

VIDEO RECORDING IN CHURCHES

The Archdeacons have issued the following guidance, which should be read in conjunction with the attached Information Sheet issued by the Central Board of Finance [Video Information Sheet 5].

1. Each parish priest should decide whether to allow recordings to be made in the church, for which he or she is responsible, in the same way as for photography. It is helpful to have a consistent policy, and to take steps to ensure that nothing is done to detract from the reverence of an act of worship or be a cause of offence to worshippers.
2. No recording may be made without the permission of the parish priest, and this should be made plain to couples early on in the wedding interviews. Permission should be sought well before the event, and the priest will make such conditions as he or she considers appropriate in the particular church building (eg. all recording to be taken from one fixed point). A suggested form of undertaking by an applicant is attached.
3. There is a distinction between video recordings made for private family purposes and those of a commercial nature. Paragraph D(9) of the attached notes refer to this. Further information is included in the handbook section on Copyright (Section H6).
4. Caution should be exercised about the charging of fees in regard to video recording. If a fee is charged as a 'licence' and part of it goes to the parish priest personally for the giving of his or her consent, the owner of the copyright or of the performing rights could seek an account from the priest concerned when there is likely to be a breach of such rights. In this respect, "facility fees" in the form of a donation to the church are to be preferred.
5. Please consult the Archdeacons or the Diocesan Registrar about any particular problem in this field.

VIDEO INFORMATION SHEET 5

VIDEO RECORDINGS OF WEDDINGS AND BAPTISMS

Advice is often sought on recording weddings and baptisms, particularly with regard to questions of copyright. What follows is extracted from The Opinions of the Legal Advisory Commission of the General Synod of the Church of England (6th edition 1985; 1st supplement 1990) (on sale at Church House Bookshop, Great Smith Street, London, SW1P 3BN). For recordings of services other than weddings and baptisms and of performances such as plays or concerts, reference should be made to the complete text of the Opinions or to the Commission's Short Notes on Copyright and Performance Rights (obtainable from the Secretary of the Commission, Church House, Great Smith Street, London, SW1P 3NZ - please send a stamped, self-addressed envelope at least 8 1/2" x 12").

A. SOME GENERAL CONSIDERATIONS ON RECORDINGS IN CHURCHES AND CHURCH HALLS

1. The incumbent has no authority to give a copyright licence for a recording to be made in church e.g. authorising or permitting the recording of a copyright work in a church may put him or her at risk of being sued for an infringement (unless the necessary permissions have been obtained). Nevertheless, copyright aside, no recording can be made in church without the incumbent's permission. If the incumbent gives permission for recording equipment to be brought into church he or she is at liberty to impose conditions concerning the manner in which the recording is to be made. For example:-
 - (a) the number of cameras to be used inside the church;
 - (b) whether only fixed camera positions may be used or whether mobile cameras will be permitted;
 - (c) whether extra lighting will be permitted and, if so, where it is to be sited;
 - (d) any directions for the turning on and off of extra lighting;
 - (e) any directions for recording specified parts of the service or event e.g. the signing of the register;
 - (f) any necessary licences, e.g. from the Mechanical Copyright Protection Society Limited ("MCPS"), and consents of performers, to be produced before the day on which the recording is to be made (see paragraphs 3 to 7).

B. PERMISSION TO RECORD A WORK

Literary Works

2. Application for permission to record any copyright work should be made in the first instance to the publisher of the work. If the event, performance or service includes more than one copyright work, consideration needs to be given to whether permission of more than one copyright owner is required for the recording to be made. (But see paragraphs 8-13).

Music and Lyrics

3. The permission of the copyright owner is required for the recording of music and lyrics. The MCPS - MCPS-PRS Alliance, Copyright House, 29-33 Berners Street, London, W1T 3AB. Telephone: 020 7580 5544 or www.mcps-prs-alliance.co.uk. - administers the rights of its members in this area. It is necessary therefore to obtain a licence from the MCPS before copyright material which the MCPS controls may legally be recorded. Mechanical recordings include records, video or audiotape. Such a licence affords a high degree of legal protection for the recordist who bears the prime responsibility in this respect.
4. Tapes made by a professional recordist: the term "professional recordist" is used here to describe a recordist who is commissioned to make a recording in consideration of a payment of a fee for his services. Professional recordists should hold a current licence issued by MCPS. Where the professional production of videotape recordings of church services is involved, the responsibility for ensuring compliance with the requirements of the law rests primarily with the professional recordist. In the event of there being an infringement of copyright and the professional recordist not holding a current MCPS licence it is possible for the incumbent, if the recording was made in church, to be held to have authorised the infringement.
5. Tapes made by an amateur recordist: the term "amateur recordist" is used here to describe a person who makes a tape for his personal use and for use by members of his family and for which he receives no fee or payment. A strict application of the Copyright, Designs and Patents Act 1988 ("the 1988 Act") implies the same requirements in relation to a tape made by an amateur recordist e.g. of a wedding or christening. It is not usually necessary for the incumbent to ask to be shown a current MCPS licence: the considerations involved are different and reflected in current legal practice. In such cases it would probably be sufficient for the incumbent, if asked by an amateur recordist, to draw attention to the existence of the 1988 Act and to advise him of the name and address of the MCPS, from whom he might wish to obtain detailed advice on aspects of copyright.

