



NATIONAL CHURCH INSTITUTIONS

Archbishops' Council

Remuneration and Conditions of Service Committee

Guidance on housing flexibility for clergy office holders

Summary

Providing a house for the better performance of the duties of the office is usually the best option for supporting parochial ministry. The expectation is that most clergy office holders will live in a house provided for the better performance of the duties of the office held, unless there are good reasons for not doing so. This guidance provides examples where alternative provision, whether in the form of alternative accommodation or additional payments, might be suitable. It attempts to highlight some of the pastoral, legal, and tax implications and to recommend good practice with a view to encouraging greater consistency in diocesan arrangements.

The guidance has been produced following consultation with diocesan secretaries, deans of women's ministry, and archdeacons.

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Introduction

- 1. The Review of Clergy Remuneration has resulted in calls for greater flexibility, clarity and consistency on housing provision, both to enable new forms of mission and ministry and in recognition of the fact that the needs of individual clergy and their families will often not be the same and that the provided house may not be the best solution for all.

Purpose

- 2. This guidance, in the form of FAQs, highlights some of the pastoral, legal, and tax implications and aims to recommend good practice with a view to encouraging greater consistency in diocesan arrangements for alternatives to the official provided house.

Scope

- 3. The guidance is provided to assist dioceses when considering housing arrangements for office holders. It aims to distinguish between statements about the legal and tax position, with which dioceses will need to comply and suggestions about good practice, which are only recommendations.
- 4. Dioceses are only required to follow this guidance where it specifically indicates that is the case, although we hope that the majority of dioceses will choose to follow it unless there are good reasons not to do so. The guidance covers all office holders including incumbents, priests in charge and curates. It also covers clergy who hold office in multi-parish benefices and works on the basis that a single house can be provided for the whole benefice.

Guidance on housing flexibility for office holders

Guidance statement

5. Providing a house for the better performance of the duties of the office is usually the best option for supporting parochial ministry. The expectation is that most clergy office holders will live in a house provided for the better performance of the duties of their office, unless there are good reasons for not doing so. This guidance – in the form of FAQs - provides examples where alternative provision, whether in the form of alternative accommodation or additional payments, might be suitable. It attempts to highlight some of the pastoral, legal, and tax implications and to recommend good practice with a view to encouraging greater consistency in diocesan arrangements.

5. The Clergy Covenant invites the Church and especially bishops to “Communicate the resources that are available for the care of ministers and their households. This includes arrangements for the maintenance and improvement to clergy housing.” We hope that this guidance will assist in this.

Responsibilities

6. RACSC will keep this guidance under regular review. It is for dioceses to determine what housing provision or allowance is appropriate for a particular office holder in a particular post, in the light of the existing legal and tax provisions.

1. Why is housing generally provided to clergy office holders?

1.1 Providing housing enables clergy office holders to carry out the duties of their office more effectively for the following reasons.

- It ensures that clergy have suitable accommodation including a study and somewhere to receive visitors and hold meetings.
- Living among those to whom they minister helps to produce a close bond between clergy and parishioners.
- It saves commuting time and costs.
- A provided house enables the minister to be accessible to parishioners.
- Having a supply of clergy houses in the right place enables clergy to live in all areas of the country, despite large variations in local housing costs.
- If clergy don't have to find their own housing before their existing office comes to an end, it makes moving to a new appointment much easier.
- It is possible to pay clergy roughly the same stipend, regardless of where they live, as they aren't faced with variations in housing costs between one location and another.

2. Why don't clergy have more flexibility to live elsewhere than the provided house if they prefer?

2.1 There are a number of reasons for this.

- There is a general expectation that clergy will live among those to whom they minister, unless there is good reason for them not to, for the reasons above.

Providing them with a house is usually the best way of enabling this to happen.

- Incumbents, unlike other clergy, have formal legal title to their house and, if they wished the DBF to rent out the official house and use the proceeds to rent another property¹, they would need to assign their interest to the DBF by a deed of attorney. See paragraph 5.7 and section 12.
- HMRC take the view that the provisions of rent-free accommodation for clergy is not a taxable benefit because clergy are expected to live in provided accommodation for the better performance of their duties except in exceptional circumstances. If it became usual not to provide a house, HMRC might well take the view that the provision of accommodation should be a taxable benefit. This would require those clergy who did get a house to be paid considerably more stipend in order to pay the tax and in many cases (especially where rental values were high) would mean that clergy could not afford to live at all in provided accommodation and would have to provide their own housing and commute into their parishes.

3. What housing provision is appropriate for curates?

3.1 The majority of clergy office holders – especially incumbents, priests in charge, and team vicars - need a house with a study and/or an office located within the benefice for meeting parishioners and holding meetings, although some may also make use of an office that is not in the house.

