

GS 2222 - A review of the Mission and Pastoral Measure 2011

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Preface to this paper

The Introduction to GS 2222 sets the intentions of the proposed changes in the document in the context of "reform and simplification in order to further the mission of the Church more effectively."¹

However the "specific options for change" which are listed in the Executive Summary on p5, far from representing a neutral task, that of simplification, are designed to achieve a significant shift in power and resources within dioceses away from parish churches, PCCs, clergy and patrons, to be achieved by modifications to existing legislation.

Measures hitherto have sought to hold to the principle of protecting the rights of all concerned in the pastoral process, and in the words of the Enabling Act of 1919, by which authority is given to Synod to legislate, to safeguard "the constitutional rights of all Her Majesty's subjects".² This is a test to be applied by the Ecclesiastical Committee of Parliament to all Measures proposed by the General Synod.

What follows in GS 2222 is a series of proposals which infringe upon the rights both of PCCs and their clergy and congregations, and upon the right of any and every citizen to object to proposals which affect the fabric of church buildings, the property of PCCs and of the incumbent, and the provision of pastoral and missionary outreach within the parishes concerned.

GS 2222

1 Context

Review of the Mission and Pastoral Measure

A list is provided of consultees for the preparation of this paper. Although the intention is to legislate by Measure, neither the House of Clergy nor the House of Laity of General Synod were consulted, despite the far reaching implications of the proposals which are being considered. This is a set of proposals which directly affect the parish and its clergy, but those who represent them in Synod have not been offered any opportunity to shape them.

Historical, constitutional, and legal context for the review

This section makes some observations on the history of the development of the Church in England both before and after the Norman Conquest, but these are principally concerned with the building and maintenance of churches. No consideration is given to the way in which this and other property was vested in the Rector of Parson appointed by the Bishop to exercise the cure of

¹ GS 2222, *Introduction* p.4

² Church of England Assembly (Powers) Act 1919, s.3(3)

souls in each parish. It is however noted that in the mediaeval period “the role of Churchwardens and the concept of advowsons and patronage developed.”³

In other words the parish system which we have today continues to embody in terms of ownership and rights and roles the system which took shape by 1400. It is in this way that the Church of England continues to have responsibilities not only to its members (a definition introduced in terms of electoral rolls by the Church Assembly, empowered by the Enabling Act 1919) but to every parishioner. Whether Christian or not, churchgoers or not, electoral roll members or not, all who live in England live in a parish, and have rights to receive the ministry of their local church. This is a distinction unique to the Church of England and is the *raison d'être* and genius of its parish system. In the words of William Temple, “The Church exists primarily for the sake of those who are still outside it.”⁴

The Mission and Pastoral Measure 2011 (MPM)

The existing framework for pastoral reorganisation is summarised on p11 of the Review. This has remained broadly the same since the Pastoral Measure 1983, although modified by the 2011 MPM to have due regard to “the whole mission of the Church of England, pastoral, evangelistic, social and ecumenical.” (p.11)

On p12 the Review lists the functions of the Measure in relation to pastoral reorganisation and to church buildings, to patronage and to parsonage houses.

The intention of the Review is to make changes to the way in which the Measure is operated so as to give greater powers to the Bishop and to the Diocese to in these matters.

Wider legal framework

On pp12-13 the review rehearses the other principal Measures which are engaged in the process of pastoral reorganisation, including the rights of clergy, patrons and PCCs, and care of church buildings and churchyards. The review emphasises the complexity of the law and of the Code of Practice to the MPM.

Data and Trends

On pp13-14 the review lists some of the analysis which has been undertaken in relation to pastoral legislation and to trends in church attendance.

Some stark statistics are provided: a 15% drop in the number of parishes since 1960, and a 45% drop in the number of benefices. A drop from 13,000 parochial clergy in 1960 to less than 8,000 in 2021. The population of England has risen from 43m in 1960 to 56m in 2021. Between 1969 and 2021 the Commissioners closed 2,013 church buildings.

The existing legislation permits anyone, not just the clergy and officers of a church, to object to a proposed Scheme under the Measure. Adverse representations are considered by the Mission, Pastoral and Church Property Committee (MPCPC) of the Church Commissioners, which has power to uphold them. There is a right of appeal from the MPCPC to the judicial committee of the Privy Council.

These rights of objection and appeal constitute the necessary safeguarding of the rights of all parishioners in relation to their local parish church, and of the rights of clergy as office holders, and as a corporation sole: the *parson* continues to hold office, in which the buildings of the parish continue to be vested, and he or she is a legal *persona* in their own right.

³ GS 2222 p.9

⁴ Letter from the Archbishop of the West Indies, in *Theology* (1956), vol. 59

2 Strategic context

Emerging church

The review describes what is termed as “the Emerging Church programme...launched to set out a road map for the next decade and beyond”.⁵

The programme is itself however emerging. It does not yet contain clear proposals for any of its three strands. It has not undergone formal consultation with the Houses of Clergy and Laity of the General Synod. It is not yet costed. It remains a concept in the making.

Vision and strategy

It is stated at s.20 that the review of the MPM has been conceived in response to the strapline of *simpler, humbler, bolder* adopted for Vision & Strategy. Again, the objective of the review is placed in terms of simplification.

