

DIOCESE OF MAITLAND-NEWCASTLE  
NSW, AUSTRALIA

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**FACULTIES AND INSTRUCTIONS  
FOR THOSE APPOINTED TO PARISH LEADERSHIP  
UNDER CANON 517  
2017**

DECREE  
GRANTING FACULTIES AND PROVIDING INSTRUCTIONS FOR  
THOSE APPOINTED TO PARISH LEADERSHIP UNDER CANON 517  
DIOCESE OF MAITLAND NEWCASTLE (the Diocese)  
BY THE GRACE OF GOD AND THE APOSTOLIC SEE BISHOP WILLIAM WRIGHT,  
BISHOP OF MAITLAND-NEWCASTLE, NSW, AUSTRALIA

Given the involvement of lay persons in parish leadership roles it has been decided that the presentation of these Faculties will take a descriptive style, and will include instructions, and pastoral directions. This will enable the document to be useful at many levels, such as: juridically by providing Faculties, pastorally instructive, and as a reference point for rare circumstances, which will empower leaders in their ministry.

By virtue of his ordinary and proper power and authority, the Most Reverend William Wright, Bishop of the Diocese of Maitland-Newcastle, grants the use of the Faculties herein noted and described, to those involved in parish leadership under canon 517 in the Diocese of Maitland-Newcastle while they are of good standing, have a domicile in the Diocese, and appointed to the office of parish leader.

Whilst, the use of Faculties are given to all those involved in parish leadership under canon 517, these Faculties can be limited or withdrawn in individual cases. If these Faculties are limited or withdrawn the person will be notified in writing, detailing the reasons and duration.

This Decree revokes all previous Faculties however granted or approved and all customs relating to the exercise of Faculties. The Faculties are 'ad experimentum' until I indicate otherwise. This will allow for corrections and clarifications. I further direct that this decree be published on the website for the Diocese of Maitland-Newcastle, <http://www.mn.catholic.org.au/>, which will be presumed the official notification of this action. A petition for revocation or emendation of this Decree is subject to canons 1732 – 1739.

This Decree has an effective date of January 1, 2017, nothing the contrary withstanding.  
Given at Hamilton, NSW, on the 31 day of December 2016.

Most Reverend William Wright



Bishop of Maitland-Newcastle

Fr Matthew Muller



Chancellor

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## 1. Clarification of concepts

### 1.1. Faculties

Universal law prefers to grant written Faculties (i.e. a permission to exercise a power obtained by ordination) to priests, in good standing<sup>1</sup>, so as to reduce confusion and to ensure both validity and liceity. While all presbyters have these faculties, the parish priest is the presbyter that is responsible for the proper administration and the proper use of all Faculties of the clergy in his parish. He also has specific Faculties granted to him (and not to assistant priests) as the proper pastor of the parish.

The above statement relates to Faculties for priests<sup>2</sup>, and so by analogy we may apply the same principles to lay (either an individual or individuals in a team) and deacon leaders. This document identifies the permissions (faculties) that lay and deacon leaders a parish, appointed under canon 517<sup>3</sup>, have by virtue of their ecclesiastical office.

Unless otherwise stated one may sub-delegate these Faculties to others in good standing. Ordination and or appointment to an ecclesiastical office give numerous powers to individuals. A Faculty or permission to exercise that power is either granted to an individual by universal law or by the competent local authority. In this document regardless of who grants the Faculty or permission it is identified in bold.

This document does not direct how those involved in leadership under canon 517 will choose to execute these permissions and the responsibilities that go with them. What will be required is that on appointment the clergy and laity involved meet to discuss who will take responsibility for which Faculty and how they will exercise the Faculties they accept. This agreement should be written out, signed and a copy sent to the Bishop and reviewed regularly.