3.2 However, it is difficult to generalise about what constitutes suitable accommodation by reference to the office held. The degree of responsibility will vary and not all curacies are training posts. Unless appropriate alternatives to the provided house are offered (such as an office elsewhere) curates will require any provided house to contain a study and a place to meet people and host meetings.

3.3 Largely for historical reasons, many curates' houses are of a smaller size than that provided for an incumbent or priest in charge. In many cases, curates, particularly if in training, or without a family, may not need a house of the same size as that usually provided for incumbents. However, in some cases, curates' family circumstances (such as a large number of children) may require alternative accommodation to be provided in the same way that it might be provided for any other office holder. That said, alternatives may need to be considered more often than with other clergy if the housing is smaller than that usually provided. Whilst efforts should be made to take curates' particular housing needs into account, curates should be expected to provide stronger justification for living in a different house than it simply being the preference of the curate and their family.

¹ Alternatively, if they obtained the consent of the diocese, they could lease out the provided house themselves and use the proceeds to rent another property. However, this approach is not recommended as it would be administratively burdensome, the incumbent would have legal responsibilities as landlord, and would need to pay tax on the rent they received.

3.5 Sometimes curates' housing is owned and provided by the benefice rather than the diocese. In other cases, the Diocese might need to rent the accommodation. If the lease is held in the name of the Diocese, then the Diocese pays the rent and provides the accommodation and there is no taxable benefit, so no tax is payable. But if the landlord requires the lease to be in the name of the occupier (that is the curate), then, from the HMRC perspective, the rent is a liability of the curate. The Diocese can either provide a housing allowance to the curate or reimburse the curate for rent actually paid, but, in either case, the amount of the allowance or reimbursement is taxable.

4. What are the alternative options to an office holder living in the provided house?

4.1 These include:

- The bishop can simply give permission for the office holder to live elsewhere, within or close to the benefice;
- The diocese or benefice can provide an alternative house or arrange for another housing provider to do so;
- The diocese or benefice can let the official house to a tenant and (if it wishes) use the rental income to fund the provision of alternative accommodation, although this is not entirely straightforward as the ownership of the house – and hence the legal position - is different for different office holders²;
- The bishop can agree that the office holder should be compensated for not being provided with a house by means of additional stipend (also known as housing allowance);
- The office holder wishes to live in a house provided for the better duties of their spouse or civil partner and the bishop gives permission for them not to reside on the benefice.

4.2 Sometimes it can be difficult to find a suitable alternative property on a long-term let, which may result in clergy needing to move during their time in office.

5. What is the legal position?

5.1 If the office holder is the incumbent of the benefice, the house comes with the office. Clergy office holders who are not the incumbent, but who hold a full-time office for which they are entitled to a stipend, also have a legal right to be provided with accommodation (a 'house of residence').³ Part-time stipendiary office holders also have the right to a house of residence if that is recorded in their Statement of Particulars (SOP) (in other words, it is not an automatic right).⁴

² Incumbents will need to assign their interest in the house to the DBF via a deed of attorney in order to enable the diocese to let the house. During a vacancy if a priest in charge wishes to live elsewhere, any leasing of the parsonage house will need the sequestrators to be a party to the lease. For curates, it will depend on who owns the vacant house.

³ S. 4(1) Ecclesiastical Offices (Terms of Service) Measure 2009

⁴ S. 4(3) Ecclesiastical Offices (Terms of Service) Measure 2009

- 5.2 Where a stipend is not provided, there is no automatic legal entitlement to accommodation, except for incumbents where the office comes with a house. It can, nevertheless, be provided, and if so, should be recorded in the SOP. On a practical level, not providing accommodation may make a vacancy more difficult to fill, and many clergy in such part time⁵ and self-supporting offices are provided with a house.
- 5.3 Where there is a right to a house of residence, it is the obligation of the relevant housing provider to provide it.⁶ In the case of parish clergy, the relevant housing provider is the Diocesan Parsonages Board (DPB). This does not mean that the DPB has itself to provide the house - it can agree with another relevant housing provider that the other provider ('the second provider') will be responsible for providing accommodation in a particular case.⁷ The right to accommodation can be forgone or modified by agreement with the officeholder,⁸ and sometimes a housing allowance may be paid instead.
- 5.4 Where there is a second housing provider, the legal terms on which the property is occupied should be stated⁹ in the statement of particulars.
- 5.5 Beneficed clergy are required to "reside on the benefice" (Canon C25) and the Bishop's permission is required for them to live elsewhere than the official house.
- 5.6 In the case of incumbents, the incumbent has formal legal title to the parsonage house. This is not ownership in the popular sense: the incumbent may not sell the house, for example, and, under the Repair of Benefice Buildings Measure 1972, the Diocese's Parsonages Board has certain duties to repair it. However, the fact of having legal title has particular implications if it is decided to let out a parsonage house when an incumbent chooses not to occupy it.
- 5.7 If an incumbent has been given the permission of the bishop to live in another property (whether or not that property is provided by the Diocese or the benefice), and wishes to fund the rent or mortgage on the other property by renting out the official house, the incumbent, as holder of the legal title to the official house, would need the permission of the diocese to grant a lease and receive any rent (on which tax will need to be paid). In almost every case, therefore, it will be administratively easier for both incumbent and diocese if the incumbent agrees to assign his or her interest in the house to the DBF via a deed of attorney to enable the diocese to let the vacant house and receive the income from it.

