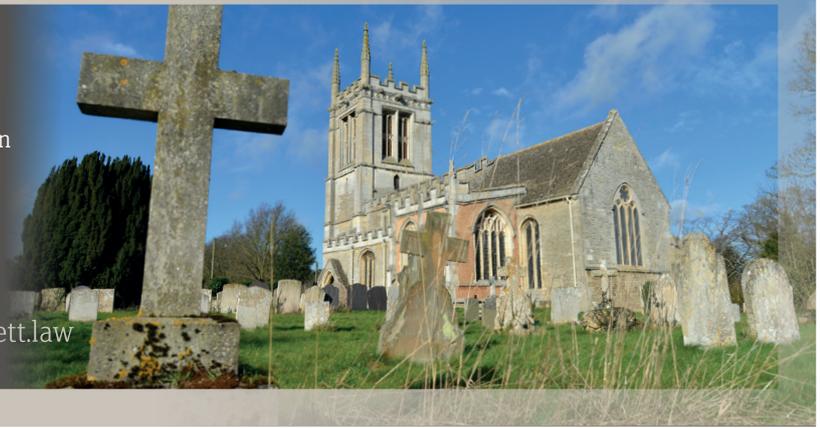


Ecclesiastical law

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Payments to Parochial Church Council (“PCC”) Members: How to avoid making illegal payments

Why should I read this?

Specific legal rules apply to payments to PCC Members or persons connected to them for services or for employment. If the rules are not followed then the PCC and each of its members risk breaching Ecclesiastical and Charity law and the recipient may need to return the payment in question to the PCC.

Scope of note

This note applies to PCCs that are considering appointing a PCC Member as a paid employee of the PCC, paying a PCC member for the provision of services and/or where a paid employee or person who is already being paid under an existing contract for services is elected to be a PCC Member. This note does not apply to the payment of expenses, nor does it relate to the payment of PCC Members by any entity other than the PCC (such as payment of a clergy stipend).

Legal status of PCCs

PCCs are statutory charities and their members are also charity trustees.

General Rule

Unless specific legal authority can be established, PCC Members must not benefit financially from their PCC, nor must any person connected to PCC Members (“**Connected Persons**” – see more detail below) benefit financially in a way that may result in a benefit to that PCC Member.

Legal authority

Can be established by relevant provisions in the PCC’s Governing Documents (see more detail below), by relevant parts of Charity or Ecclesiastical Legislation or, in the absence of such authority, by application for specific authority to be granted by the Charity Commission or the Courts.

Connected Persons

These include a PCC Member’s close family members or legal partners, business partners and institutions or entities controlled by either the PCC Member alone or by the PCC Member with his close family members and/ or his business partners.

As a statutory charity, a PCC is governed by The Parochial Church Councils (Powers) Measure 1956 and the Church Representation Rules 2017 (“CRR”).

