

Legalities of being a Churchwarden

Based on notes by Mark Hill QC, which he took from his book *Ecclesiastical Law*.

Role of Churchwardens

“The churchwardens when admitted are officers of the bishop. They shall discharge such duties as are by law and custom assigned to them; they shall be foremost in representing the laity and in co-operating with the incumbent; they shall use their best endeavours by example and precept to encourage the parishioners in the practice of true religion and to promote unity and peace among them. They shall also maintain order and decency in the church and churchyard, especially during the time of divine service.” Canon E1 part 4.

Being chosen, starting and stopping

Churchwardens are chosen annually in each parish by a meeting of the parishioners. Chosen candidates become churchwardens when they are admitted to office, which happens at an Archdeacon's Visitation. To be eligible to be chosen, candidates must be:

- Baptised
- Name on the electoral roll
- Actual communicant
- At least 21 years old
- Not disqualified:
 - o By having served 6 successive periods as churchwarden (can be waived by the meeting of the parishioners)
 - o From being a charity trustee under the Charities Act 2011
 - o By being included on a 'barred list' under the Safeguarding Vulnerable Groups Act 2006 or by having been convicted of an offence in Schedule 1 of the Children and young Persons Act 1933
 - o By being banned by the Bishop following a pastoral breakdown under the Incumbents (Vacation of Benefices) Measure 1977

Churchwardens cease to be churchwardens when their successor is admitted to office or on 31 August after a meeting of the parishioners if they do not stand for election and no successor is chosen. They can resign by giving two months' notice in writing to the Bishop.

Worship and church order

Churchwardens have the power/responsibility to:

- When the minister is incapacitated or there is no minister, may invite readers or suitable lay people to say morning and evening prayer in the parish church on Sundays.
- Prevent people creating disturbances during services in the church or churchyard, and take care that nothing illegal under church or civil law is done there.
- Restrain anyone guilty of riotous, violent or indecent behaviour in the church or churchyard or disturbing the minister officiating there, and if necessary take legal proceedings against them
- Not allow meetings inconsistent with the sanctity of the church, or bells to be rung contrary to the minister's direction.
- Provide bread and wine for communion, with the advice and direction of the minister
- Allocate seats in church, subject to any directions from the Bishop.

Churchwardens cannot interfere with the conduct of a service by the minister unless the minister is riotous, violent or indecent.

Governance and finance

Churchwardens:

- Are ex-officio members of the PCC and Standing Committee. (Candidates chosen to be churchwardens not yet admitted to office are also ex-officio PCC members.)
- Must act as the PCC Treasurer if no treasurer is appointed.
- Must complete the Archdeacons' Articles of Enquiry.
- Are sequestrators (i.e. trustees of the income and property of the benefice) during an interregnum.
- Might be ex-officio trustees of local trusts, etc.

Church buildings

The care, maintenance and insurance of church buildings and their contents are the responsibility of the PCC, not the churchwardens alone. Having said that, churchwardens, as a quasi-corporation, are the legal owners of the plate, ornaments and other moveable goods of the church, and they have specific responsibilities relating to church buildings and their contents. They must:

- Compile and maintain a full terrier of church lands and an inventory of church articles, ornaments and furniture, and keep records of any work, alterations, additions or repairs in a logbook.
- Provide copies of the inventory to a Bishop's designate if requested.
- Inspect or cause an inspection to be made of the fabric of the church every year.
- As soon as practical at the start of every calendar year, give the PCC copies of the terrier, inventory and log book, with a signed statement confirming their accuracy.
- Provide an Annual Fabric Report to the PCC at its meeting before the APCM. The same report must go to the APCM, with any amendments made by the PCC.
- Obtain a faculty (permission from the Diocesan Chancellor) before making any alterations, additions, removals or repairs to the fabric, ornaments or furniture of the church.

Safeguarding

In relation to safeguarding, the churchwardens work with the incumbent, PCC and Parish Safeguarding Officer to:

- Ensure that in the period of a vacancy (during an interregnum), that the incumbent's safeguarding roles and responsibilities are fulfilled, in consultation with the PCC, Parish Safeguarding Officer and the area dean;
- Pay attention to the specific needs of children and vulnerable adults when undertaking health and safety inspections and risk assessment;
- Ensure that risk assessments are carried out before new activities are undertaken;
- Ensure that all parish activities with children and vulnerable adults are adequately supervised and insured;
- Ensure that the parish has procedures for responding to complaints and grievances (this does not mean safeguarding concerns or allegations, which should be covered separately);
- Answer questions regarding safeguarding as they arise in the archdeacons' visitations, and respond to any specific safeguarding advice, which may be given by the archdeacon.