

CONFIDENTIAL FILES ON CLERGY

Guidance Notes
for
Bishops and Bishops' Secretaries

Issued from Lambeth Palace, London SE1 7JU
March 2009

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Purpose of Personal Records

1. The purpose of keeping personal records is to assist the effective care of the people whose records are being kept. They supplement the uncertainties of memory with accurate and factual data. They are thus of benefit both to the Church and to its clergy.

Data Protection Principles

2. Data protection legislation covers all data which relates to an identifiable living individual. The definition of processing is wide-ranging and includes the obtaining, holding and disclosing of personal data. There are a series of fundamental data protection principles, with which data processing must comply.
3. In summary, the eight principles are that data should be
 - a. Processed fairly and lawfully and only if certain conditions are met
 - b. Processed only for specified and lawful purposes/ in ways compatible with them
 - c. Adequate, relevant and not excessive in relation to the purposes
 - d. Accurate and up-to-date
 - e. Kept for no longer than necessary for the purpose
 - f. Processed in accordance with the strengthened rights granted under the Act
 - g. Kept securely
 - h. Not transferred to any country without adequate data protection.

There is a helpful data protection web-site <http://www.ico.gov.uk>

4. The Data Protection Act 1998 ("DPA") came into force on 24th October 2001. In consequence, attention must now be given to the following:
 - a. The eight principles should be read, understood and implemented.
 - b. 'Data controllers' and 'data processors' should have been agreed with the diocesan bishop.
 - c. The agreed data controller should notify the Information Commissioner. Notification is a statutory requirement and every organisation that processes personal information must notify the Information Commissioner's Office (ICO), unless they are exempt. Failure to notify is a criminal offence. Notification is the process by which a data controller informs the Information Commissioner of certain details about their processing of personal information. These details are used by the Information Commissioner to make an entry describing the processing in the register of data controllers that is available to the public for

inspection. The form for notification is available from the Information Commissioner's Office web site - http://www.ico.gov.uk/what_we_cover/data_protection/notification.aspx

- d. You should have established satisfactory arrangements, both for paper and computerised records¹.
- e. Do all that you can to ensure that current and future managing of confidential records complies with the eight principles;
- f. Existing records should have been checked so as to bring them up-to-date in line with the new culture, and in the knowledge that those on whom you keep files have had the right to demand subject access to their files.

General Principles

5. All essential papers relating to a minister need to be kept separately and securely in his or her personal file. Batches of new blank Clergy Personal files (blue) can be obtained from: Rebecca Rowland at the Bishops and Cathedrals Department of the Church Commissioners; email: rebecca.rowland@c-of-e.org.uk
6. These files need to be kept up to date and be regularly reviewed in order to discard irrelevant *and* out of date material, otherwise they lose much of their value. Reviewing and thinning out of the right kind is particularly important before a file is sent forward to another diocese.
7. Personal files should contain only information of continuing interest to those concerned with the minister's development including the pastoral care for them and their family; this information needs to be accurate and relevant, and care needs to be taken to see that it is not defamatory or discriminatory. Any material that has been received in confidence should be kept on the file clearly marked '*Confidential*' (*and may be stored in the file in a sealed envelope*), so that it is not disclosed inadvertently without the consent of the sender². Similarly, any legal advice might usefully be marked '*Legally privileged -- not to be disclosed*'.
8. Papers of an ephemeral nature (e.g. relating to visits by bishops to a parish for confirmation or other purposes) or relating to other parish officers/ volunteers should ideally be kept (if they need to be kept at all) not in the personal file but in a separate parish file.
9. Area bishops are likely to be data controllers in their own right. If they have not already notified, they should do so immediately. Other suffragan bishops and archdeacons will usually be data processors, and need to be strongly encouraged – and regularly reminded – to send a copy of all material in their possession relevant to the personal files to you so as to avoid unnecessary duplication. It is particularly important that, when a cleric moves to another diocese, you call in the relevant papers held by a suffragan bishop and the archdeacons and add them to the file, particularly if they have been less than diligent in carrying out what is suggested above! It is important that all suffragan bishops and

¹ It is important to remember that material now often consists of e-mail correspondence and attachments. Material should be kept securely regardless of format and if held on computer, regular back-ups of data should be made and stored separately from the computer.

