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Amendments:

August 2007. Appendix 12A – cl 3 lunch breaks excluded
 August 2010. Contract revised. Disciplinary procedure non-contractual. Links updated.
 September 2010. Appendix 12G added.
 May 2011 – 12.4 Abolition of default retirement age, 12.12 revised pension plan
 November 2011 – 12.2 HMRC Employment Status Indicator tool added. 12.11 care in recruitment advertising through parish newsletters
 December 2011. Appendix 12C - model job descriptions for cleaners added
 July 2012 – cash in lieu option for pension ceased. Contract amended.
 August 2013 – Extensive amendments. legal working, self-employment, HMRC procedures, Government regulations, pensions, expenses, all links updated
 December 2014. 12.12 Pension letter amended for auto-enrolment. 12.8 Living wage policy.
 April 2017- pension update/booklet, contract enhancements, sick, holiday form

12.1 Introduction – Employee Eligibility

All parish priests need the assistance of lay people in carrying out the many and varied jobs to ensure the parish operates successfully. Many of these jobs are carried out by volunteers without any payment. The Vicar General is the Diocesan trustee responsible for employment in the Diocese.

The parish priest, as agent to the Diocesan trustees, is responsible for checking whether potential employees are permitted to work in UK. It is a criminal offence to employ someone aged 16 or over who has no right to work in the United Kingdom or no right to do the work that the employer is offering. The UK Border Agency oversees all work permit applications and advises on the right to work in the UK. At interview, it is prudent to check an individual's passport shows the right to work in the UK. See website:

<http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/>

12.2 Determination of Employment Status - Self-Employed Persons

It does not automatically follow that where someone is paid for their work, they are an employee. Under certain conditions people can be self employed. Neither the parish nor the individual concerned can decide on the employment status. The key elements in deciding whether individuals are self-employed or employees are the degree of control over their work, the work to be done, the terms and conditions under which they are engaged and current taxation regulations and practices. This is a difficult area, because the parish or individual could unwittingly breach HMRC regulations and thereby incur penalties.

The parish might engage a gardener or handyman for example, to carry out certain tasks on the buildings and grounds. If the individual carries out similar services for other organisations and supplies his own materials and tools, is paid a fixed amount regardless of the time taken, and is free to engage others to help, can decide how and when to carry out the necessary tasks, and could sustain a commercial loss, then these points indicate self employed status. The HMRC "Employment Status Indicator" tool must be used in determining an individual's employment status in relation to the parish - <http://www.hmrc.gov.uk/calcs/esi.htm>. The outcome of the test for each individual should be printed off and retained by the parish to assist in any HMRC investigation. Where the test shows an individual is an employee, then they should have an employment contract and be subject to the usual PAYE procedures as below.

Payments to self employed individuals must be against an invoice from the individual concerned and would be accounted for as an expenditure item in the appropriate category. Expenditure must not be shown in the same category as employees.

Self employed individuals must be made aware of the requirements of the parish Health & Safety at Work policy, with its duties to themselves and to others. Also they must provide their own public liability insurance as, unlike employees, they are not covered by the Diocesan insurance.

12.3 Employees – Taxation and National Insurance

The Real Time Information requirements introduced by HMRC in April 2013 have changed reporting procedures. Now employers must submit a report to HMRC on every occasion that they pay employees. There are in-year penalties for missing submission dates. HMRC has powers to recover tax and NI (potentially with interest and penalties) from the employer; the parish would have to pay.

The adherence to PAYE/NI regulations is extremely important. Please contact the Vicar General if you have any doubts about the tax treatment of parish employees or concerns about the procedures outlined below. When you take on a new employee, s/he must give

you a Form P45. You must operate the full PAYE/NI procedures on all payments made to that person using the data on the P45 as a starting point.

Employees who do not have a P45 should complete a HMRC Starter Checklist. Student employees are treated identically to any other employee, and the former arrangements for student exemptions no longer apply. You must follow the procedures set out in HMRC "New Employees" see: <http://www.hmrc.gov.uk/payerti/employee-starting/new-employee.htm> NI contributions are always at the "not contracted out" rates. All employees must be processed through the parish payroll including those that do not pay either tax or NI.