The Bishop of Oxford is quoted in terms of the resources needed to implement whatever changes Vision and Strategy might bring, as yet unknown. It is claimed (s.21) that there is “no conflict between parish ministry and becoming a more mixed ecology church”.

There is no indication where additional resources might be found to fund new expressions of church life. The only resources we have are those which currently operate the parish system, inherited assets owned locally by parishes and clergy, and the voluntary giving of churchgoers.

There is however a veiled acknowledgement that the parish system itself will be used to fund these new expressions, as it is the inheritance of “a church that was formed and ministered in very different ways” - ways which have borne the test of many centuries and whose principles are just as valid today as they were in the past - a parish system which has evolved to provide for the spiritual needs of all parishioners, rather than a gathered congregation.

Improving the service offer to dioceses and parishes

This section offers some welcome modernisation of the administration of the Pastoral Measure, using modern technology and better communications and training.

In my experience many of the difficulties in administering the Measure have resulted from lack of training within dioceses for the implementation of processes within the Measure, and the consequent narrative that it is too inflexible and too difficult to use. However where it is understood the processes generally flow smoothly, indicating that the problem is not the Measure itself.

Survey of dioceses

The review indicates that the consultation with dioceses took place with “diocesan secretaries, archdeacons, pastoral secretaries and closed church and property officers.” (s.26) Therefore no consultation took place with representatives of the clergy and laity, either diocesan synod vice-chairs, or with rural deans and lay chairs, or with other gatherings of those actively involved in parish ministry and local synodical government.

The proposals in the review therefore represent in effect a diocesan wish list, rather than the views of the Church itself in those dioceses.

⁵ s.19, p.15

3 Pastoral reorganisation

An extended quotation from the Catholic Church is included at s.29 reflecting its perception of the changing circumstances of parish life. This is not however a good analogy, for a number of reasons. The concept of a parish is very different in the Church of England. It refers to the whole community in a locality, all of whom are parishioners, all of whom have the right to the ministrations of the parish church, not least to be baptised or married there or for their funeral to take place there. Despite all of the losses experienced in the last 60 years to the number of parish churches and clergy, Church of England parishes are still by and large small enough in size to be identifiable to their parishioners, and it is well understood that parishioners have freedom to worship in whichever Church they choose, not only the parish church of their own parish. Members and parishioners of the Church of England are not bound by canon law and their access to occasional offices is not restricted to those who are formally members.

Some of the real burdens for the parish system are noted at s.31. The General Synod since its inception in 1970 has heaped complexity upon complexity, and administrative burden upon burden for the diminishing number of clergy who must administer not just one church, in many cases, but multiple PCCs. There is less time and energy left for actual ministry, let alone new expressions of church when the existing churches rightly require their presence.

The task is too daunting for many volunteers, including churchwardens and PCC members, and fewer people are willing to take on such a role. Compliance requirements - required by Health & Safety, disability legislation, insurers, and more recently safeguarding, can become a full time job for many, let alone the maintenance of church buildings which are often of great age and complexity.

The chief burden upon the parishes since 1976 is the constantly increasing cost of the parish share, which now far exceeds the actual cost of supporting a stipendiary minister, despite the transfer to the DBF of all glebe, and of the fees for occasional offices which formerly formed part of the stipend. The diocese itself has become an unaffordable financial burden, having already acquired these assets which used to sustain the parish system, along with many of the parsonage houses which formerly existed in most parishes as a resource for housing their minister.

It is the combination of these factors which is slowly squeezing the life out of the parish system. The proposals made by the review show no sign of any recognition of this reality, but will actually accelerate the decline by facilitating the removal of yet more of the clergy and the assets remaining in local hands.

Units of mission

Some of the evidence for the causes of decline is shown in this section of the review. Although these factors, such as the large increase in the number of multi-parish benefices have been known about for some time, a number of dioceses are proceeding apace with the creation not only of even larger benefices but of what are being termed hubs, in which the identification of the clergy with their parishioners is stretched beyond breaking point, and their ministry becomes a functional service rather than a living relationship.

s.36 is highly contestable. Pastoral reorganisation usually comes top down. Parishes know that if they are combined into benefices, they will lose both clergy, service times and the very parsonage houses which enable them to have a resident minister. Frequently they are informed that they are no longer "viable" because they can no longer meet the parish share request in full, and that reorganisation will take place at the next interregnum with or without their consent, even though parish share formulae are almost always Procrustean and do not reflect the actual circumstances of the parish.

Parish governance

s.38 refers to innovations such as benefice councils as a means of easing the administration of multiple parishes and PCCs. There are however downsides to such arrangements. Community support for the maintenance of church buildings depends very much on the perception that it is their church and that they are responsible for raising the necessary funds. This sense of duty and generosity can be weakened by any suggestion that the church now belongs to a larger community, which should now share in the cost of repairs.

Again, people will contribute to a fabric fund for their own church either by gifts or by legacies. Those funds must be strictly held in trust for that church building. But when a church no longer has its own PCC, and a benefice PCC is in place, there is always a concern that money given for one church building can not be transferred for the maintenance of others in the group.

Again, the practical, day to day care of church buildings is largely borne by local volunteers, along with the running of church services and much else. When a church has its own PCC it is easy to visualise and to engage with its leaders, especially the Churchwardens. When there is just one representative on what seems like a remote PCC, this relationship is weakened.

