



Anglican Church Diocese of Sydney

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Circular to Ministers and Wardens

Reminder – Notification obligations under the Australian Charities and Not-for-profits Commission

As advised in my recent circular memorandum of 21 December 2012, your parish now has a number of obligations under the new charities regulator, the Australian Charities and Not-for-profits Commission (ACNC), which commenced operations on Monday, 3 December 2012.

The ACNC's website can be found at www.acnc.gov.au.

One obligation of particular relevance to parishes at this time of the year is to notify the ACNC of any change to the membership of your parish council that occur on or after 3 December 2012.

As most parishes will have just held, or are about to hold, their annual general meeting it is very likely that your parish will need to advise the ACNC of changes to the membership of your parish council.

You have 28 days to notify the ACNC after you first become aware of these changes, unless your parish's annual revenue is less than \$250,000 in which case you have 60 days.

Notifying changes to the membership of your parish council

Changes to the membership of the parish council (ie, the "responsible persons" for your parish) must be notified to the ACNC using "Form 3A: Responsible person change" which can be found under "Manage my charity" on the ACNC's website. This includes any change to your minister and those wardens who are members of the parish council.

Details of change and evidence change occurred in accordance with governing rules

Section B of Form 3A requires you to provide details of the change and evidence that the change occurred in accordance with the parish's governing rules (ie, the Parish Administration Ordinance 2008). It is not entirely clear how far the ACNC expects parishes to go to satisfy this requirement. However, for the time being, it is suggested you provide the following with the completed form (as relevant) –

- For a person who is newly elected by the annual general meeting or newly appointed by the parish council as a warden or parish councillor, an extract of the minutes of the relevant annual general meeting or parish council meeting at which the warden or parish councillor was elected or appointed.
- For a person who is newly appointed by the minister as a warden or parish councillor, a brief statement explaining that the person was appointed to this office by the minister under the Parish Administration Ordinance 2008.
- For a new minister, a brief statement explaining that the new minister has been appointed and licensed by the Archbishop.

- For a person who has ceased being a member of the parish council for any reason (eg, resignation, election of successor, death etc), a brief statement explaining why the person ceased being a member under the Parish Administration Ordinance 2008.

Please note: it is only necessary to notify changes in the membership of your parish council. It is not necessary to notify the ACNC of persons who were members of parish council prior to 3 December 2012 and have been re-elected or reappointed to the same or a different position on parish council. In such cases there is no change to notify.

Private benefit

Section E of Form 3A requires you to indicate whether any new member of the parish council receives a “private benefit” from the parish.

Again, it is not entirely clear how the concept of “private benefit” applies in the parish context. However the guidance provided by the ACNC on its website suggests that these are benefits received by a parish councillor in a private capacity (such as money or services) but do not include any benefit obtained from services which the parish provides to the public as part of its ministry, such as attending services of public worship.

While you will need to consider whether a new member of parish council receives any private benefit on a case by case basis, it is suggested that, as a minimum, you respond as follows (if relevant) –

- For any person who becomes a member of the parish council and who provides any services to the parish for payment, a brief description of the nature of these arrangements (bearing in mind that the Parish Administration Ordinance 2008 provides that a warden cannot be an employee of the parish and a parish councillor cannot be the auditor of the financial statements of the wardens).
- For the appointment of a new minister, a brief statement that he receives the applicable stipend, allowances and other benefits for his office as the minister of the parish.

Parallel reports to Diocesan Registrar

Notifications to the ACNC about changes to the membership of the parish council do not replace the need for the minister to report to the Registrar changes to the wardens and other parish councillors under the Parish Administration Ordinance 2008 (rule 3.19 Schedule 1 and rule 3.18 Schedule 2). However, in due course, it may be possible to streamline these separate reporting obligations.

Finally

In addition to changes in the membership of your parish council, you must also notify the ACNC of –

- any change to the legal name of your parish
- any change to the address and other contact details that should be used by the ACNC for sending communications to your parish

Please refer to the Circular dated 21 December 2012 for more details.

If you have any questions about your notification obligations to the ACNC, please contact Brian Ducker at bcd@sydney.anglican.asn.au or on 9265 1646 for assistance.



ROBERT WICKS
Diocesan Secretary