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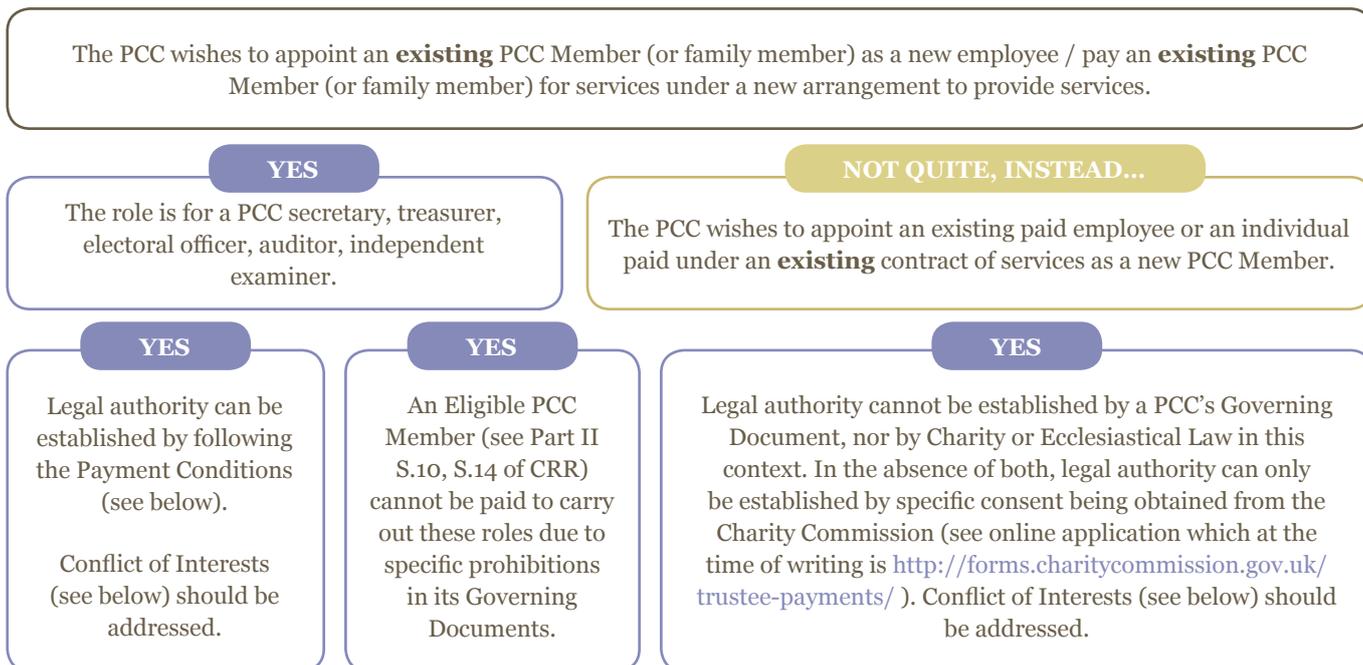
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Establishing legal authority

Establishing whether the requisite legal authority exists to pay a PCC Member or a Connected Person and how PCCs should proceed depends on a number of factors. We have included a flow chart below to assist in a PCC's decision making-process:



Payment Conditions

Before the PCC agrees to make the payment in question, holding a PCC meeting at which it is minuted that:

- the role in question in relation to which the payment is being discussed does not involve the appointment of a paid PCC secretary, treasurer, electoral roll officer or an independent auditor or examiner;
- the PCC is satisfied that it is in its best interests for the services to be provided by the person concerned for the amount, or maximum amount, of remuneration set out in the contract;
- the total number of any persons employed (or providing services) at any time in such a way and any person who is connected to any such person constitutes a minority of the members of the PCC;
- the terms of the proposed contract, including the remuneration paid, are set out in an agreement in writing between the PCC and the person concerned; and
- the amount or maximum amount of the remuneration does not exceed that which is reasonable in the circumstances for the provision by that member of the services in question.

Conflict of Interests

Assuming legal authority has been established, the following recommendations from the Charity Commission's publication *CC11 Trustee expenses and payments* set out some suggestions to ensure PCC Members adhere to their duty to avoid conflicts of interest:

- the PCC Member concerned may not take part in decisions made by the PCC about the making of the agreement, or about the acceptability of the service provided; and

- the PCC Member concerned must not take part in any discussion or vote on any decision of the trustee board in setting the terms and conditions of the payment, or any decision to allow or continue with the payment.

While CC11 is largely not relevant in respect of establishing authority for payments to PCC Members, the recommendations above in respect of conflict of interests could be helpful to PCC Members in such a context. It is important for PCC meetings that address conflict of interests to be properly recorded (so that the PCC has evidence of the details of how the conflict was identified and addressed). For more information in respect of identifying and addressing conflict of interests in the charitable context, also see the Charity Commission publication *CC29 Conflicts of Interests: a guide for charity trustees*.

Accounting Disclosures

PCCs that prepare accruals accounts (being PCCs with gross income of over £250,000 during the financial year) must include details of payments and other benefits to PCC Members and Connected Persons (including family members and businesses) and must note the legal authority under which those payments were made.

The Charity Commission recommends that PCCs that prepare their accounts on the simpler basis (the receipts and payments basis) disclose benefits received by PCC Members.

Further information & our contact details

We hope that this is a helpful starting point. This note does not constitute legal advice. If you would like to discuss any specific situation with a member of our team, please contact either **Caroline Mockford** or **Lara Jones** on **01904 611 411**.