² See section 7 and 8 of DPA 1998

archdeacons are made aware of the need regularly to destroy unnecessary out-of-date material, and not to hold material without the knowledge of the diocesan bishop (their data controller).

Subject access to files

10. The DPA confers a right of access by an individual to see personal data held about him or her. This does not mean, however, that clergy can simply walk into the bishop's office and demand to see their files. Under the DPA, a subject access request must be made in writing and a fee of up to £10 can be charged.
11. Once the fee has been paid and the data controller has received any information needed from the applicant, the data controller has 40 days to respond to the request. The information should be supplied in the form of copies unless that would involve disproportionate effort.
12. Not all personal data held should necessarily be disclosed on a subject access request, and bishops' offices should seek advice from the diocesan registrar. In particular, care must be taken in relation to any information which relates to an identifiable third party. Such information should not normally be disclosed without the third party's consent, unless it is reasonable in all the circumstances to do so. There are also exemptions which permit data to be withheld where disclosing it would prejudice the prevention or detection of crime, or the proper exercise of functions designed to protect the public from professional misconduct or incompetence.

Contents of Files

13. Again, it is important to read this section in the light of the data protection principles.
14. The personal file provided for use in the Church of England is divided into six sections, as follows (starting at the front of the file):

Personal Details

15. Bishops need to have readily available not only the basic biographical details about the man or woman for whose care they are responsible but also information about the special interests and skills which clergy have developed.
16. The *Register of Ministers Form* completed by the minister should be placed under the top divider and provides the base document. This document will require revision by the minister at regular intervals. As minimum, this form should be sent to the minister for review every five years and totally renewed on a 10-year cycle in order to keep it up-to-date. A copy of this *Register of Ministers Form* may be sent to patrons when a minister is being considered for a vacancy.
17. Papers relating to the Past Child Protection Cases Review protocol including the Review cover sheet showing that the files has been independently reviewed and any outcomes should be kept on the file next to the '*Register of Ministers form*'.

18. **Papers relating to allegations of wrongdoing including allegations, investigations and disciplinary matters** - The guiding principle is that **all relevant information** is to be kept in the Blue file and that separate or parallel files should not be created or maintained. Working papers should be fully maintained while any issues are being dealt with but on completion may be weeded unless the issue being dealt with is of a serious nature (e.g. allegations relating to child protection or vulnerable adults) in which case a complete file should be retained. As a minimum a summary note of any issue must be kept on file indefinitely and this must include the following information:

- Issue or allegation and source and relevant dates
- How dealt with and outcome and relevant dates

This is necessary to protect both the individual and the organisation. If in doubt about when to keep files in full or weed, advice should be sought from the diocesan registrar in consultation with the diocesan safeguarding adviser where appropriate but in general it is advisable to err on the side of keeping information.

The outcome of Past Child Protection Cases Review and actions should also be kept in the blue file indefinitely.

Selection and Training

19. This section needs to be confined to –

- a. the papers sent by the Ministry Division of the Archbishops' Council to the diocese in which a minister was ordained, and may include the report of the conference which recommended him or her for training, and the reports sent to the bishop by the college in the penultimate and final years;
- b. paperwork in connection with an application for a faculty under Canon C4.3A, may also be kept. This faculty allows a person who is divorced and remarried, or who has married a divorced person, to proceed to a selection conference. Lambeth Palace and Bishopthorpe keep these records for 10 years, so it is not strictly necessary to retain the papers after the candidate has been ordained to the priesthood. If a faculty has been granted but the candidate has not been accepted for ordination, you may wish to consider retaining the paperwork in case he or she re-presents him or herself for ordination after a ten year gap.

Appointments

20. This section will include - paperwork concerned with appointments;

NOTE:, A note of the 'disclosure' reference number of the Criminal Records Bureau, the type of disclosure and date of disclosure ONLY may be kept on the file. Copies of the Disclosure certificate must be destroyed within 6 months after a recruitment decision is made. The papers relating to any assessment of risk pertaining to a disclosure or other investigations also needs to be kept on the file.

Ministerial Development Review & CME

21. This section will include -

- a. Ministerial Development Review documents;
- b. Initial and Continuing Ministerial Education documents (IME & CME)
- c. memos relating to performance;
- d. relevant comments about a minister's potential for particular posts

Finance, Housing and Health

22. This section will include -

- a. relevant papers on financial issues;
- b. relevant papers on housing;
- c. relevant papers relating to a minister's health;

Other (including leave)

23. This section should include documents relating to leave, sabbaticals, special duties and/or responsibilities. Material relating to family circumstances should only be held if it is pastorally relevant. This section should also be used for documents not covered elsewhere. These should be filed in chronological order, starting at the back of the section.