4 Church buildings

The nature of the Church's relationship with its buildings

The Church of England has an unparalleled role in the maintenance of England's built heritage, with so many churches holding highly listed status.

They are costly to maintain and many are built on a scale which simply could not be afforded today, despite the great wealth of modern society. They are a burden for each parish but they are also its greatest material asset, standing as a symbol of the continuity of Christianity in England for 1400 years, and providing a place of worship, whether simple or grand, which is in marked contrast to secular or domestic buildings, with a different aesthetic and acoustic.

Two issues are principally at stake so far as the review is concerned. The first is consecration, which signifies that the building has been set apart by the bishop for the service of almighty God in perpetuity. It is sanctified and made holy, in theological terms. Because of its sanctification by consecration, and by use for preaching and the administration of the sacraments, its proper use is for Christian worship. It is a place *where prayer has been valid*, to quote T S Eliot.

So far as the law is concerned the property can not be sold by the priest in whose office it is vested and held in trust for worship by the people of the parish. It also becomes subject to the Faculty jurisdiction and to the ecclesiastical exemption from secular planning law. If for any reason the church building has to be closed there is a procedure provided by the Measure for the legal effects of consecration to be removed and for its future use to be determined according to a detailed code of practice.

So far as both theology and law are concerned, this is a building and a place which has been dedicated to God for the worship of God by the people of a particular locality, the parishioners. Although vested in the priest, it is their church. It has been maintained, extended, repaired, enlarged, ornamented and loved by their generosity and their commitment to it. It is morally and legally the property of the local church, by which I mean here the people of God in that place. They must continue to have the final say over it, and if it is to be replaced by a new building, they must have the right to retain the value of any sale which takes place in order to fund their new facilities. It is their asset once it is consecrated for their benefit, along with any successor church building.

The practice in other denominations

The comparison with other denominations is instructive. The lack of safeguards for the building or for the rights of the congregation means that the building is an asset belonging to the denomination, whatever the sources of funding which brought it into being. There is no concept of any rights for parishioners, since these are gathered churches. Their loss as places of worship is often controversial among worshippers, and their outcome is often far less than satisfactory.

One mediaeval Catholic church in my neighbourhood was sold to a developer and became a Gothic Nightclub. The Methodist Church has sold so many of its chapels that it has all but disappeared from large areas of the country. They are frequently small enough for conversion as domestic dwellings. Their witness to the Christian faith is at best obscured, at worst inverted as a sign of the failure of the faith in that place. The same is true of former Church of England churches which have been converted to non-religious purposes.

A new framework for buildings

A parish which consistently spends a modest sum each year on maintaining its building is more likely to avoid the risk of a sudden and overwhelming assessment at its quinquennial survey for essential repairs. However the ever burgeoning cost of parish share often means that parishes have no money left over once they have paid their priest's working expenses and the parish share. However the building is an essential component of parish ministry for witness and worship. To lose it is to face almost certain permanent loss of any worshipping community in that locality.

A new framework is urgently needed so that many parishes are not made to choose between parish share and the maintenance of their building. More and more frequently the parish share is the only criterion operated by the diocese to determine "success" or "viability", although the building could be sustained and used for worship if it were not required to be part of a benefice with a stipendiary priest, or even a non-stipendiary priest where the diocese continues to charge a large fraction of the share regardless. A system needs to be devised to take such churches out of the ambit of parish share.

Open versus closed

It has been recognised since the current Canons of the Church of England were framed in 1969 that it is no longer possible or desirable to insist that there is a formal act of worship in every church on every Sunday. Churches in the care of the Churches Conservation Trust (CCT) are permitted to have services up to six times a year, and this works well where services are held. Similarly church buildings in very rural areas or challenging districts of cities can be permitted to remain open for worship, even if it is just six times a year. They can survive if they are not required to fund parish share, which brings them no benefits.

It is always better to keep a church building open for worship, than to close it formally and for it to run the gauntlet of an unknown future, in which it may be lost for ever as a holy place and a place of worship. Such buildings should not be regarded as assets for disposal, as they have been freely given for worship, and indeed the ideal outcome is use by another Christian worshipping community. If such a community has very little in the way of money it is unlikely to be able to compete with commercial purchasers. In an ecumenical age, and in a society in which more and more churches are growing up belonging to denominations previously unseen in England, the right and moral course is to give them churches which we no longer require for worship, so that the praise of almighty God may continue in them.

Community use and engagement

A great deal of support is already given, in addition to that provided by the CCT, by charities taking responsibility for closed churches, such as the Friends of Friendless Churches and many local organisations. Many church buildings whose interior is not highly listed could be adapted for community use as well as for worship by removing furniture and providing essential facilities such as serveries and WCs, for which grant aid may well be available from local councils. In some places village halls are ceasing to be viable, and the church building, having been in competition with them for many decades, may prove to be an appropriate shared building for the community in their place.

Flexibility is greatly hindered in many instances by the ever more cumbersome and time-consuming Faculty jurisdiction, which often appears designed to ensure that buildings die rather than survive and prosper. Consideration should be given urgently either to ending the ecclesiastical exemption, or to pruning its powers drastically.