### 1.2. Names of those involved in leadership and appointed under canon 517

#### 1.2.1.517 §1 Moderator of Priests

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<sup>1</sup> Fit and proper person (i.e. in good standing) is currently defined by the National Committee for Professional Standards is a person who;

- has never been canonically suspended or disciplined in relation to abuse as defined in Towards Healing,
- has never been reported to the Congregation for the Doctrine of the Faith pursuant to Canon 1395, furthermore none of the person's actions would give occasion for such a notification,
- has never been convicted of a criminal offence (in Australia or overseas),
- has never been charged with a criminal offence (in Australia or overseas),
- is not the subject of an Apprehended Violence Order (AVO),
- is not the subject of a current allegation nor has a sustained finding against them relating to a workplace investigation conducted by organisations, employers, institutions or professional bodies that relate to the sexual misconduct, physical assault, ill-treatment, neglect or psychological harm of a person under the age of 18 years.
- is not the subject of a current allegation nor has a substantiated finding against them relating to abusive conduct of any kind, whether related to child abuse or otherwise, in a Towards Healing or Integrity in Ministry or civil litigation matter.

(See schedule 2 of the Declaration Form for Church Authorities Declaration under Towards Healing Protocol 45.7). The bishop may grant limited faculties to those classified as not a fit and proper person at his discretion.

<sup>2</sup> Deacons Faculties are detailed in Faculties and Instructions for Deacons of the Diocese of Maitland-Newcastle 2017 and Priests Faculties are detailed in Faculties and Instructions for Priests of the Diocese of Maitland-Newcastle 2017.

<sup>3</sup> All references to canons, unless stated, are from the Codex Iuris Canonici, 1983, c. = canon, cc. = canons. The reference is to the Vatican website, [http://www.vatican.va/archive/ENG1104/\\_INDEX.HTM](http://www.vatican.va/archive/ENG1104/_INDEX.HTM), (17-Dec-16).

517 §1, When circumstances require it, the pastoral care of a parish or of different parishes together can be entrusted to several priests in *solidum*, with the requirement, however, that in exercising pastoral care one of them must be the moderator, namely, the one who is to direct the joint action and to answer for it to the bishop.

The application of this canon is also reliant on the following canons. It is clear from the canons that moderator, in the understanding of these canons, refers to a moderator of priests.

Canon 542. Priests to whom the pastoral care of some parish or of different parishes together is entrusted in *solidum* according to the norm of c. 517, §1:

- 1/ must be endowed with the qualities mentioned in c. 521;
- 2/ are to be appointed or installed according to the norm of the prescripts of cc. 522,524;
- 3/ obtain pastoral care only from the moment of taking possession; their moderator is placed in possession according to the norm of the prescripts of c. 527, §2; for the other priests, however, a legitimately made profession of faith replaces taking possession.

Canon 543 §1. If the pastoral care of some parish or of different parishes together is entrusted to priests in *solidum*, each of them is obliged to perform the tasks and functions of pastor mentioned in cc.528, 529, and 530 according to the arrangement they establish. All of them have the faculty of assisting at marriages and all the powers to dispense granted to a pastor by law; these are to be exercised, however, under the direction of the moderator.

§2. All the priests who belong to the group:

- 1/ are bound by the obligation of residence;
- 2/ are to establish through common counsel an arrangement by which one of them is to celebrate a Mass for the people according to the norm of c. 534;
- 3/ the moderator alone represents in juridic affairs the parish or parishes entrusted to the group.

Canon 544. When a priest from the group mentioned in c. 517 §1 or its moderator ceases from office as well as when one of them becomes incapable of exercising his pastoral function, the parish or parishes whose care is entrusted to the group do not become vacant. It is for the diocesan bishop, however, to appoint another moderator; before someone is appointed by the bishop, the priest in the group who is senior in appointment is to fulfil this function.

#### 1.2.2.517 §2 other titles

517 §2. If, because of a lack of priests, the diocesan bishop has decided that participation in the exercise of the pastoral care of a parish is to be entrusted to a deacon, to another person who is not a priest, or to a community of persons, he is to appoint some priest who, provided with the powers and faculties of a *pastor*, is to direct the pastoral care.

Thus in canon 517 §2 we can identify 5 roles:

1. Deacon Parish Leader, or a
2. Lay Parish Leader, or a
3. Community of Persons Parish Leader, with a
4. Priest Director (moderator, supervisor) of Pastoral Care (who has the powers and faculties of a PP and whose role is to moderate those persons identified in points 1, 2 and 3 above), and the option of a
5. Priest Responsible for Sacramental Celebration, (who acts at the direction of the person identified in 1, 2, or 3 above).