C. RIGHTS IN PERFORMANCES

6. The position of performers may also have to be given consideration. This is separate and distinct from the question of infringement of copyright in the work performed. Part II of the 1988 Act confers rights on a performer, by requiring his consent to the exploitation of his performances. It also confers rights on a person having recording rights in relation to a performance, in relation to recordings made without his consent or that of the performer. The performances protected include dramatic and musical performances and the reading or recitation of a literary work given live by one or more individuals. The performer's rights are infringed by a person who, without his consent, makes a recording of the whole or a substantial part of the performance or includes the performance in a live broadcast or cable programme service. It is not an infringement, however, to make a recording for private and domestic use. A performer's rights are also infringed by a person who, without his consent, shows or plays in public the whole or any substantial part of his performance by means of a recording which was, and which that person knows or has reason to believe was, made without the performer's consent. The rights of a person who has exclusive recording rights may also be infringed the making of recordings of performances without appropriate consents. Criminal liability may also be incurred by dealing in illicit recordings.

7. Therefore Part II of the 1988 Act applies to organists, musicians choristers, members of a church orchestra, and other singers and performers in churches. The prior consent of all these persons, if their performance is recorded or videotaped with the intention of making any public or commercial use of the tape, would have to be obtained. Obtaining such consents would not be the direct concern of the incumbent or parochial church council, unless they had given authority for the making of a record or tape and such authority envisages its possible publication. In such circumstances they might, if no consents were obtained, be held to be liable along with the makers of the record or tape. The performers will usually have a right of action against the recordist, but it should not be assumed that the incumbent or P.C.C. would escape liability if they were held to have permitted or caused the offence.

D. RECORDINGS OF WEDDINGS AND BAPTISMS

8. Certain "blanket" arrangements have been made to facilitate the recording in church of the text of marriage and baptism services. Without prior application having to be made to the copyright owners, copyright permission, subject to the conditions in paragraph 9 below, has been given for the recording on either videotape or audiotape of the following material -

Common Worship

Solemnization of Matrimony from The Book of Common Prayer

Solemnization of Matrimony First Series

The Marriage Service in The Alternative Service Book 1980

Baptism of Infants from The Book of Common Prayer

Baptism Second Series

The Baptism of Children in The Alternative Service Book 1980

The Psalter in The Book of Common Prayer

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The Revised Psalter

9. The conditions on which a tape of the material specified in paragraph 8 may be made without prior application are as follows:-
 - (a) No rights in the recording and no copies of it shall be transferred or assigned in consideration of money or money's worth i.e. the rights in the recording and copies of the recording shall not be sold commercially except that the original recording and copies may be sold to the couple or parents who commissioned the recording.
 - (b) No more than three copies of the recording shall be made.
 - (c) The recording, including an extract from it, shall not be exhibited in public.
10. The copyright owners of the material listed in paragraph 8 charge no fee for this permission. Provided the three conditions referred to in paragraph 9 are met, it will not be necessary for a couple who want an audio or video recording of their wedding or child's christening to make their own application for copyright permission for the material listed.
11. These "blanket" arrangements and the permissions relating to the material listed in paragraph 8 do not extend to any part of the service other than the text of the authorised service and psalms from the three Psalters. Thus hymns, anthems,

additional prayers etc. are not covered by these permissions and it is for the couple concerned to obtain permission for such other copyright material which is included in the service.

12. If a professional recordist is employed to record the wedding or baptism then it is for the couple to ensure that the professional recordist complies both with the three conditions in paragraph 9 and any directions of the incumbent (see paragraph 1).
13. By acting as the agent of the couple the professional recordist is not in breach of condition (a) in paragraph 9 by selling the audio or video recording and copies of it to the couple. However, both the couple and the professional recordist would be liable in law for any breach of copyright.
14. If the incumbent permits a recording of a wedding or baptism to be made he or she is recommended to supply in writing to the couple and any professional recordist.
 - a description of the works for which blanket permission has been arranged i.e. the material listed in paragraph 8 and the three conditions listed in paragraph 9;
 - any directions made by the incumbent concerning the manner in which the recording is to be made;
 - notice that the incumbent has no authority to permit the lawful recording of any copyright work other than the works covered by the blanket permission.