Trust ecosystem

All avenues for funding should and are being explored, but it is difficult to see any new way of achieving significant awards or support from secular sources as things stand. One step which might prove greatly beneficial would be to persuade Parliament to extend the powers of local councils to make grants for church buildings, which are often the most actively used and architecturally significant buildings in their locality. Church Rate continues to be an option although compulsion to pay was abolished in 1868, How many people would be willing to contribute a little in this way to ensure that the finest building in their community continued to be repaired and kept open for occasional use?

Ecumenical partnerships

Already in all too many places the Church of England is the only denomination whose church buildings remain in use. One project for the future for General Synod should be to promote its places of worship as churches for all denominations, open and welcoming to all. This is entirely in accordance with its ethos as a church for all parishioners, not just its members. Greater flexibility in church sharing should be explored both legally and locally. Very few church buildings are in use throughout Sunday, let alone during the week. It is simple to allocate different times during the day for different congregations, all of whom could contribute to the building's maintenance.

As noted above, any church which is facing closure should be offered freely as a gift to a Christian community which is looking for such a building, so that the intentions of its donors and builders, and the aspiration expressed in the act of consecration, can continue to be fulfilled.

Environmental agenda

The recent aspiration of the General Synod to be carbon neutral by 2030 is practically unachievable. So much money needs to be spent to catch up on church maintenance backlogs, and to make urgent repairs to buildings with large repair assessments, that these will form the priority for many parishes for many years to come. Tall buildings are notoriously expensive to heat, and the cost of replacing gas boilers with other technologies will prove prohibitive in many cases. A better target would be 2050, giving time for buildings such as churches with their particular architectural configurations to catch up.

Financial models

Use of sales proceeds

Where the inevitable outcome of closure is a commercial sale, in the event that no other denomination wishes to move into the building, the proceeds should be returned to the parish whose church has passed out of their use as a place of worship, either to fund the building or a new church, or to rent another building, or to continue in ministry according to its own plans, once the cost of closure has been recovered.

Church buildings represent the generosity of donors towards the parish concerned, and although currently the law provides for the proceeds to be alienated, this seems to be morally unjustifiable and even a breach of trust discouraging future donors from giving freely.

Diocesan Pastoral Accounts (DPA)

In each instance the proceeds of sales should first be applied to cover the costs of closure including the use-seeking period.

Closed churches building support account (CCBSA)

Any funds expended from this account should be reimbursed from proceeds of sale, where there are any.

Best value considerations

The law very appropriately permits the disposal of consecrated church buildings without reference to the requirement to achieve best value. The best outcome for the building should always be the highest priority. Church buildings should not be viewed as potential disposable assets.

5 Consultation and decision making

It is entirely right that the best and fullest practice should continue in terms of consultation on proposed Schemes to be made under the Measure, of whatever kind. This ensures that the right both of PCCs and clergy, members of the Church, and all parishioners continue to have a say in what is to happen to their church building, to their pastoral status as a single church or a larger benefice, to the ending of the office of their incumbent.

Consultation may appear time-consuming and a chore to those who seek to use the Measure, but the outcome of the process, if it is to be accepted and owned locally, must be as transparent and as fair to everyone's interests and concerns as possible. The issues at stake may seem modest when set in a national perspective, but for local people they loom large, especially when it affects their church building or their incumbent. The building itself may well be of significant financial value and the parish may need funds to replace it.

Failure to consult properly leaves behind controversy and anger, and vitiates the integrity of the process. Change is often difficult to accept, and so every effort must be made to listen to all concerns. It is well worth the time spent by the Church Commissioners and by the MPCPC in hearing an objection, to ensure that everyone has their day in court, and know that they have been heard.

6 Reforming the Measure

Options for change

No change should be considered which diminishes or removes the right of all parties to consultation and to appeal. For this reason it is essential to maintain primary legislation as the principal method of changing the current arrangements, so that it can be considered in full and in detail by the General Synod itself rather than by statutory instrument. This ensures in turn full scrutiny by the Ecclesiastical Committee of Parliament, and the safeguarding of the rights of all parishioners.

Modernising the legislation

Legislation by instrument where anything other than minor matters are concerned grants power to the institution at the expense of proper Synodical and Parliamentary scrutiny. It is precisely because the Measure is primary legislation that all can have confidence that any changes will not unfairly disadvantage anyone. At present much Synodical time is taken up with presentations. Its proper role however is as a legislature, and its time could be more extensively devoted to the consideration of Measures, allowing its elected Houses full scrutiny of proposed legislation.

Already there is evidence that people are not seeing notices placed on church doors and are thereby unaware of their right to voice any objection to a Scheme made under the Measure. There needs to be a mechanism for ensuring that notices are displayed, and for also publishing them on the diocesan and Church Commissioners' websites.

Short term changes

Decision making and the appellate function

The Church Commissioners' MPCPC provides an independent and well-resourced quasi-judicial tribunal for hearing objections to proposals which are always deeply felt, and in many cases involve significant assets belong to a parish, and in the case of clergy dispossession may cost someone their livelihood, home and ministry, as well as the loss to the benefice of its parsonage house. The right of a further appeal on any point of law to the Judicial Committee of the Privy Council is a further reassurance that rights and law are being upheld.

For appeals to be heard by the diocese itself, which often stands to gain financially from a proposed scheme, is a breach of natural justice. As lawyers say, *nemo iudex in causa sua* - nobody should be judge in a case involving their own interests. Such a provision would carry no credibility.