Parishes will not need to operate the full PAYE/NI scheme provided the following two conditions are met in full:

A - all employees sign Form P46 for Statement A (first job since 6th April) and

B - all employees are paid below the NI Lower Earnings Limit (LEL).

In this case, you need only record in a Wages Book the names and addresses of the employees and the amounts and dates that payments are made.

If you take on casual labour for less than a week, you may not need to complete form P46. If the pay received in the week is less than LEL you need simply to make a note of the employee's name, address and amount of pay. You should note that, in the eyes of the HMRC, a casual employee is an employee who is employed for one week or less in the tax year. If you arrange for the employee to work again at other times in the year, even if this is only on odd occasions, you need to follow the full HMRC procedures.

The complexities of ensuring payroll procedures are processed properly require a high degree of competence from the employer. Parishes may use either the HMRC Basic PAYE Tool: <https://www.gov.uk/basic-payee-tools> or the services of a payroll bureau. The Diocese's recommended payroll bureau is given in (Appendix 12G).

12.4 Employment Contract

The Personal Contract of Employment (Appendix 12A), covering letter (Appendix 12D), job description (Appendix 12C) and pension letter and forms (Appendix 12E) must be issued to all parish employees ideally before commencement, if not within two months of commencing employment. At the same time, employees should be given a copy of the Disciplinary Procedure and Grievance Procedure (Appendix 12B). All personnel employed in parishes are Diocesan employees, as the Diocese is the legal entity in civil law. Most of the points are self explanatory. The job description should follow the model ones as set out in (Appendix 12C). These are deliberately drawn to be wide ranging to allow flexibility of work required by the Employer, and may be modified if required. Over prescriptive job descriptions can lead to difficulties in interpretation. The Government have issued a series of regulations affecting employment and these are included in this guidance.

The parish priest should complete the cover sheet of the employment contract. The employee will usually be responsible to the parish priest, unless s/he has a paid manager (not a volunteer) such as a nursery school manager. The job title should be simple such as parish secretary, cleaner, youth worker etc. The decision to employ anyone in a pastoral role rests with the Bishop alone. Before a parish undertakes any action on this, the parish priest should discuss the proposal with the Vicar General. Before making any exceptions to the standard terms you should contact the Vicar General.

The remuneration is the gross annual salary before tax and National Insurance. For remuneration, hourly rates may be substituted for annual pay.

The hours of work must be stipulated such as "4 hours from 9.00 am to 1.00 p.m. on Tuesday, Wednesday and Thursday". You can add that these hours can be varied by the Employer with agreement. The standard Diocesan full time working week is 35 hours excluding lunch breaks.

There is no fixed retirement age for employees from October 2011 with the abolition of the default retirement age. Employees cannot be asked to retire. The employer may inquire into employees' future plans as part of the annual review – see section below.

Certain roles require the employee to live in parish accommodation free of charge for the better performance of their duties, such as, caretakers or pastoral assistants. This is regulated by a Service Occupancy Agreement which forms part of the employment contract – you therefore need to ensure there is an additional clause inserted in the contract of employment, please contact the Vicar General for details. See Section 8 "Property Management" for details.

If an employee's terms and conditions of employment have to be changed, the parish priest should always explain fully the reasons for the changes and how they will affect the individual. If the employee does not accept the changes, the parish priest should consult the Vicar General. The pension letter and forms must also be issued - (Appendix 12E).

12.5 Government Regulations – National Minimum Wage and Living Wage

All employees of whatever age must receive at least the current national minimum wage set for workers. But parishes should pay employees the higher amount of the "living wage". This will be notified to parishes annually. See Direct Gov website for the legal minimum wage: <https://www.gov.uk/national-minimum-wage>

12.6 Government Regulations – Working Time and Flexible Working

The terms and benefits constantly improve for employees and are clearly set out in the Government website Direct Gov website

[:https://www.gov.uk/browse/employing-people/contracts](https://www.gov.uk/browse/employing-people/contracts)

The Government has implemented many changes and these are summarised below.

