

Session 1

What every churchwarden and parish councillor needs to know

Presented by

Steve Lucas

Manager, Legal Services
Sydney Diocesan Secretariat

SDS

Church Administration Conference – Saturday 16 June 2007

The value of good administrators

- Skills in administration are valued in the Bible.
- Administration is ministry.
- Administrators important for gospel ministry.

The problem of poor administration

- Ministry compromised.
How?
- Ministers become administrators.
- Reputation of the gospel damaged.

The present environment

- Challenge of filling administrator roles.
- Increasing external regulation.
- Reduced exemptions from regulation.
- Pressure to justify existing exemptions and benefits.

The legal framework of the Anglican Church

- Anglican Church of Australia Constitution Acts of 1902 and 1961.
- Synod as the parliamentary body of the Diocese.
- Synod's power to make ordinances.

The legal framework of the Anglican Church

- Parish administration governed by the Church Administration Ordinance 1990.

Relationship between the parish council and churchwardens

- Parish council the governing body on property and money matters.
- Most churchwarden functions exercised subject to the policy & direction of the parish council.
- But parish council cannot prevent churchwardens exercising their functions.

Notable ordinances

- Accounts, Audits and Annual Reports Ordinance 1995
- Annual Leave Ordinance 1983
- Assessments and Charges Ordinance 1975
- Assistant Minister's Ordinance 1990
- Discipline Ordinance 2006
- Church Grounds and Buildings Ordinance 1990

Notable ordinances cont...

- Investment of Church Trust Property Ordinance 1990
- Long Service Leave Ordinance 1973
- Nomination Ordinance 2006
- Parishes Ordinance 1979
- Parishes (Special Administration) Ordinance 2004
- Use of Church Property Ordinance 1995
(available at www.sds.asn.au)

Parishes (Special Administration) Ordinance 2004

- Facilitates planting of new ministries.
- Focus moved from buildings to people.
- Must opt in for it to apply.
- Enfranchises offsite congregations.
- Provides for parish wardens.
- Provides option for congregational representation on the parish council.

Church Trust Property

- Property and funds of the Anglican Church held on charitable trusts.
- Use or application must be consistent with trusts.
- Trusts may be written or inferred.
- Churchwardens are local trustees.
- Real property under the trusteeship of Anglican Church Property Trust Diocese of Sydney.
- Real property can only be sold, mortgaged or leased if authorised by ordinance.

Legal liability

SDS

Employment practices

SDS

1. WorkChoices does not apply to parishes

- By and large it only applies to corporations.
- Two exceptions – unlawful termination and parental leave.
- See Employment Relations Guidelines for further detail.

2. Put written agreements in place with your employees

- Why?
 - Control over terms.
 - Avoid misunderstandings.
 - Employees want to be clear about their responsibilities and entitlements.
 - Assists in solving disputes.
- SDS has produced standard agreements.

3. Don't treat clergy licensed to your parish as employees

- Licensed clergy are office holders.
- Laws of employment don't apply.
- Issuing a letter to clergy could establish a parallel employment relationship.

4. Act on performance and misconduct issues at an early point

- Failure to act may be inferred as acceptance of the conduct.
- Don't attribute intent – the underlying reason for conduct may not be self-evident.
- Dismissal should be a last resort.

- Prior to any dismissal you should –
 - particularise the issues,
 - give the person a fair and reasonable opportunity to respond,
 - give a warning that dismissal may result if there is no change within a specified and reasonable period,
 - commit the issues to writing if they are ongoing.

5. Exercise caution if making an announcement about a dismissed employee

- If the announcement is negative in any way seek legal advice.

6. Don't remunerate volunteers

- Remuneration = employment.
- Obligations come with employment.
- Reimburse expenses incurred but no allowances.

Employment Relations Guidelines

- Comprehensive commentary on employment law as it applies to parishes.
- Key features are standard letters of appointment.
- One set per parish.

Legal Services Contacts

Steve Lucas

Manager, Legal Services

9265 1647

szl@sydney.anglican.asn.au

Priti Pasupuleti

Legal Officer

9265 1613

pxp@sydney.anglican.asn.au

Website – www.sds.asn.au

The logo consists of the letters 'SDS' in a bold, white, sans-serif font, enclosed within a dark blue rounded square with a white border. The background of the slide features a teal and blue gradient with abstract white lines.