A precedent of a notice for use by an incumbent is attached.

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15. It is recommended that the incumbent needs to be especially vigilant if the service has a more than usual significance. This might be the case if the wedding is of special interest to the media (e.g. weddings of public figures or local heroes). It is convenient to note that a licence from the Performing Right Society is not required to record any public performance at religious worship, which includes weddings and christenings.
16. Generally neither the recording nor the copyright in it would belong to the incumbent or the P.C.C.; and certainly they would have no claim in the copyright of the works recorded.
17. Parochial Fees Orders do not prescribe a fee for granting permission to record a wedding or baptism. It is for the P.C.C. to determine whether a fee should be charged for using audio or video recording equipment inside the church, but the incumbent retains the right to refuse to allow a particular service to be recorded. Any fees paid by either the couple or recordist are payable to the P.C.C. and not to the incumbent.

NOTE The material in this information sheet is copyright ©. The Central Board of finance of the Church of England 1985, 1990, 1992. However, the Board has given permission for incumbents and parishes to reproduce the notice on page 6 to 8 without prior application and without payment of a fee.

Model Notice to permit use in church of video recording equipment for marriage and baptism services

FOR USE WITH SERVICES OF MARRIAGE AND BAPTISM ONLY

Parish of [Insert name of parish]

Video Recording of [Insert name of service (see paragraph 2)]

on [Insert date]
of [Insert name of couple or child]

This notice is issued by the incumbent to give permission for recording equipment to be brought into and used inside the church for the purpose of recording the above service subject to the following conditions:

[insert local conditions: see page 1]

The attention of the recordist is drawn to the following matters:

1. The law of copyright is complex. It is most important that it is recognised that neither the incumbent nor the Parochial Church Council has any authority to give copyright permission for the lawful reproduction or recording of any work - literary or musical - which is protected by copyright, or to give consent on behalf of any performer or person having an exclusive recording right.

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2. Certain "blanket" arrangements have been made to facilitate the recording in church of the texts of the marriage and baptism services. Without prior application having to be made to the copyright owners, copyright permission, subject to the conditions in paragraph 3, has been given for the recording on either videotape or audiotape of the following material:

Common Worship
Solemnization of Matrimony from The Book of Common Prayer
Solemnization of Matrimony First Series
The Marriage Service in The Alternative Service Book 1980
Baptism of Infants from The Book of Common Prayer
Baptism Second Series
The Baptism of Children in The Alternative Service Book 1980
The Psalter in The Book of Common Prayer
The Revised Psalter
The Liturgical Psalter

3. The conditions on which a tape of the material specified in paragraph 2 may be made without prior application are as follows:
 - (a) No rights in the recording and no copies of it shall be transferred or assigned in consideration of money or money's worth i.e. the rights in the recording and copies shall not be sold commercially except that the original recording and copies may be sold to the couple or parents who commissioned the recording.
 - (b) No more than three copies of the recording shall be made.
 - (c) The recording, including an extract from it, shall not be exhibited in public.
4. The copyright owners of the material listed in paragraph 2 charge no fee for this permission.
5. These "blanket" arrangements and the permissions relating to the material specified in paragraph 2 do not extend to any part of the service other than the text of the authorised

service and psalms from the three Psalters. Thus hymns, anthems, additional prayers etc. are not covered by these permissions and it is your responsibility to obtain permission for such other copyright material which is included in the service. Copyright subsists in a work at least until the end of the period of 70 years from the end of the calendar year in which the originator (author, composer, etc.) died. Where there is doubt whether material is copyright the publisher will usually be able to assist. So far as copyright music and lyrics are concerned detailed advice of aspects of copyright is available from the Performing Right Society (PRS) and the Mechanical Copyright Protection Society (MCPS), 8th Floor, 2 Pancras Square, London, N1C 4AG. Telephone: 020 7580 5544. <https://www.prsformusic.com/help/>.

- *6. The fee of £ is payable to the Parochial Church Council for the incumbent's permission to bring into and to use recording equipment inside the church. Cheques should be drawn in favour of

I have read the whole of this notice. I accept that the incumbent has only given me permission to bring into and to use video recording equipment inside the church subject to the conditions specified above. I acknowledge that the incumbent has not given copyright permission or authorised the recording of any material or performance which may be protected by law.