Working Time

It is unlikely that parish employees will approach the limits of the regulations for working time. A worker is entitled to an uninterrupted break of twenty minutes when daily working time is more than six hours.

Flexible Working

Employees who care for someone (eg a child or adult) have the legal right to ask for flexible working. The employer is not obliged to agree to any change but must follow the correct procedures as outlined on the Direct Gov website above.

12.7 Government Regulations – Annual, Parental, Emergency, Maternity, Paternity and Adoption Leave and Pay

The terms and benefits constantly improve for employees and are clearly set out in the Direct Gov website: <https://www.gov.uk/browse/employing-people/time-off> It is better to refer to this website as Government regulations are subject to frequent change. However the minimum requirement for paid annual leave is more than satisfied by the contract.

12.8 Remuneration

An Employee is entitled to a clear statement of his/her pay either hourly or annually. The Contract shows that remuneration is made by direct payment into an employee's bank account. However the parish may make payments monthly in arrears by cheque for its employees. As a matter of policy, the Bishop and trustees require all employees to receive the UK Living Wage as a minimum, see <http://www.livingwage.org.uk/>

12.9 Sickness

Upon completion of one year's service the employee is entitled to receive three months' full pay followed by three months' half pay. Statutory sick pay applies for the first 28 weeks of

each period of sickness. It is important to monitor periods of absence over a twelve month rolling period. So for example, an employee could have two months' absence due to sickness, followed by five and a half months' back at work, followed by a further four and a half months' absence due to sickness.

After lengthy period of absence a procedure can be commenced which may ultimately lead to the termination of the contract, but the parish priest must consult with the Vicar General before initiating such proceedings.

The Diocesan Form used to record Self Certificated Absence (for any period of absence up to and including 7 days) and to record the Return to Work meeting between the line manager and the employee is attached in (Appendix 12I)

12.10 Disciplinary and Grievance Procedures

A minor infringement should be dealt with by giving an informal verbal warning. This does not constitute part of the formal procedure. Counselling may be appropriate at all stages including the formal procedure. The procedure is not designed so much as a dismissals procedure, but as a means of encouraging employees to conform to acceptable standards. It is essential for the parish priest to follow the Disciplinary Procedure and keep accurate notes at all stages.

The full Disciplinary and Grievance Procedures are based on guidelines provided by ACAS. ACAS also gives a series of helpful formal notices and letters, as well as detailed advice on disciplinary and grievance procedures at: <http://www.acas.org.uk>. See Appendix 12B.

12.11 Recruitment

The following Diocesan recruitment procedures are relevant, to some degree, in all cases. It may be preferable to select or prefer practising Catholics over other candidates of equal merit. Parishes should seek guidance on this from the Vicar General before making offers. At all stages great care is needed to avoid illegal discrimination on the grounds of sex, sexual orientation, marital status, race, disability, religion or age.

Parishes may need assistance in recruiting the right people. If you need help, contact the Vicar General. The steps normally involved in the recruitment process are:

- advertise
- shortlist
- interview
- references
- safeguarding
- offer to successful candidate
- acceptance
- inform unsuccessful candidates.

Advertising – Parishes are free to decide how, and where, they will advertise job vacancies, although it makes sense to use Catholic newspapers as well as others. Advertisements must be carefully worded to avoid complaints of discrimination on illegal grounds. To this end, advertisements in parish newsletters should request parishioners to inform family and friends of the vacancy and so widen the net. Applicants should be requested to submit a curriculum vitae, which should give full personal and career details. In the case of applicants who are unknown to the parish priest, the names of two referees should also be provided, one of whom should be the most recent employer.

Shortlisting – Great care should be exercised in dealing with applicants in order to avoid accusations of religious discrimination.

Interview – Terms and conditions of employment, duties and responsibilities and remuneration should all be discussed in detail during interview. The interview panel should

comprise at least two people, one male and one female. The candidate must be given an opportunity to ask questions. Careful preparation is necessary by the interviewer(s) to assess the all round suitability of candidates against appropriate criteria.