⁵ Where an office is part time, it will need to be sufficiently substantial (one third of a full-time post or more) to justify the provision of house that will be regarded by HMRC as being a non-taxable benefit.

⁶ Defined in s. 4(7) of the Ecclesiastical Offices (Terms of Service) Measure 2009

⁷ S. 4(8) Ecclesiastical Offices (Terms of Service) Measure 2009

⁸ S. 4(2) Ecclesiastical Offices (Terms of Service) Measure 2009

⁹ This can be done by referring to another document such as a licence or a lease, which has been given to the office holder.

6. What are the basic principles that a bishop needs to consider before deciding to give permission for someone to live elsewhere than the house provided for the performance of their duties?

- 6.1 In exceptional cases, when the particular circumstances of an office holder and/or their family mean that the official house is not suitable, any alternative arrangements should enable office holders to carry out their duties at least as effectively as they would from the official house.
- 6.2 Flexibility can enable a good appointment in the interests of the benefice, priest and diocese to be made that might not otherwise be possible.
- 6.3 If the office holder does not live within the benefice, they still need a base within the benefice, whether this is the official house or an office.
- 6.4 Often providing an alternative house may prove to be a more suitable option than providing a housing allowance, particularly given the differing tax position, as a house provided for the better performance of duties is not regarded by HMRC as a taxable benefit, but any housing allowance paid along with stipend is taxable.
- 6.5 Full time stipendiary clergy have the legal right to be provided with a house of residence, but may wish to forgo this right and seek permission to reside elsewhere. Sometimes, it may be appropriate to provide a housing allowance in these circumstances, particularly if it is the diocese which is making the request of the cleric to live elsewhere. However, it is a matter for discussion (and careful consideration of the tax implications and the expense to the diocese or benefice). Office holders should not simply expect to receive a housing allowance, and do not have a legal right to be provided with a housing allowance as an alternative to being provided with housing.
- 6.6 Where the office holder gives up the right to accommodation **at the request of the diocese**, a housing allowance would normally be paid.
- 6.7 It is important for clergy not living in the official house to have the understanding and support of parishioners. Care is needed in explaining to parishioners why the official house is not being used, as they may feel rejected if the priest chooses to live away from the benefice.
- 6.8 The office holder still needs to live within reasonable access to the benefice where they minister.

7. In what sort of situations might it be appropriate to consider an alternative option to the provided house?

- 7.1 Some examples are provided below, but these should not be assumed to be exhaustive.
 - When the current house is not suitable for the particular needs of the office holder, for example, because of disability (whether the office holder or a

member of the office holder's household), or where the office holder is a single person and the current house is large with several bedrooms;

- When the office holder lives in another house provided for the better performance of the duties of their spouse or civil partner who is also an office holder;
- When the office holder is already living elsewhere in a house more suitable for the office holder and their family which is not too far away from the benefice, and the bishop agrees that the office holder and his or her family need not move to the provided house (for example when the office holder owns, or is in the course of buying, their own house¹⁰);
- The official house is not yet ready, and it is necessary to house the office holder elsewhere on a temporary basis;
- The official house is rented out and the diocese receives the rent, which the diocese would prefer to use to pay the rent on a more suitable house (although the difficulty of finding a suitable house with a long lease needs to be borne in mind).

8. What weight should be given to the views of parishioners?

8.1 Although there is no requirement to consult parishioners or obtain their consent, it is desirable to ensure their support for and understanding of any alternative housing arrangement. Parishioners may have anxieties about whether their incumbent might be unwilling to meet people in the evenings outside working hours, or whether they are fully committed. Explaining the reason why someone is not living in the benefice can help to resolve these anxieties and avoid an office holder getting off on the wrong foot.