#### 1.3. Consensus on terms

In the Diocese of Maitland Newcastle we use the following terms:

1. Moderator (of Priests) (c. 517 §1)
2. (Deacon) Parish Leader (c. 517 §2)
3. (Lay) Parish Leader (c. 517 §2)
4. Parish Leadership Team (c. 517 §2)
5. Priest Supervisor (c. 517 §2)
6. Sacramental Priest (c. 517 §2).

#### 1.4. Aim of this document

This document aims to achieve the following outcomes for those appointed under canon 517:

1. to clarify the canonical faculties that each of these persons has been given by the diocesan bishop
2. to provide addition ecclesial clarity on a persons role and responsibility alongside their civil law employment contract
3. to indicate what canonical delegations and permissions each person has.

#### 1.5 Formation for those appointed under canon 517

The formation of those appointed under canon 517 is not addressed by these Faculties. At the time of publication of this document the Diocese is working on a formation process for all appointed to an ecclesiastical office.

## 2. Faculties for Priests

The Faculties for the Priests holding the following ecclesiastical offices Moderator of Priests (c. 517 §1) and of Priest Supervisor Pastoral Care (c. 517 §2), which are the equivalent of a parish priest can be found in Faculties and Instructions for Priests of the Diocese of Maitland Newcastle 2017.

The Faculties for the Priests holding the following ecclesiastical office of Sacramental Priest (c. 517 §2) which is the equivalent of an assistant priest can be found in Faculties and Instructions for Priests of the Diocese of Maitland Newcastle 2017.

## 3. Faculties for Deacon Parish Leader

The Faculties for the Deacons holding the ecclesiastical office of Deacon Parish Leader (c. 517 §2) can be found in Faculties and Instructions for Deacons of the Diocese of Maitland Newcastle 2017. Additional Faculties and delegations are as follows.

### 3.1. Term

**You may** exercise the following faculties' as long as you remain in the office of pastoral leadership of a parish according to c. 517§2.

### 3.2. Deputation of catechists

**You may** depute catechists, truly worthy and prepared, to celebrate the minor exorcism of the catechumenate and the blessings catechumens when a priest or deacon cannot be present (OCIA 44, 48, 109,119; RCIA 12, 16, 91, 97).

### 3.3. Abbreviated catechumenate in exceptional circumstances

**You have** the faculty to permit the simple rite for the initiation of an adult in the exceptional circumstances envisioned by the law, namely sickness, old age, change of residence, long absence for travel, or depth of Christian conversion and a degree of religious maturity in the catechumen.

In all other cases, the permission of the diocesan bishop is necessary to use the abbreviated rite (can 851, OICA 240, 270, RCIA 331-332).

### 3.4. Dispensation from scrutinies

**You may** dispense from one scrutiny for a serious reason or in extraordinary circumstances, even from two. The extraordinary circumstances from granting the dispensation from two scrutinies are those mentioned in 4.2 above (OICA 52, 66, §3; RCIA 20, 34 §3).

### 3.5. Sunday celebrations in the absence of a priest

When no priest is available to celebrate Mass, and neither you nor another deacon is available for the Sunday celebration of the Word or Liturgy of the Hours, **you may** appoint a suitably instructed lay minister, approved by the bishop for this function, to take your place, using the appropriate rite (DSCAP 24, EDM art 7).

### 3.6. Designation of a communion minister

**You may** appoint a qualified person to distribute Holy Communion for single occasions when you are presiding at a communion service and there are too many communicants and insufficient ordinary and extraordinary ministers of communion, or when bringing viaticum to a dying person is necessary and no ordinary or extraordinary minister of communion is available (c. 230 §3; EDM art 8 §1).

### 3.7. Lay minister of exposition

In the absence of a priest, deacon, instituted acolyte or extraordinary ministry of communion, **you may**, in individual instances, appoint a lay person to expose the Eucharist publically for the adoration of the faithful and to afterwards repose it (HCWE 91-92).

### 3.8. Permissions to marry

**You may** permit:

- 3.8.1. the marriage of transients (vagi), provided the diocesan marriage preparation is observed to the extent possible, and baptismal certificates are produced and freedom to marry is certain
- 3.8.2. the marriage of a person who is bound by natural obligations toward another party or children arising from a previous union, provided these obligations are being fulfilled; and
- 3.8.3. the marriage of a Catholic with another Catholic who has notoriously rejected the faith, provided the norms of canon 1125 have been observed (c. 1071 §1 nn.1,3,4; §2).