Whom should the system include?

24. There should be a current file for every minister who holds the bishop's licence, i.e. all licensed clergy, whether in receipt of a stipend or not, and whether the licence is general or restricted (as in the case of the ordained local ministry); it should include all licensed accredited lay clergy and Church Army staff. Clergy who hold a 'house for duty' post and are licensed should also be included.

25. It should not include readers (other than any stipendiary readers, of whom there are very few), lay employees, or clergy in the diocese who do not hold the bishop's licence (note: retired clergy with permission to officiate will have such a file, but it will be 'closed' once s/he retires and will be forwarded to the diocese to which they move – see paragraph 32 below).

26. The system was introduced in 1986. It is not impossible that a very few clergy – Service Chaplains mostly who have been out of the parochial system since before 1986 – still do not have a file. It will be necessary to open a file for them when they return to the parochial system.

Where should files be kept?

27. Files should be kept in the bishop's office by his secretary, and ought not be removed from that office.

28. In some cases there may be identical files in the hands of diocesan and area bishops, as separate 'data controllers' within the meaning of the Data Protection Act, though this is to be discouraged as it creates a risk of incomplete or only partially overlapping files being held in different places.
29. When a minister moves to another diocese, even in the case of retirement, the file needs to be forwarded as explained in paragraph 32 *et seq.* If more than one file exists, these files need to be amalgamated carefully before being sent on.

Who should have access to personal files?

30. It is prudent that as few people as possible should have access to personal files. In addition to the diocesan or area bishop, whose files they are, access needs normally to be limited to any area or suffragan bishop and members of the bishop's personal staff (i.e. his secretary and his chaplain). For subject access see paragraph 10-12.

Updating of files

31. The bishop's secretary is responsible for the regular maintenance of the personal files, and in accordance with data protection principles. So, please will you ensure that:
 - a. A file is opened on ordination with a completed *Register of Ministers Form*, together with the appropriate Ministry Division documents.
 - b. You have some kind of system in place for the regular up-dating of the *Register of Ministers Form* in line with paragraph 16.
 - c. The file is passed on appropriately (see below) when the minister is given a new appointment.

Forwarding of files upon a new appointment, retirement, death or on leaving the ministry

32. It is the responsibility of the diocese from which the minister moves to forward the file to its correct destination. For retired clergy files should not be forwarded until a request is received from a new diocese where the minister has sought permission to officiate. **The Golden Rule** is – the file is kept by the bishop whose licence the minister holds or, if he/she does not hold a current licence, then by the bishop who last gave him/her a licence. So
33. Where a minister **moves to a specialist ministry in England** (e.g. the Secretary of a Missionary Society), and he/she is to hold a bishop's licence, the file should be sent to the diocesan bishop who licenses the minister. If he/she is to serve under contract and without a licence from a bishop, the file should remain with the diocese in which the minister was last licensed.
34. Where a minister **goes overseas** (i.e. to a diocese or a job outside the Church of England) the file should be retained by the sending diocese. The bishop may, however, send a copy of the minister's biographical details and a covering letter to the overseas diocesan bishop. Copies of other papers may be sent at the bishop's discretion. Please remember that the **Diocese in Europe** is part of the Church of England and not, for these purposes, an 'overseas diocese'. However, it is against the data protection principles to transfer

personal information to a country outside the European Economic Area unless adequate safeguards are in place [The EEA consists of the 27 member states of the European Union plus Iceland, Liechtenstein, and Norway]. Great care therefore needs to be taken if a minister's explicit consent has not been obtained for the transfer of information (and consent should be obtained for such a transfer, wherever practicable). Good practice in relation to information that may be crucial to the protection of others *must* be followed. This is not usually subject to data protection restrictions. If in doubt consult with the Child or Adult Protection Adviser for the Diocese.