The points noted above on preferences and discrimination should be borne in mind during interviews. This should be with clear reference to the job description. Careful note should be kept of responses and if necessary the Vicar General should be consulted on how to deal with any difficulties. See the need to have proof of eligibility to work in the UK in 12.1 above.

Taking up references – References should not be contacted until after interview, and then not without the permission of the applicant, particularly in the case of the most recent employer. Telephone references can be taken. No offer of employment can be made until satisfactory references are received. If a medical report is thought necessary, the parish priest should contact the Vicar General for advice on how to deal with any difficulties.

Safeguarding - Where employment involves contact with children or vulnerable adults, the Diocesan Safeguarding guidelines must be followed – see Section 14 "Safeguarding".

Offer – It may be useful to make an offer by telephone, followed by writing a formal Letter of Offer, an example of which is shown in the (Appendix 12D). Note that an oral offer of employment is as legally binding as a written one. The employment contract and job description should accompany the letter.

Rejected candidates – a sensitive letter should be sent, thanking the candidate and, if appropriate, giving carefully crafted reasons for lack of success.

12.12 Pension

In accordance with pension legislation all Diocesan paid employees, who are considered to be 'Eligible Employees' will be automatically enrolled into the Diocesan Pension Scheme. The Diocese operates a three calendar month postponement period.

The parish priest should inform the Diocesan Finance Office of all new starters who are to be automatically enrolled in the Pension Scheme by completing the New Starter Pension Form. Employees may make additional personal pension contributions if they wish. In which case an Additional Personal Contribution Form is available from the Diocesan Finance office.

The Diocesan scheme satisfies the requirements of the Pensions Act 2008

The standard letter issued to employees on appointment is given in (Appendix 12E) along with the New Starter Pension Form and an up-to – date Pension booklet.

12.13 Induction/Orientation of Staff

When a new employee starts work, it is strongly recommended that time should be taken to familiarise the new employee with all aspects of the job and to explain how the job fits into the broader work of the parish, Diocese and its organisations. A Health & Safety induction is essential; all employees should be trained on their first day and sign off the Checklist given in the Health & Safety section 13. The new employee should also be introduced to other people with whom they will be working or with whom they will have close contact – in some cases short periods of 'work shadowing' can be useful.

This process of induction/orientation is often overlooked because it places extra work on already busy people. But the benefits of a thorough induction are immeasurable because it gives a welcoming atmosphere, helps the culture to be absorbed quickly and enables the new employee to get up to speed sooner.

12.14 Employee Reviews

Employees should have a review with the appropriate 'manager' three and six months after joining then annually. A review is an opportunity for a two-way talk between the employee and their 'manager'. It is not an assessment of performance and is not related to any salary increases.

A review helps the parish/Diocese to:

- use their employees most effectively
- to develop the skills of their employees
- to adapt to change.

A review helps the employee to:

- know what is expected of them
- know what they are doing well
- decide what can be done together to develop those strengths
- identify what they are doing less well and any help they may need
- decide what can be done together to make improvements.

Both the employee and the 'manager' should prepare for the review meeting well in advance. See (Appendix 12F) for notes for the employee, notes for the Reviewer and a Review form.

12.15 Promotion of Employees

The Diocese does not have a formal promotions policy. However it should be remembered that a changed job specification or increased responsibility would usually be reflected in an increase in salary. Outstanding performance or major contributions can also be recognised by a salary increase. The Diocese should be consulted if any such increases are being contemplated.

12.16 Exit Interviews

When an employee leaves their job, it is useful for them to have a short and informal 'exit interview' with the appropriate person. This could cover such areas as why they are leaving the job (if not already known), their overall impressions of the parish/Diocese, suggestions for improvement, any areas they found problematical and any ideas on the job specification of their successor.

12.17 Expenses

The parish will reimburse expenses incurred wholly on parish business but only with the prior agreement of the parish priest. See the expenses policy in (Appendix 12H).

12.18 Holiday

An excel form for recording annual leave is attached in (Appendix 12I) for parishes to use if they wish.