9. Should it make a difference whether the house is in the benefice or not?

9.1 It is not absolutely necessary for a house provided for the better performance of the duties of the office to be located within the benefice – not all benefice housing is located inside the benefice - but it still needs to be reasonably close if it is to be provided for the better performance of duties.

¹⁰ The bishop should bear in mind the longer-term implications of allowing someone to live in their own house when it is located in the benefice where he or she holds office. In particular it might be helpful to discuss at an early stage what might happen after the priest retires, when he or she would normally be expected to retire away from the benefice, in order to make things easier for the next priest. It might be helpful to raise the possibility of whether he or she would be likely to relocate on retirement and to make it clear that any ministry after retirement with PTO would be best carried out in another benefice.

10. When might it be appropriate to give permission to live elsewhere but not provide other accommodation?

- 10.1 Provided that there was an office available as a base within or close to the benefice that the office holder could use as a study and for meetings, and the house where the office holder lives was not too far away, it would not be necessary to provide alternative accommodation if
- the office holder receives housing allowance instead (which might be funded from the rent received from letting out the official house) instead of being provided with a house; or
 - the office holder chooses to live in the same house as a spouse or civil partner who is provided with a house for the better performance of their duties; or
 - the office is part-time (particularly if the duties of the office are less than a third of a full-time post) or no stipend is paid.

11. When might it be appropriate to provide alternative accommodation to the official house?

- 11.1 Examples include
- When the official house is not in a suitable state of repair or ready for occupation; or
 - When another house is more suitable for the office holder's particular needs and those of his or her family (for example if the office holder or a member of his or her household has a disability that requires the house to be adapted); or
 - When the office holder is living in a nearby house that has already been adapted because a disability (whether the office holder's or a member of his or her household) and the office holder prefers not to move, and it is still possible to carry out the duties of the new office from that house.

12. Is it possible to let out the official house if it is not being occupied by the office holder?

- 12.1 Situations where this may be appropriate include when
- an incumbent assigns his or her interest in the house to the DBF via a deed of attorney, which would mean that the diocese would be able to let the vacant house and receive the income from it; or
 - the official house is rented out¹¹ and the diocese receives the rental income, which is used to fund the rent on an alternative house (where an office holder is not an incumbent).

¹¹During a vacancy of the benefice, if a priest in charge wishes to live elsewhere, any leasing of the parsonage house will need the sequestrators to be a party to the lease. For curates, it will depend on who owns the vacant house. Any income from letting a house during a vacancy of the benefice is initially due to the

13. How does this differ from having lodgers where the office holder lives in a house of residence?

13.1 Some clergy who live in a house of residence have lodgers. This means that the office holder remains in occupation and carries out duties from the house, while allowing others to occupy the house at the same time, possibly (but not necessarily) in return for payment. Income from such lodgers will be taxable.¹² It will not be necessary to declare the income to the diocese, which should not adjust the stipend paid to take account of it¹³.

13.2 However, there are a number of steps that need to be taken before the house can be used in this way.

- The office holder, if not an incumbent, must consult the diocesan housing provider (whose consent should not be unreasonably withheld).¹⁴ If the office holder occupies the house under a lease or a licence (which may be the case for some clergy in a provided house), this may restrict their entitlement to allow someone else to occupy the house home. There may also be legal limits in the form of restrictive covenants which limit the use of the property to occupancy of a single family. It is helpful for all clergy (including incumbents even though they have legal title to the house) to consult the diocesan housing provider.
- The official house is a place where members of the public – some of whom may be vulnerable – will be visiting, and clergy need to take that into account. It is therefore recommended that clergy proposing to have lodgers should consult the Diocesan Safeguarding advisor, particularly as some lodgers might be vulnerable.
- The office holder should be encouraged to have a written agreement with any lodger(s) that sets out the ground rules on the basis that the lodger(s) will occupy a room in the residence but share common facilities such as a sitting room, bathroom and kitchen. This is separate from any additional written consent from the housing provider.
- Dioceses may find it helpful to have model agreements that clergy could use, which should also set out

sequestrators, but they have to hand it over to the DBP/DBF when the lease comes to an end (except where a period of suspension of presentation follows, whether immediately or after an interval, a period during which the benefice has been vacant) – see s. 37 of the Church Property Measure 2018.

¹² But see the Government's Rent a Room Scheme, which allows a person to earn up to £7,500 tax-free from letting out furnished accommodation: [Rent a room in your home: The Rent a Room Scheme - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

¹³ Depending on the circumstances it may be wise to formalise such arrangements with a formal licence to occupy, so that all parties are clear what is expected.

¹⁴ see reg 14(e) of the Ecclesiastical Offices (Terms of Service) Regulations 2009.