Worse, given the financial sums involved in some cases, decision making about bringing forward a Scheme may well be prejudiced by the prospect of financial gains for the diocese, taking precedence over pastoral priorities.

When dispossession of an incumbent is proposed the situation is already unjust, in that the priest concerned has no resources of their own to oppose such a proposal legally, and as an office holder, not an employee, has no recourse to an employment tribunal. Their only assurance of justice is an independent tribunal such as that provided already by the MPCPC.

Governance

Too many functions in too many dioceses are nowadays combined with the Bishop's Council. Because of the potential conflicts of interest where Pastoral Measure Schemes are under way, it would be better for the DMPC to meet separately and to make its recommendations to the Bishop's Council for its own consideration.

Schemes and Orders

Formal consultation should always take place before the publication of a Scheme.

The Commissioners should have power to correct a Scheme where administrative errors have been made which do not materially affect the Scheme.

Deanery planning

Deanery planning should be undertaken whether embodied in statutory provisions or not.

Cross boundary working

The Measure should be amended greatly to simplify the alteration of diocesan boundaries, especially to facilitate a Pastoral Scheme

Church closures

Steps should be taken to enable the CBC to process reports quickly and provide them promptly, including the provision of additional resources as necessary.

Adding an intermediate status will only add to complexity and uncertainty. A church should always remain open for worship in principle with steps taken to remove any burdensome requirements for a set number of services.

By removing such churches from the ambit of parish share, many will be enabled to remain open and to provide a limited number of services appropriate to their context, preserving the building as a place of worship rather than as a parish church.

Closed churches - alternative use and disposal processes

There must be limits to the funding available from the CCBSA, and limiting it to closed churches provides a brake on applications which might otherwise overwhelm the fund.

The faculty jurisdiction should cease immediately upon closure.

All churches, even those which are unlisted, are of public significance and of religious significance as places of prayer. Consultation should continue in such instances in order to ensure full communications and to reassure those who are concerned about the future of the building. In

particular there should be consultation with local Christian networks in order to maintain the building as a place of worship.

Repair of church buildings

Where a building is already at risk through lack of maintenance, the diocese should already have completed consultation on closure, so that closure does not take place after significant damage has occurred.

Statutory consultee role

Statutory Advisory Committee of the Church Buildings Council (SAC)

I have always greatly valued the advice of the SAC on buildings which are being mooted for closure. The MPCPC benefits significantly from such expert advice which provides a full picture of the building and its contents, and from its recommendations as to the possibility of vesting.

For simplification purposes, the closure procedure should begin with SAC advice but not require further consultation later in the process unless requested by the Church Commissioners.

Historic England

Consultation with HE should take place only where a highly listed building is concerned.

Human remains

The way in which any organisation ensures the appropriate dignity for human remains is an important test of its commitment to respect for the living.

It is in many ways a radical step to remove a church building from its use as both a place of worship and as a place of burial. In the light of this, continuing consultation with the Ministry of Justice remains an appropriate step in the course of closing a church where human remains whether ancient or more modern are present.

Consideration might also be given to advertising locally, as would be the case with the removal of gravestones in a churchyard, to give families the opportunity to have remains exhumed and reburied.

Parsonages

Parsonage houses were provided by local donors, or by public subscription or by the clergy themselves in an age when some enjoyed private means. Their gift was intended to ensure that the parish would continue to be able to house future clergy. The asset represented thus belongs to the parish, and is rightfully vested not in the diocese but the priest.

The trajectory of legislation since 1983 has been to make it easier and easier for dioceses to appropriate these assets, which are precious resources enabling parishes to have resident clergy. Once they have been taken there is unlikely to be another resident incumbent. Future legislation should make it clear that ownership of these houses belongs to the benefice.

All who are concerned for the provision of incumbents for the parish should be permitted to object to any parsonage disposal, especially where the diocese intends to retain the proceeds of sale.

Long term changes

Consultations processes and representation rights

All parishioners are interested parties. Those who sit on local councils are also interested parties, many of whom are likely to live in the parish concerned. Usually only those directly affected make representations, but these should not be viewed as a hindrance - they are an exercise of their rights just as much as representations made by those most closely involved, and the knowledge by both of the local situation is generally greater than that of diocesan officers.

There should be no reduction of such rights. The issues dealt with by the Measure can be very significant in various ways, especially to local people, who stand to lose out on provisions which in some instances have existed for centuries.

Clergy dispossession and mediation

Any change to the legislation should expressly provide for such clergy to have the right of appeal to an employment tribunal. Experience of the cases seen so far by the MPCPC indicates to me that such proposals are generally unsound in the reasoning advanced for dispossession and can result in great injustice.

As we heard at the July 2021 Synod a priest who is facing dispossession is in an invidious position, losing their ministry, their home, their stipend and their future pension rights in return for just twelve months' compensation in a lump sum subject to taxation. Finding employment to replace their ministry is highly unlikely, and the sums involved are so modest as to preclude replacing the lost housing which formed part of their vocation.

There is a direct conflict of interest if any appeal is to be heard by the diocesan bishop or by a third party acting on their behalf.

It is difficult to see what useful role could be played by mediation. The priest will still be dispossessed once the diocese has decided to abolish their office.