35. Increasingly there is an easy traffic in files between the Church of England and the **Church in Wales**, and reciprocal arrangements exist whereby files can be safely sent to Welsh bishops when a minister moves to the Principality. Similar arrangements do not currently exist for the **Episcopal Church of Scotland** or the **Church of Ireland** so files should not be sent, though it might be helpful to copy key relevant documents to the receiving bishop in Scotland or Ireland.
36. As the Archbishop of Canterbury is the Ordinary to the Armed Forces, the personal files of those being licensed to the **three armed services** as chaplains should be sent to the Archbishop's Patronage Secretary at Lambeth Palace. When a chaplain has completed his/her term of service in the Forces his/her file should be requested from Lambeth Palace by the bishop in which diocese he/she is to be licensed. As noted above, the file system was introduced in 1986. A very few clergy – most often service chaplains who have been in post since before 1986 - may not have a file. It may be necessary to open a new file for them.
37. Where a minister is appointed to a **Royal Peculiar**, the file needs to be sent to Lambeth Palace. (Logically the file should be lodged with the Prime Minister's Appointments Secretary at 10 Downing Street, since the Queen becomes the minister's Ordinary. There are so few, however, that it has been agreed that they should be kept at Lambeth.)
38. When a minister **retires**, the file should be forwarded to the diocese to which they move, but only when a request is received from a new diocese. Where a minister holds more than one Permission to Officiate the blue file should remain in the first diocese to issue a PTO and a note held on the file to indicate which other dioceses have also issued PTO. The other dioceses should keep a note of where the blue file is held.
39. When a minister leaves the ministry of the Church of England their file should be kept in the diocese from which they last had PTO and retained until they reach the age of 70 years or for six years after they have left the ministry, whichever is the longer.
40. On **death**, the file should be reviewed and thinned more stringently, then retained for seven years before being offered to the diocesan archives, usually the County Record Office. The file remains the property of the diocese, and will be kept under whatever arrangements have been agreed with the County Record Office as regards their confidentiality, appraisal and long term retention or disposal. It is suggested that the file is not to be open to public inspection for, say, 30 years without the express written consent of the bishop. It is important that when a retired minister dies, the Pensions board informs the bishop's secretary in the diocese where the minister last resided.

The files of senior clergy

41. The file for the **Archbishop of Canterbury** is kept by the Canterbury Provincial Registrar and that for the **Archbishop of York** by the York Provincial Registrar. On retirement the file should be sent to the Lambeth Palace Library.
42. Files of **diocesan bishops** are kept at Lambeth or Bishopthorpe respectively. When a man becomes a diocesan bishop it is the responsibility of the diocese from which he comes to forward the file to Lambeth Palace (to the Archbishop's Premises and Administration Secretary) or Bishopthorpe (to the Archbishop's Secretary). The file should remain there on the bishop's retirement. On death the file will be deposited and will be subject to a 30 year confidentiality rule.
43. The files of **suffragan bishops, archdeacons, deans and residentiary canons** should be kept in the diocese to which they are licensed. On retirement and death the practice set out in paragraphs 38 & 40 above should be followed.
44. Before forwarding a file, please see that it is properly reviewed and thinned, pack it securely, mark it "Private and Confidential" and mail it preferably by Guaranteed/recorded delivery.

The Preferment List

45. Papers relating to the preferment list should be kept separately by the bishop, and a separate note should be sent to a receiving bishop when a cleric moves to another diocese.

Archbishops' List

46. A minister under discipline will have a file about him/her at Lambeth Palace or at Bishopthorpe. Papers in connection with the formal disciplining of a minister should **not** be placed on the personal file but be retained separately by the diocesan bishop, in consultation with the diocesan registrar. Most, if not all of the material will be subject to exemption from disclosure, either as '*Confidential*' or '*Legally privileged*', or because of the general exemption relating to disciplinary material under section 31 of DPA 1998. Subsequent papers relating to professional child or adult risk assessments carried out with the full consent of the minister concerned should be kept on the Blue file indefinitely except when the person is deceased.

Publication History

Issued 25 August 2005 by Lambeth Palace.

Revised and re-issued June 2008 to take account of changed practice for location of files of retired clergy.

Revised and re-issued March 2009 to include advice on subject access to blue files under data protection legislation and advice on management of sensitive information.

Records Management Guides from the Church of England

The Libraries and Archives of the National Church Institutions have produced a number of Records Management guides. All are freely available to download from the Church of England Website: www.cofe.anglican.org/about/librariesandarchives

Others in the series are:

Keep or Bin: The Care of Your Parish Records

Save or Delete: The Care of Your Diocesan Records