- a clear provision for either party to give notice to be able to bring the agreement to an end (and what happens when the cleric no longer holds office)
- details of any rent charged
- provisions for a deposit, as clergy will be liable for paying for any necessary repairs as a result of damage to the house by lodgers.

13.7 It is important to acknowledge the potential benefits of these arrangements. An office holder might feel safer having lodgers than living on their own; a single person or childless couple may feel that the house is too big for them and they would like more people there; and income received in this way can also enable clergy to save for their retirement or other needs. An office holder might also choose to house non-paying lodgers, such as asylum seekers or others in particular need. See the recent guidance on accommodating asylum seekers from Ukraine. https://www.churchofengland.org/resources/community-action/war-ukraine-responding?mc_cid=f7dd4dfd9b&mc_eid=f609a72b23

13.8 Using the house to run a bed and breakfast or Airbnb is not something that a full-time office holder would be able to do without affecting their duties, but a spouse or civil partner might choose to do so or run some other business (especially remotely) from the house. Although the consent of the relevant housing provider may not be unreasonably withheld from such an arrangement,¹⁵ it is more complex than a lodger and it would be reasonable for the relevant housing provider to require full details of what is proposed. Again, any income would not be due to the DBF or the benefice. However, dioceses will need to consider whether, if clergy are running a business from the house, the business should be charged for water rates and Council Tax. Clergy will also need to adjust their HLC claims to take account of this.

14. Is it necessary to provide an office/meeting room if the office holder does not live in the benefice?

14.1 Yes. Unless the office holder lives very close to the benefice and has a house that is accessible and suitable for receiving visitors, it will be necessary to ensure that the office holder has a base within the benefice as this will be required to enable them to carry out their duties.

15. When is it appropriate to pay housing allowance to office holders?

15.1 When clergy forgo their right to live in the provided house, there is no legal right to receive an additional payment. The payment of housing allowance and

¹⁵ see reg 14(e) of the Ecclesiastical Offices (Terms of Service) Regulations 2009.

the level at which it is set are matters for diocesan discretion, although diocesan practice should ensure that clergy are treated fairly and consistently.

- 15.2 Much will depend on whether clergy, by not living in the provided house, are faced with additional housing costs. This will not always be the case, for example, if the office holder already owns his or her house¹⁶, or lives in a house provided for the better performance of his or her spouse's or civil partner's duties.
- 15.3 Another factor is whether the request to live elsewhere than the provided house comes from the cleric or the diocese. Sometimes, it may come from the diocese, for example if work needs to be carried out to the current parsonage house, or if an office holder is living in a house provided for the better performance of his or her spouse's or civil partner's duties) and the diocese asks whether they might be willing for the diocese to let out the vacant house which he or she would be entitled to occupy. In other cases, it may be the cleric who requests permission to live elsewhere.
- 15.4 Clergy will need to house themselves in retirement when they are no longer provided with a house for the better performance of their duties. As a result, they can sometimes find it very beneficial to receive housing allowance instead of a house, if this enables them to pay a mortgage on the house where they are living. However, this will be the exception rather than the rule, as the general expectation is that clergy will be living in a house that enables them to live amongst those to whom they minister from which they will carry out the duties of their office.
- 15.5 Housing allowance is taxable in the same way as stipend.
- 15.6 The payment of housing allowance does not affect the level of pension accrued.
- 15.7 Situations when it *might* be appropriate to pay housing allowance instead of providing a house include the following.
- The office holder is living in their own house, carries out their duties from that house, and is not provided with a house to carry out their duties of their office;
 - The office holder is living in a house provided for the better performance of their spouse's or civil partner's duties and does not need a house within the benefice and the house provided to the spouse/civil partner is near enough for the minister without a provided house not to need a base within the benefice to use as an office;
 - The official house that is not required is rented out and the diocese receives the rent (only possible where the relevant office holder is not the incumbent, or where the incumbent signs a deed of attorney);

¹⁶ However, consideration of the long-term implications of someone remaining resident in or close to the benefice after retirement need to be considered and discussed.

- The office holder without a provided house is having to meet the costs of a parish office that can be used as a base when carrying out their duties;
- Where a clergy couple are ministering in the same benefice and share a house.

15.8 Sometimes if the benefice is funding the post and/or providing the housing, it might be appropriate for the benefice to pay the housing allowance (for example if the benefice owns a curate's house and is receiving income from letting it).