### 3.9. Permission to marry in another Catholic Church

**You may** permit a parishioner to be married in another Catholic church or oratory (can 1118 §1). The permission must be granted in writing and a copy retained in the parish archives.

### 3.10. Delegation of marriage faculty to a lay minister

In a case of necessity when you are unable to assist at a marriage, if no other cleric is available, **you may** grant a special delegation to a lay substitute, previously approved by the diocesan bishop, or to a lay person from another parish who has been appointed by the diocesan bishop for this ministry. (Only the diocesan bishop can appoint a lay person to this ministry and no other lay person can substitute.)

The grant of the faculty must be made in writing on parish note paper or with a parish stamp; *I grant you N. the faculty to assist at the marriage of N. and N. on [date and time] at [name of parish].* You must sign and date the document and file a copy with the marriage papers.

### 3.11. Blessings

**You may** permit competent lay ministers and catechists to celebrate blessings from the Book of Blessings that are not reserved to priests and deacons, provided sufficient clergy or instituted lectors or acolytes are unavailable (DB/BB 18d).

### 3.12. Funeral rites for unbaptised children

**You may** permit a church funeral rites for children who died before baptism, provided their parents had intended to have them baptised (can 1183 §2).

### 3.13. Funeral of a Baptised member of another church or ecclesial community

**You may** celebrate the church's funeral rites for a validly baptised member of another Church or ecclesial community, provided that this is not contrary to the wishes of the deceased person and provided the minister of the deceased person is unavailable (can 1183 §3; DAPNE 120).

### 3.14. Feast days and days of penance

- 3.14.1. in individual cases and for a just cause, **you may** dispense parishioners anywhere they are and others who are in the parish territory from the obligations to attend Mass and abstain from work on Sundays and holy days of obligation, or

3.15. **you may** commute the obligation to another pious work and,

3.16. under the same conditions you may dispense from or commute the obligations of fast and abstinence on a day of penance (can 1245).

### 3.17. Vows and oaths



- 3.17.1. **you may** dispense from private vows, provided the dispensation does not injure the acquired rights of others
- 3.17.2. **you may** dispense from promissory oaths, unless dispensation from an oath would tend to harm one or other persons who refuse to remit its obligations and,
- 3.17.3. **you may** commute the obligations of a private vow or oath to a lesser good. This faculty may be used on behalf of parishioners wherever they are staying and within the boundaries of the parish on behalf of visitors (can 1196 §1; 1203).

3.18. Mandates<sup>4</sup> granted by a priest supervisor to a deacon appointed according to can. 517 §2. A priest director/supervisor who has the *cura animarum* of the parish **may** grant the following to assist you to discharge your duties of parish leadership.

3.18.1. Legal representation of the parish

**You may** in the name of the priest supervisor act as the legal representative of the parish in accord with the pertinent laws of the Church and the State and within in the limits of pastoral leader of the parish (can 532 and Book V of CIC especially can 1281-1288).

3.18.2. Pastoral and finance councils

In the absence of the priest supervisor, **you may** preside at meetings of the parish pastoral council and finance council (can 536; 537).

3.18.3. Decisions

**You may** make decisions necessary for the fulfilment of the duties enumerated in your duty statement as necessary for the pastoral leadership of the parish and for implementing a pastoral plan or project. The more important decisions, as determined by the priest supervisor, and all decisions adversely affecting the rights or persons require the prior consent of the priest supervisor, but if he cannot be reached, you can decide the matter, which decision must be approved by him or the local ordinary.

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<sup>4</sup> See 1.1 paragraph 4.

## 4. Parish Leader Concepts

### 4.1. Lay Parish Leader or Deacon Parish Leader Overview

The Parish Leader (lay or deacon) is the person to whom a participation in the exercise of the pastoral care of a parish is entrusted by the diocesan bishop. This care includes the areas of teaching, sanctifying, and administration (cc. 517, §2; 528-537).