Appeals to the MPCPC should continue as now, to allow the committee to analyse the basis on which the diocese seeks not only to dispossess the priest but in doing so to change the pastoral arrangements for the parish concerned. The Measure is supposed to make better provision for pastoral care in the parish. The MPCPC should continue to examine the Scheme to see whether this is likely to be the outcome, and the possible loss of an incumbent must be a significant factor in that decision.

The right of appeal to the JCPC must also continue to allow points of law to be appealed.

Heritage and planning policy

It has been apparent for a long time that heritage bodies including Historic England possess too powerful a brake both on the closure of church buildings and on the DAC as it considers Faculty applications. It would be widely welcomed if statutory limitations could be imposed to enable churches both to develop their buildings more swiftly and cheaply, and where necessary to be closed expeditiously, by restricting the role of heritage bodies.

Patronage and appointment processes

Patronage is as important today as it ever was, perhaps more important now that so many parishes are merged into large benefices, as a means of ensuring diversity of appointments, and to

safeguard the tradition of individual benefices. There should be no further restrictions on its exercise.

Suspension and presentation of presentation

The meaning of s.125 is somewhat unclear and possibly misleading.

Patrons can only exercise their right to nominate an office holder when the office is vacant. If there is a genuine proposal for pastoral reorganisation under discussion then suspension may be appropriate as the first step taken by the diocese once an impending vacancy is announced.

Suspension of presentation is all too often an abuse of process designed to prevent a patron from appointing and to prevent a new incumbent from being instituted and collated as Rector or Vicar of the benefice, when there is no pastoral reason to do so, and no hard proposal for pastoral reorganisation on the table.

The right of presentation lapses after eighteen months if not exercised for any reason. It would be an abuse of process to appropriate the advowson to the bishop if for some reason a patron is unable to act in any particular instance. Experience shows that many of the delays can actually be caused by failures of process within the diocese itself.

Fresh Schemes should respect the rights of patrons to exercise their right of appointment and not be used to deprive patrons of their advowson. Private patronage is one of the key checks and balances with the economy of the Church of England ensuring a variety of appointments and protecting the tradition of individual parishes.

What is proposed is not simplification but the removal of important rights.

Patronage in new benefices

The influence of patronage has been continuously diluted in recent decades by the creation of multi-parish benefices. Where a new benefice is created it should not be taken as an opportunity to grant patronage to the bishop if not already one of the patrons concerned. Better to have a patronage board consisting of all the patrons, each with an equal vote. In that way all share in exercising their role at every vacancy. Most will rightly wonder if patronage is to be exercised in turns, as to whether they will live long enough, or their heirs will live long enough, ever to have an opportunity to appoint.

Where changes in patronage are to be sought, this should only be with the consent of existing patrons.

Sequestration

Provided there are no changes to the ownership arrangements in relation to parsonage houses, it seems reasonable for sequestration to be abolished since all of the assets concerned have now been appropriated by the diocese.

A new Measure

Any proposed changes to the existing legislation should be contained in a Measure which undergoes scrutiny on the floor of the Synod, and examination by the Ecclesiastical Committee of Parliament, in order to ensure that any changes to important rights are fully considered by both Clergy and Laity, who will be affected by the new legislation.

**The Reverend Stephen Trott
11 August 2021**

SUMMARY OF CONSULTATION QUESTIONS

1 Is there a need for a fundamental review of parish governance at the current time?

There certainly is. The settlement put in place by the 1976 Endowments and Glebe Measure, which asset-stripped the parishes, and now requires ever increasing payments of Parish Share, is gradually sawing off the very branch on which we all sit. According to the principle of subsidiarity, responsibility for funding stipendiary ministry should be returned to the parishes, if necessary utilising either a diocesan payroll system, or that currently operated by the Church Commissioners. Parishes should no longer be required to fund diocesan activities, which should instead utilise the remaining glebe and other assets taken in 1976. Parishes would then be free to fund ministry and evangelism much more effectively according to local need.

2 Should provision for joint councils be included in pastoral reforms, and if yes, how should that be done?

This is not a priority, and further work needs to be undertaken to ensure that such councils are constituted in such a way as to safeguard the interests of each component parish and any trusts attached to its church, parsonage or school.

3 How important is it to control the future use of the church building?

By whom, and for what purpose? The parish church is properly vested in the incumbent on behalf of the parishioners. Its management, maintenance, funding and insurance are properly the responsibility of the PCC. Any decision with regard to closure must remain with the PCC, not with the diocese or any other body.

Any church building and especially those which have been consecrated, should be recognised as a place which has been hallowed by prayer and as a powerful symbol of the presence of the Christian faith, often for many centuries.

Para 80 points out that the best use for such a building, one which respects its religious significance, and the intentions of those who built it, is for it to be transferred, subject to covenants to ensure its future as such, to another Christian denomination.

The Church Commissioners are not bound by "best value" financial considerations in disposing of places of worship precisely because of their religious significance. Many of the new Christian denominations springing up around the country and those which serve new migrant communities are unable to afford commercial prices for church buildings. But buildings consecrated to God should in principle be transferred to other churches for the worship of God on terms which they are able to afford, after due diligence to ensure that they are able to maintain the building. This would represent generous ecumenism in the most practical way.