16. What are the tax implications of providing housing and alternative arrangements?

16.1 See annex 2.

17. When might it be appropriate not to pay a housing allowance?

17.1 Examples include

- Where an alternative house is provided or still made occasional use of (for example as an office); or
- When the office holder has requested permission to live elsewhere; or
- When a clergy couple each have a house provided and each uses their provided house for the better performance of their duties; or
- Where the duties of the office holder not provided with a house are less than one third of a full-time post; or
- When the office holder is self-supporting (this is because housing allowance is effectively stipend); or
- When an incumbent has legal title to more than one house as a result of holding offices in plurality.

18. Are there situations when might it be appropriate to pay housing allowance at a lower rate?

18.1 Housing allowances are discretionary payments and the level at which they are paid and how they are calculated are at the discretion of the diocese. Dioceses should have clear policies that indicate in what circumstances the standard amount might not be payable as it is important to treat clergy in the diocese consistently.

18.2 Some dioceses may wish to pay a standard rate across the diocese, in the way that a standard stipend is paid, although other dioceses might wish to adjust the rate to take account of local property values which can vary within a diocese as well as between dioceses. Others might take the approach of reimbursing costs faced by a minister who is having to provide their own housing.

18.3 There can be circumstances when, even if there is a standard diocesan housing allowance, it might be appropriate for a diocese to pay less than a full housing allowance, for example

- When there is a house available, but the office holder has chosen not to make use of it (particularly where they are living instead in a house provided for the better performance of their spouse or civil partner's duties); or
- When the appointment is part-time, or no stipend is paid and does not come with a legal right to a house although it is usual for one to be provided (curates and priests in charge only¹⁷); or
- When the cleric has made a request to live in his or her own house but there is unlikely to any income generated from the vacant house as it is difficult to let.

19. Is it appropriate to pay travel costs?

19.1 It is less than ideal for someone to live some distance away from the benefice where they are ministering, although in exceptional circumstances this can happen. In the context of normal lay employment, most people have to pay travel costs in order to come to work, which are not reimbursed nor a claimable expense. If it is the cleric who has asked to live elsewhere, then it would not generally be appropriate to make any additional payment for travel.

19.2 Any payment of travel costs from a house outside the benefice would normally be taxable and would not be categorised as expenses. However, reimbursement of travel costs within the benefice (for example on visits to parishioners, or between the official house and church(es) within the benefice) would be legitimate expenses and would not be regarded as taxable.

19.3 It might be appropriate to make an additional payment to compensate an office holder who was living elsewhere at the request of the diocese, for example if the benefice house was not in a suitable state of repair and it was necessary for the diocese to house the cleric elsewhere. But even here this additional payment would be taxable.

20. Why is it often better for a DBF employee not to receive a housing allowance?

20.1 The remuneration of clergy who are employees of the DBF should be determined like any other employed role. Rather than starting with the diocesan basic stipend for incumbents and adding a housing allowance, it is best to work out an appropriate salary particularly as a house is not generally required for the better performance of the employee's duties. This will give dioceses more flexibility in determining the level of remuneration for vacancies that may not be easy to fill without a provided house.

¹⁷ Incumbents will have legal title to the parsonage house.

20.2 Further information about the implications of an employee post – which will not be eligible to go on the national payroll - is available from clergy.payments@churchofengland.org.

20.3 Dioceses are advised to read *Payroll and benefits implications for employed clergy. A briefing note for Diocesan Boards of Finance*. This sets out some of the implications of providing housing for employees and paying clergy in dual roles where someone is both an employee and a parochial office holder.

21 What provision should be made for clergy couples?

21.1 It is necessary to be aware of the range of ministry offered by clergy couples, and to avoid the assumption that clergy couples all provide the same kind of ministry, or that the same housing provision is appropriate for every clergy couple, when their personal circumstances and the roles they carry out will vary considerably.

- Some couples will be wanting to offer what they see as a joint part-time ministry (equivalent to that provided by a single full-time minister) and will wish to serve in the same benefice and will only need one house and may each receive a half stipend. This would be the equivalent of employees sharing a job, which is not legally possible for office holders as an office can only be held by one person.
- Others, although married or in a civil partnership, will be offering ministries that are essentially distinct and located some distance apart (possibly not even in the same diocese) and may each need a house.
- One may receive a stipend, while the other doesn't.
- One may be in a diocesan employed role or employed as a chaplain, while the other holds a parochial office.
- Others may both be in parochial ministry, in benefices that might be adjacent or some distance apart.

21.2 If clergy office holders are married to one another, or in a civil partnership and each holds a full-time stipendiary office, then they are both entitled to be provided with a house. Sometimes, the right solution can be for each member of the clergy couple to decide to live in and make use of the house provided for their particular office. However, in many cases they may wish to live together and agree with the diocese that both houses are not required (for example, where a suitable office is available, or they both hold office in the same benefice or a benefice close by). Some level of compensation in the form of housing allowance for giving up a house to which the minister is entitled – particularly if this provides an opportunity to use the house to generate rental income – may be appropriate, but this will depend on the circumstances, including whether the request not to live in the provided house comes from the minister for whom it is provided or from the diocese. Sometimes it might be appropriate to pay housing allowance at a lesser rate in these circumstances or not at all.