**Teaching Office:** The Parish Leader will relate aspects of parish life to the life and mission of the universal Church; call parishioners to service as Church and to facilitate lay ministry and leadership in a spirit of collaboration and subsidiarity. It will be necessary to provide formation to enable parishioners to fulfil their ministry in the Church and in the world ever more effectively.

**Administrative Functions:** The Parish Leader is to represent the parish and is to see to it that the goods of the parish are administered in accord with the norms of canons 1281-1288.

**Sanctifying Office:** The Parish Leader is to see to it that the Most Holy Eucharist is the centre of the parish assembly of the faithful and will endeavour to assist the faithful in a knowing and active participation in the sacred liturgy. In accord with the norms of liturgical law the Parish Leader will provide for and coordinate the celebrations of the Eucharist and other sacraments by the sacramental minister, other priests, and the diocesan bishop.

### 4.2. Relationship to the Priest Supervisor

While the Priest Supervisor Pastoral Care has the powers and faculties of the proper pastor, in the Diocese of Maitland Newcastle, according to diocesan custom, he exercises his power and Faculties of a pastor primarily by the ministry of oversight. It is his responsibility to exercise governance in the parish with individuals responsible to him.

It is the team or individual appointed to the Parish Leadership Role that has operational responsibility for the parish.

It is expected that all individuals involved conduct themselves in accord with the highest standards of collaboration, communication, and cooperation<sup>5</sup>.

### 4.3. Structure of Faculties

Specific roles, responsibilities, and Faculties for the Lay Parish Leader and Lay Parish Leader Team have been divided up according to our Diocesan Stewardship plan. Thus an individual member of a leadership team has the roles, responsibilities, and faculties for their respective section. While a sole Lay Parish Leader has the whole set.

## 5. Faculties for Lay Parish Leaders

### 5.1. IDENTITY AND COMMUNITY

Responsibilities include:

5.1.1. discernment of parish gifts, needs, and plans for the future in collaboration with the Pastoral Council

5.1.2. assurance that the parish Mission Statement guides the parish's life and activity

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<sup>5</sup> See, <https://www.catholic.org.au/documents/1345-integrity-in-service-of-the-church-1/file>, <https://www.catholic.org.au/documents/1344-integrity-in-ministry-2010-1/file>

- 5.1.3.selection, formation, support of the various volunteers engaged in the life and ministry of the parish
- 5.1.4.stewardship of the charisms given by God through Baptism and Confirmation to the faithful of the parish
- 5.1.5.visitation and care of parishioners who are ill
- 5.1.6.represents the parish community and,
- 5.1.7.ensures structures are collaboratively functioning and shared decision making is occurring (cc. 535, 537).

Delegated faculties are:

- 5.1.8.legal representation of the parish
  - 5.1.8.1. you may at in the name of the priest supervisor act as the legal representative of the parish in accord with the pertinent laws of the Church and the State and within the limits of pastoral leader of the parish (can 532 and Book V of CIC especially can 1281-1288).

## 5.2. WORSHIP AND PRAYER

Responsibilities include:

- 5.2.1.proper and full implementation of Rite of Christian Initiation of Adults
- 5.2.2.maintenance of parish sacramental records, death records, parish archives (c. 535)
- 5.2.3.the scheduling, planning, and preparing for the liturgical rites and sacramental celebrations called for throughout the liturgical year.
- 5.2.4.to communicate the outcomes of such scheduling, planning, and preparing to the Sacramental Priest
- 5.2.5.calling forth, forming, scheduling, and supporting liturgical ministers
- 5.2.6.weekday celebrations of the Word and/or Liturgy of the Hours
- 5.2.7.home communion
- 5.2.8.Viaticum and,
- 5.2.9.assisting families with funeral arrangements and the celebration for the funeral rites.