4 Is there support for greater powers to lease or vest churches in use or in the use-seeking period in the CCT or other trust bodies for maintenance purposes or during use-seeking?

At present the CCT has a tightly prescribed role and even tighter funding from the DCMS and from the Church Commissioners. To extend its capacity in this way would require significant additional funding.

It would be better to draw upon the great expertise of the CCT to devise and set up an intermediate body which could handle churches in this statutory limbo to ensure that maintenance and security are carried out.

The first call upon the proceeds of any sale of church buildings should be to fund such a body and to cover the legal and other costs of dioceses leading up to closure and during use-seeking.

5 In what ways do you believe simplifying financial arrangements can better support the Church in undertaking these functions?

There needs to be clarity about responsibility for the costs of church closure, and about who should benefit from the proceeds of sale.

The parish itself loses its principal asset when its church is closed. Funds from its sale should continue to promote the mission and ministry of the church in the parish or benefice, where appropriate by the provision of a new place of worship, or a hall or meeting place for the continuing congregation.

6 What kind of pastoral conversation should diocese and clergy have with parish and church communities and how could that be managed better?

The over-riding principle in each case must be that all who have an interest must be provided with full information about what is proposed, and consulted effectively, so that every parishioner, not just those who are PCC members or clergy, are given the opportunity to put forward their views and are heard. In this way the legislation honours the principle set out in the Enabling Act 1919, that the Church belongs to all parishioners, as it does both morally and legally. The Church Commissioners are answerable to Parliament for the stewardship of the endowments of the Church which it holds in trust for everyone.

In particular, where consideration is being given to the dispossession of the clergy, the legislation must be changed to reflect the gravity of the impact this will have not only on a parish, but on the minister. A much fuller procedure must be devised to ensure that if possible they are able to move in a timely manner to a new parish appointment. If this is not possible then a much fairer compensation scheme is required, taking into account the length of time spent in training, the number of years in service, the loss of their home, and the likely loss of future income for someone without skills which are readily transferable to other employment. The 1993 Financial Provisions Measure⁶ offers a much fairer settlement in such a situation and its provisions provide a good template for a new Measure covering clergy dispossession.

Incumbents are office-holders, not employees, a principle which has been firmly established by General Synod over the past 25 years. A priest who is being dispossessed therefore has no right to appeal to an Employment Tribunal. This right should be included in a new Measure, where loss of office is at stake, to allow clergy the same safeguards as someone employed directly by the DBF.

7 Do you support any new legislation replacing the MPM into primary and secondary legislation in the way proposed?

Rights are best enshrined in primary legislation and on the face of the Measure. This ensures full consultation and accountability for policy and decision making.

8 Where should the decision-making, review and appellate functions lie for pastoral schemes?

⁶ The Ordination of Women (Financial Provisions) Measure 1993

The present system works satisfactorily and should remain undisturbed. The MPCPC of the Church Commissioners offers an independent and impartial quasi-judicial tribunal, with appeal on any point of law to the Judicial Committee of the Privy Council.

It would be entirely inappropriate for these functions to be exercised within the diocese itself. It should not and can not act as judge in its own court. The rights of everyone including clergy, church officers, PCC members and every parishioner would be seriously diminished if the diocese were to exercise such a function in its own interest, which can be considerable where the sale of a building or the appropriation of a parsonage house is concerned.

9 Are any changes needed to the arrangements for DMPCs?

Practice varies widely, diocese by diocese. To obtain best practice the law should require each DMPC to meet in its own right, and not be subsumed into the Bishop's Council, so that the issues at stake are considered without influence from other functions of the diocese.

10 Do you support the reduction in the number of instruments available to achieve pastoral reorganisation?

The principle should be that any statutory procedure designed to make changes, which inevitably affects the rights of everyone in the parish/benefice concerned, should be embodied in an instrument which results from comprehensive consultation, safeguards the rights of all concerned, and is ultimately accountable and appealable. The preference should therefore generally be for Schemes rather than Orders, except where the most minor matters are concerned, such as naming a new benefice or archdeaconry.

11 Do you support the Commissioners having greater flexibility to amend Schemes?

It would be very helpful for the Commissioners to be able to correct *e.g.* drafting errors in Schemes at an early stage, and also where a Scheme comes to the MPCPC on appeal, for the Commissioners to be able to modify the proposed Scheme, with the consent of the Diocese and the appellant(s), so that it becomes acceptable for it to proceed. Otherwise lengthy delays can result when a Scheme is turned down on appeal, and has to be re-run.

12 Do you favour removing the statutory provisions which relate to deanery plans?

The deanery is a key component of the Synodical Government Measure and increasingly plays a role in the ministry of the parishes within its ambit. It is therefore important for its own Mission and Pastoral Committee to be fully engaged with pastoral reorganisation within the deanery, and any change to the current legislation should be to provide a simplified planning procedure capable of being adopted by any deanery, large or small, urban or rural.

13 Should diocesan cross-boundary working be made easier, and if so, how?

Greater powers and flexibility should be given either to the Dioceses Commission or to the Commissioners in the Pastoral Measure to alter boundaries between dioceses.

14 Should the requirement to obtain a CBC report before proposing closure be removed?

The information provided by the CBC is essential in assessing the architectural, historical and landscape value of a church as well as its contents. In order to speed up the process, greater resources should be allocated to the CBC.