- 21.3 Where non-incumbent office holders are not working full time, or are not paid a stipend, there is no legal right to housing, but there are often circumstances in which providing a house for a part time or self-supporting minister will be appropriate.
- 21.4 But each case is likely to be different, and needs to be considered in the light of the needs of the couple and their family, the requirements of the particular posts, and the circumstances of the particular case.

22 How to avoid allegations of discrimination?

22.1 The best way to avoid actual or perceived discrimination is to be entirely open, fair and consistent in decision-making. It will be helpful to have a written policy which sets out the approach that the Diocese will take on the issues raised in this guidance, to make it publicly available (e.g., by putting a link on the Diocese's website), to review it regularly to make sure it is still appropriate and addresses the questions which arise in practice, and to adhere to it. When producing a policy, dioceses are recommended to bear in mind the following points:

- Do not make assumptions based on someone's age, gender, marital status or previous ministry about what they might want.
- Do not assume that someone will want to hold office on a full-time, part time, or non-stipendiary basis permanently. Remember that people's circumstances can change, and their availability for ministry can change.
- Do not assume that someone who holds a part time stipendiary office¹⁸ or an office without a stipend - and who is, therefore, not legally entitled to receive a house - should not be provided with a house; whether to provide a house will depend on what is appropriate to enable them to exercise their ministry effectively and their particular circumstances.

¹⁸ Where an office is part time, it will need to be sufficiently substantial (one third of a full-time post or more) to justify the provision of house that will be regarded by HMRC as being a non-taxable benefit.

Approval and review

Approved by	RACSC
Policy owner	RACSC
Policy author	Patrick Shorrocks
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Review date	

Revision history

Version no.	Revision date	Previous revision date	Summary of changes

ANNEX 1

Calculating housing allowances

This will depend on local factors, as property prices vary considerably across the country and the circumstances when an allowance might be appropriate also vary. As they are best calculated locally, a nationally recommended figure is not provided.

We suggest below some possible ways in which housing allowances might be calculated. It will be important for a diocese to come to a view on how the figure should be calculated and then apply it consistently. If a diocese has a policy, it should include how housing allowances are calculated.

Should dioceses pay the same rate all over the diocese?

Property prices and rental values can vary considerably within dioceses as well as between dioceses, but many dioceses may decide that it is better to calculate a single amount that would apply to everyone, just as they generally do for stipend.

A cost-of-living tool giving details of the local rental values for each diocese is available on request from hr.clergy@churchofengland.org

Some dioceses choose to reduce the amount of additional stipend paid where a house is available, and someone chooses to live elsewhere.

Payment of housing allowances

The stipend levels recommended for clergy office holders are on the basis that accommodation will generally be provided free of rent, water charges, maintenance, (building) insurance and the Council Tax¹⁹.

It is therefore suggested that the following elements should be taken into account in calculating an allowance: -

- (1) Rent or mortgage costs
- (2) Water charges
- (3) Repairs and external decorations
- (4) Insurance
- (5) Payment of Council Tax

However, in relation to (1), (2), (3) and (4), if the minister chooses to live in accommodation which is larger (and more expensive) than the diocese would normally provide for the office concerned calculation should be based on the type of accommodation normally provided for that office.

Calculation

The additional stipend could be calculated with reference to the costs the office holder actually is incurring while not living in a provided house. Or a diocese's average figures for a comparable property could be used.

¹⁹ Council Tax is generally the legal responsibility of the DBF, but in some dioceses it is paid by the parish.

It may sometimes be appropriate to pay the actual costs of the house where someone is living particularly when this helps them to get on the property ladder and save for their retirement.

Where there is income from letting the unused house

An alternative approach, where someone forgoes their right to be provided with a house, might be to split the rent from letting the house between the cleric and the diocese, although this comes with a number of issues.

- Rental values vary per property / area so there would be variations in the amounts received, as some properties would generate more rental income than others.
- It might not always be easy to find a suitable tenant or work might be being done to the property. If it was unlet, there would be no rent to split with the cleric.
- It would be necessary to take into account agent's fees, repairs etc to come to a net figure.

