Temporary Event Notices in any one year*.*

A Temporary Event Notice can only be for up to a maximum of 500 people, including all staff and performers*.* If the event is going to be bigger than that, the appointed person will have to obtain a Premises Licence – in which case an application for a Premises Licence must be made at least three months prior to the event. Even if you are running your own bar, you still have to follow the same basic legal requirements as a public house:

* you must not serve alcohol to anyone under the age of 18;
* it is an offence under the Licensing Act 2003 to sell alcohol to a person who is drunk; and
* you must display the statutory notices: the Weights & Measures code and proper notice of cost and of volume per glass.

**Unsuitable Use**

Difficulties and embarrassment could be occasioned by a PCC letting premises to an organisation or individual, when not fully understanding the proposed use for the premises. The PCC could be in breach of contract if it cancels the use of the premises when it finds that the premises are to be used for an unsuitable purpose. For this reason, organisations and individuals making application for the use of the church premises should be asked to state clearly the detailed purposes for which the premises will be used and this should be made clear in any written agreement.

The PCC will also need to bear in mind the possibility of discrimination occurring and great care must be taken to avoid any question of unlawful discrimination as part of the hiring arrangements.

Some organisations, such as churches, whose purposes are to promote, practice and teach a particular belief are, in certain circumstances, permitted to impose restrictions on the use of the premises that may otherwise amount to unlawful discrimination on the grounds of religion or sexual orientation.

Under the Equality Act 2010, a church may be permitted to restrict the use of its premises in a way that might otherwise be regarded as discrimination on the grounds of religion or belief, if the restriction is imposed so as:

1. not to conflict with the purposes of the church; or
2. to avoid causing offence to persons of the particular religious belief for which the premises are held.

Under the Equality Act 2010 a church may also be permitted to restrict the use of its premises in a way that might otherwise be regarded as discrimination on the grounds of sexual orientation, if the restriction is imposed so as:

1. to comply with the doctrines or beliefs of the church;
2. to avoid causing conflict with the strongly held religious convictions of a significant number of the religion’s followers.

Please note, however, that the above exemptions will not apply in relation to discrimination on the grounds of sexual orientation if the restriction is imposed in relation to the hiring/use of the premises:

1. on behalf of a public body; or
2. under the terms of a contract between the organisation and the public authority.

A church may also impose restrictions on the hiring out of its premises in order to comply with its Constitution (or governing document) or its property trust deeds, but only insofar as this is compatible with the exemptions set out in the Equality Act 2010 outlined above.

For each type of potential discrimination, the grounds for imposing restrictions on the use of premises may be slightly different. It is important, therefore, that these restrictions are exercised with care, grace, integrity and consistency. The church will need to set guidelines as to the kind of use that it will permit. For example, it may be unwise for a church to allow its premises to be used by any particular political party. Similarly, it may be perfectly proper for the church to have a rule that only Christian worship is to be conducted on the church premises, but this should not be used to prevent, for example, other religious or ethnic groups (who may be predominantly of another religion) from using the premises for social occasions, if the premises are normally available for those social occasions.

As well as having guidelines as to the kind of use that it will permit, the church may find it helpful to have an ethos statement or a statement of faith, beliefs or doctrines within the terms and conditions of use for the hiring out of its premises. This may help in establishing the grounds for imposing any restrictions on use. The church can also make it clear that the premises cannot be used in such a way as to cause offence to persons who hold to the church’s statement of faith, beliefs or doctrines or in any way which conflicts with those beliefs. If it is relevant, it may be sensible for the church to detail any restriction on use contained in its trust deed or governing document. All of the above may help to show how certain uses of the church’s premises are genuinely unsuitable in the particular context.

In addition, there may be stronger grounds for declining an unsuitable use on parts of the church buildings that are consecrated, as opposed to those that are not.

**Applying the Canons of the Church of England**

There are rules set down by the Canons of the Church that relate to plays, concerts, and exhibitions of films and pictures in churches:

1. When any church or chapel is to be used for a play, concert, or exhibition of films or pictures, the minister shall take care that the words, music, and pictures are such as befit the House of God, are consonant with sound doctrine, and make for the edifying of the people.
2. The minister shall obey any general directions relating to such use of a church or chapel issued from time to time by the bishop or other Ordinary.
3. No play, concert, or exhibition of films or pictures shall be held in any church or chapel except the minister has first consulted the local or other authorities concerned with the precautions against fire and other dangers required by the law to be taken in the case of performances of plays, concerts, or exhibitions of cinematograph films, and the said authorities have signified that the proposed arrangements are a sufficient compliance with the regulations in force as to precautions against fire or other dangers.
4. If any doubt arises as to the manner in which the preceding clauses of this Canon are to be observed, the minister shall refer the matter to the bishop or other Ordinary, and obey his directions therein.

**Useful links:**

[Policy and practice guidance | The Church of England](https://www.churchofengland.org/safeguarding/policy-and-practice-guidance) – House of Bishops Policy and Practice Guidance

[Parish Safeguarding Handbook](https://www.churchofengland.org/sites/default/files/2019-10/ParishSafeGuardingHandBookAugust2019Web.pdf) – Parish Safeguarding Handbook

<https://www.gov.uk/guidance/charity-land-and-property> - Government guidance on charity land and property

<https://www.gov.uk/government/publications/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land-cc28> - Government guidance for charity trustees on the disposal of land

<http://www.ecclesiastical.com/churchmatters/churchguidance/churchhealthandsafety/hiringofchurchpremises/index.aspx>

<http://www.hse.gov.uk/index.htm>

<https://www.churchofengland.org/sites/default/files/2017-10/roles-and-responsibilities-practice-guidance.pdf>

This guidance note is intended only to give very general advice in relation to the topics covered. It is not exhaustive. These guidelines should not be relied upon as a substitute for obtaining specific and more detailed advice in relation to a particular matter.