Faculties granted are:

- 5.2.10. to administer Baptism when no ordinary minister of baptism (i.e., priest or deacon) is available (cc. 230, §3; 861, §2)
- 5.2.11. to preside at weekday liturgy (liturgy of the hours; Liturgy of the Word, with or without Holy Communion); wake services; funeral liturgies outside of Mass, committals
- 5.2.12. to preside at Sunday Celebrations in the Absence of a Priest (particular law)
- 5.2.13. to serve as an extra ordinary minister of the Eucharist and viaticum (cc. 910 §2,911 §2)
- 5.2.14. preach when pastorally and canonically appropriate (c. 766). This is always apart from the homily in the celebration of the Eucharist<sup>6</sup>
- 5.2.15. serve as extraordinary minister of Holy Communion and Viaticum (cc. 910, §2; 911, §2)
- 5.2.16. serve as a minister of Eucharistic exposition and reposition (c. 943)
- 5.2.17. administer approved sacramentals (c. 1168)
- 5.2.18. impart Blessings designated in the Book of Blessings and,
- 5.2.19. to preside at non Eucharistic funeral rites (diocesan law).

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<sup>6</sup> Instruction, On Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest, (1997) Article 2, number 4 “*Preaching in churches or oratories by the non-ordained faithful can be permitted only as a supply for sacred ministers or for those particular reasons foreseen by the universal law of the Church or by Conferences of Bishops. It cannot, however, be regarded as an ordinary occurrence nor as an authentic promotion of the laity*”. [http://www.vatican.va/roman\\_curia/congregations/ccclergy/documents/rc\\_con\\_interdic\\_doc\\_15081997\\_en.html](http://www.vatican.va/roman_curia/congregations/ccclergy/documents/rc_con_interdic_doc_15081997_en.html) (20 Apr 2017)

### 5.3. FORMATION AND EDUCATION

Responsibilities are:

- 5.3.1.the Religious Education/Formation of all parishioners (c. 529 §2)
- 5.3.2.initial and ongoing formation of catechists
- 5.3.3.vocational discernment
- 5.3.4.preparation of persons for the celebration of the sacraments of baptism, confirmation, Eucharist, penance, anointing of the sick, and marriage (c. 528 §2) and,
- 5.3.5.represents the parish to the parish school.

Facilities granted are:

### 5.4. MISSION AND OUTREACH

Responsibilities are:

- 5.4.1.promotion of justice and greater understanding of the Church's social teaching
- 5.4.2.bringing the Gospel message to those who have ceased practicing their faith or who do not profess true faith
- 5.4.3.blessings of persons, places, and things
- 5.4.4.opportunities for spiritual renewal, prayer, and reflection on the part of the parish as a whole, various segments of the parish, and individual parishioners and,
- 5.4.5.assisting anyone who wishes recourse to the Diocesan Marriage Tribunal.

Faculties Granted are:

- 5.4.6.

### 5.5. LEADERSHIP AND STRUCTURE

Responsibilities are:

- 5.5.1.understanding of and commitment to stewardship
- 5.5.2.assurance of a safe environment for children and young people in the parish by adherence to our diocesan Policy for the Protection of Children and Young People and Code of Pastoral Conduct
- 5.5.3.utilization of diocesan resources and implementation of diocesan initiatives and programs in the parish
- 5.5.4.preparation and filing of parish reports requested by the Diocese
- 5.5.5.stewardship of the material assets of the parish including financial records and processes, budgets, property and buildings in accordance with canon law and diocesan norms and in collaboration with the Property Commission and/or Finance Council (cc 535, 537) and,
- 5.5.6.selection, hiring, supervision, and dismissal of any employees hired by the parish.

Faculties delegated are;

- 5.5.7.

## 6. Other canonical issues:

- 6.1. Diocesan particular law and instructions are to be followed. An up-to-date set of particular laws, instructions, etc. can be found on the diocesan website at <http://www.mn.catholic.org.au/about/office/bishops-office> (c. 8 §2)
- 6.2. Commonwealth and State legalisation is to be complied with, according to the processes detailed in diocesan particular law and instructions (c. 22).

6.3. Australian Catholic Bishops Conference requires Public Juridic Persons accountable to the Diocesan Bishop to:

6.3.1. utilise the services of the Catholic Insurance Company

6.3.2. utilise the services of their local Catholic Development Fund, or the Fund recommended by their bishop and,

6.3.3. utilise the established Diocesan Clergy Fund and to follow said funds Statues.

6.4 Leave and supply<sup>7</sup>

**you must:**

6.4.1 inform in writing (email or post) the Bishop's office of the dates of your absence from the parish and the purpose i.e. Annual leave, sabbatical, retreat, etc. (c.533)

6.4.2 the names of supply clergy and the dates of their supply and,

6.4.3 the dates and purpose of any visiting clergy to your parish ONLY if they are celebrating a public Mass or giving a public presentation.