15 Should it be possible to designate a church as having an interim status between “open” and “closed” and what might this mean in practical terms?

It would be better to devise a body capable and funded to assess the condition and needs of the building, to ensure essential maintenance is carried out, and that the building is secure and insured.

16 Would it be helpful to be able to spend from the CCBSA pre-closure?

There is the risk that these limited funds would come to be regarded as a regular rather than an emergency source of funding. However if a system can be devised to support church buildings facing closure so that they do not suffer significant neglect or damage in the interim, then the funds required would appropriately come from the sales of closed churches, and held by the CCBSA.

17 Do you agree that a closed church during the use-seeking process should only be subject to the secular planning system?

In my experience the faculty jurisdiction has become too cumbersome, too restrictive and too slow to be fit for purpose. Once a church is closed it should only be subject to secular planning law.

18 Do you think that there should continue to be a consultation on the future of unlisted churches not in a conservation area?

Certainly, yes. A place of worship may lack the status conferred by listing, but its significance as a holy place does not depend on such considerations. Its value in the eyes of those who regard it as their place of worship, perhaps over several generations, must be taken into account.

19 Do dioceses need powers to ensure the repair of church buildings in use?

Dioceses already supervise the care and maintenance of church buildings via Quinquennial Inspections. The problem is not lack of power to ensure repairs, but the lack of availability of funding. It would be helpful to provide regular education for parish stake-holders about the necessity to carry out minor repairs expeditiously, so that they do not become major repairs beyond the means of the parish, forcing closure and imposing large costs upon the diocese and potentially the CCT.

20 Would you support better ways of enabling closed church buildings to be leased in certain circumstances without needing wide consultation?

Even though a church has been closed it remains of concern of the local community, and adequate consultation as appropriate should be undertaken to ensure that any purpose to which it is put is both suitable for the building and for its continuing witness to the Christian faith. Care should be taken to enforce covenants, and to ensure that leases can be promptly terminated if the building is not properly maintained, or is used for inappropriate purposes.

21 Do you believe that there continue to be benefits in the Church retaining the SAC to provide separate independent advice in dealing with the future of closed church buildings?

Everything which helps to provide an informed and objective assessment should be required in order to take decisions about significant parts of the Church's built heritage. The body of expertise provided by the SAC is invaluable.

22 Do you consider that the arrangements for consultation with Historic England might better align with the secular planning system?

Such consultation should continue where highly listed buildings are involved. They form part of the national as well as ecclesiastical heritage and partnership with the State brings the benefit of independent advice.

23 Do you support a change to the way Ministry of Justice procedures with respect to burials are managed?

Respect for the dignity of human remains is a first priority when dealing with church buildings and churchyards, not least because their treatment affects relatives and descendants. Any change must continue to assure that human remains receive dignified treatment as an aspect of affording dignity to human life and death. They are also an intrinsic connection between this life and the world which is to come. *In my flesh shall I see God: whom I shall see for myself, and mine eyes shall behold, and not another.* Job 19. 26-27.

24 Would you favour restricting rights of representations on parsonage provisions in schemes?

Parsonage houses belong to the parish and not to the diocese. The current law should be reformed to clarify this and to ensure that such houses are protected assets ensuring that a parish is able to house a current or future minister. Until then such safeguards as currently exist should continue.

25 Do you support any of these options for changes to representation rights? And if yes, why?

There should be no changes. The law requires that the rights of all parishioners are taken into account, and that is done principally by consultation and representation. For this to be done impartially requires rights of representation and appeal to an independent body.

26 Do you support the development of an appeal route for dispossession cases under the Measure, and introducing a dispute resolution or mediation mechanism?

See above at p.12, and at Q.6. The current procedure does not provide anywhere near adequately for a dispossessed incumbent and their family. In the first instance the current compensation provision should be greatly improved, for which there is a coherent precedent in the 1993 Measure. Such clergy should also have a right of appeal to an employment tribunal, and to legal aid which is not means-tested.

27 Should clergy be able to retain a right to JCPC appeal on dispossessions?

Yes, where there is a point of law. Where the decision requires review this should be available in the high court.

28 Do you support the simplifying of the provisions for suspension and restriction of presentation?

Any further limitations of the rights of private patrons or of patronage bodies should be resisted. Patronage ensures a precious diversity in the Church of England's parishes, which has been greatly diminished in recent years as a result of the diminution of the role of patrons, chiefly in the formation of multi-parish benefices.

29 Do you support the requirement for a patronage board for new benefices?

See Q.28 above. Where there are multiple patrons of parishes within a new benefice, they should be invited to choose between taking turns, which in some modern benefices may take generations, and sharing the appointment by vote on each occasion.

30 Do you support provision for removing patrons' rights to consent to changes in patronage?

See Q.28 and Q.29 above. The advowson is both an exercise of spiritual and pastoral care, which protects the diversity of the Church of England and the traditions of its parishes, which is one of the stated concerns of the Pastoral Measure. It is incidentally a property right, which should not be confiscated.

31 Do you support the abolition of sequestration?

Provided it is made clear that the churchwardens are responsible for the provision of services during the vacancy and that the PCC will be chaired by its lay vice-chair during this period.

**The Reverend Stephen Trott
11 August 2021**