Rent or mortgage costs

These can, as suggested above, be based on diocesan figures for comparable properties, or on actual costs incurred by the cleric. Alternatively, it would be possible to base the figure on either (1) rental values taken from data compiled by ONS for an average 4 bedroom house or (2) the cost of owning a property (mortgage capital and interest payments), with a discount applied to take account of the fact that the clergy person would not be benefitting from a capital gain in the value of the house, as they do not own it.

Council Tax

Payment of the Council Tax will be made by the DBF²⁰ so long as the dwelling is the residence from which he/she performs the duties of his/her office. These payments are the liability of the DBF, even if it has been agreed that someone else should actually make them. These payments will not be construed as a taxable benefit-in-kind.

In exceptional cases, where clergy cannot be held to perform the duties of their office from their place of residence the owner will be liable (for example, clergy living in a house that is their personal property or provided for their spouse or civil partner but commuting into the parish and carrying out the duties of their office from a parish office). If the resident member of the clergy is the owner, the diocese may wish to include the amount of Council Tax payable by him/her in the housing allowance. This

²⁰ In some dioceses, the Council Tax is paid by parish although the legal responsibility of payment of Council Tax lies with the DBF.

should be the exact amount payable by the individual plus spouse or civil partner (where applicable).

Office/meeting room

The cost of providing an office/meeting room within the benefice should be met by the DBF where someone lives outside the parish but may be deducted from the housing allowance.

Is it appropriate to compensate for loss of HLC?

If a member of Clergy is part time, they are not eligible for the Heating Lighting and Cleaning allowance (HLC), but they can indeed claim on their tax return. Details are on the website here:

[HLC Scheme | The Church of England](#)

See also notes on the website about claiming this as an expense through the ministers of religion tax return.

Grossing up

Any additional payment (including those amounts paid to the Clergy to cover the Council Tax) should be 'grossed up' to take account of the fact that it forms part of the recipient's taxable emoluments and should not be regarded as a reimbursement of 'expenses'. This will however increase the recipient's National Insurance contributions and an element for this should also be included in the calculation of the allowance.

Annex 2

Tax implications providing housing and alternative arrangements

1. “Living accommodation” provided for an employee²¹ is not a taxable benefit if—
 - (a) it is provided for the better performance of the duties of the employment, and
 - (b) the employment is one of the kinds of employment in the case of which it is customary for employers to provide living accommodation for employees.
2. This is a less stringent test than the test that applies more generally, where it must be “necessary for the proper performance of the employee's duties that the employee should reside in” the provided living accommodation if it is not to be treated as a taxable benefit.
3. If it ceased to be “customary” for clergy generally to be provided with living accommodation, then all – even those who remained in their vicarages - would lose the benefit of the current exception. That would have significant financial consequences, as clergy would need significantly higher stipends to pay the tax on the benefit of their provided accommodation, which could be considerable in areas of high-cost housing. Any general move away from provided accommodation being the case for the clergy contains significant risks. This means that the majority of clergy will need to continue to have accommodation provided for them.
4. This means that not providing accommodation (and paying compensation instead) needs to be the exception and not the rule. Paying compensation loses its rationale unless a majority of clergy are customarily provided with accommodation.
5. However, the provided accommodation does not always have to be the official house, although the bishop’s permission is required to live elsewhere. (Indeed, even the official house does not have to be located within the benefice although it needs to be close enough to be used for the better performance of duties.) The alternative accommodation can still be provided tax free if it is located in the benefice and/or is still used for the better performance of duties. It may therefore be possible to use income from letting out the official house to pay the rent on alternative accommodation. In the case of incumbents, they will have to let out the vicarage themselves, or sign a deed of attorney as it is the incumbent who has title to the official house.
6. If the incumbent rents out the parsonage house and receives the rental income, then the rent must be declared as income to HMRC so that tax is paid on it.

Provisions of housing for clergy who are employees

7. There is need for some care when providing housing for a cleric is an employee. For example, a house provided in the middle of a diocese to a cleric who is employed by a DBF to carry out a succession of interim ministries would be

²¹ Employee” in this legislation being defined so that it includes remunerated office holders.

regarded as a taxable benefit, as the house would not be considered as close enough to be provided for the better performance of the cleric's duties. However, if an employed cleric held an interim office and occupied a house within or close to the benefice for the better performance of the duties of that particular office, then providing a house would not be a taxable benefit.

8. Where clergy are employed by a PCC or DBF instead of being stipendiary office holders, HMRC will accept that they are entitled to the housing exemption if they are serving in a ministerial capacity and the housing is provided for the better performance of their duties. See here:

<https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim11351> .

9. If they serve in an administrative capacity that it is a different matter. Where priests are DBF employees, for example, a DDO who is provided with housing, it needs to be examined carefully to see whether they are actually doing anything ministerial in relation to their housing or not.