7. Remuneration issues

7.1 To be completed

8 The Diocesan Bishop is the authentic interpreter of the intent, meaning, and praxis of these faculties.

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<sup>7</sup> See the Diocesan Instruction on Canon 533 of 16 July 2016.

## 7. Decision to utilise canon 517§ 2

Please note that this section is an attempt to address the canonical issues raised in the Instruction, On Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest of 1997.

### *Article 4 The Parish Priest and the Parish<sup>8</sup>*

*The non-ordained faithful, as happens in many worthy cases, may collaborate effectively in the pastoral ministry of clerics in parishes, health care centres, charitable and educational institutions, prisons, Military Ordinariates etc. Provisions regulating such extraordinary form of collaboration are provided by Canon 517, § 2.*

*§ 1. The right understanding and application of this canon, according to which "si ob sacerdotum penuriam Episcopus dioecesanus aestimaverit participationem in exercitio curae pastoralis paroeciae concedendam esse diacono aliive personae sacerdotali caractere non insignate aut personarum communitati, sacerdotem constitat aliquem qui, potestatibus facultatibus parochi instructus curam pastoralem moderetur", requires that this exceptional provision be used only with strict adherence to conditions contained in it. These are:*

- a) ob sacerdotum penuriam and not for reasons of convenience or ambiguous "advancement of the laity", etc.;*
- b) this is participatio in exercitio curae pastoralis and not directing, coordinating, moderating or governing the Parish; these competencies, according to the canon, are the competencies of a priest alone.*

*Because these are exceptional cases, before employing them, other possibilities should be availed of, such as using of the services of retired priests still capable of such service, or entrusting several parishes to one priest or to a coetus sacerdotum.(75) In any event, the preference which this canon gives to deacons cannot be overlooked.*

*The same canon, however, reaffirms that these forms of participation in the pastoral care of parishes cannot, in any way, replace the office of Parish Priest. The same canon decrees that "Episcopus dioecesanus (...) sacerdotem constituat aliquem qui potestatibus et facultatibus parochi instructus, curam pastoralem moderetur." Indeed, the office of Parish Priest can be assigned validly only to a priest (cf. Canon 521, § 1) even in cases where there is a shortage of clergy.(76)*

Thus it is recommended that a due diligence process be carried out before a Lay Parish Leader or Deacon Parish Leader is contemplated. This due diligence process address the items raised in the instruction listed above. The primary concern is the pastoral care of the parish.

Such a due diligence process may include the following:

- is there an active priest available and willing? If not why not?
- Is there a retired priest available, willing, and able? If not why not?
- Is there a deacon available, willing, and able? If not why not?
- What are the pastoral and evangelical needs of the parish?
- How would this parish's needs be best met? By whom would they be best met?
- What would be the impact on the parish and the priest if a shared parish priest model is used?
- Could such a shared parish priest realistically exercise his responsibilities as proper pastor? Why, why not?

There may be others questions, but unless the issues raised in the instruction are addressed in a serious way such appointments may be open to challenge.

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<sup>8</sup> Instruction, On Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest, (1997) Article 4, number 1 [http://www.vatican.va/roman\\_curia/congregations/ccclergy/documents/rc\\_con\\_interdic\\_doc\\_15081997\\_en.html](http://www.vatican.va/roman_curia/congregations/ccclergy/documents/rc_con_interdic_doc_15081997_en.html) (20 Apr 2017).

It is worth a comment on custom.

Canon 26 states in part “*a custom contrary to the canon law now in force or one beyond a canonical law (praeter legem canonicam) obtains the force of law only if it has been legitimately observed for thirty continuous and complete years*”.

The instruction in its conclusion states that it “*revokes all particular laws, customs and faculties conceded by the Holy See ad experimentum or other ecclesiastical authorities which are contrary to the foregoing norms are hereby revoked*”. Canon 34 identifies that instructions clarify laws and determine the methods to be used in fulfilling them. Canon 34 also states that it cannot make or derogate from laws. Thus in this case the instruction exceeds its authority.