

After General Synod November 2013: reporting back

The Church of England website: <http://www.churchofengland.org/about-us/structure/general-synod/agendas-and-papers/november-2013-group-of-sessions.aspx> includes the link to the "Report of Proceedings" which is the transcript of all the debates, and the "Business Done" which is the list of the motions passed and the votes taken.

Audio recordings of debates are here: <http://www.churchofengland.org/media-centre/media-library/general-synod-audio-files.aspx>

Women Bishops (GS 1924, GS 1925, GS 1926, GS 1925-6X, GS Misc 1061)

19 November began with group work to discuss the new proposed package for women bishops. The main concern of traditionalists in the group that I attended, was that the intentions in the new package for continued provision for traditionalists, might not be achieved, or might not last, such that there would not in the medium be anglo-catholic or conservative evangelical bishops to serve the needs of those who for theological reasons could not receive the sacramental or headship ministry of women bishops. That said, all sides agreed that the new package was an improvement on last year's proposals, and there was a strong feeling that the new package was a good balance and that major changes to it might threaten the consensus that had emerged.

20 November was the main debate in Synod on the new package. There was significant consensus that it is a workable way forward. The main concern raised was from conservative evangelicals. The difficulties of some conservative evangelical clergy were, first, that they would have to make the oath of canonical obedience to a woman diocesan bishop; and second, any supplementary bishop provided for them to meet their theological needs would be under the delegated authority of the woman bishop. Both of these might involve the conservative evangelical minister accepting female headship in the Church, which they consider to be unbiblical. Some argue that a conservative evangelicals can retain their theological integrity despite this, by an understanding that, first, the oath of canonical obedience is to the 'office' rather than to the individual woman bishop; and second, that the ministry of the supplementary bishop comes not because they have been delegated so by a woman bishop, but because they are a bishop ordained by God. The Revd Rod Thomas was one of those who spoke on this point (see **Report of Proceedings**, page numbers 160-161):

"there are some major issues that we have not really been able to deal with in the Steering Committee and which are a cause of concern for those like me who take a conservative evangelical view on male headship.

The whole issue of jurisdiction is one that we have not really been able to tackle. The reason that is a problem is because, if a supplied bishop operates in a delegated capacity, the acceptance of that bishop for some in our grouping will be tantamount to accepting the headship of the person who gives them that authority. That does remain a problem, therefore, and it may be that there is more that the House of Bishops could do in its Declaration to help ease that concern. Archbishop Rowan helpfully distinguished between 'delegated' and 'derived' authority, and it may be that drawing a distinction between what is delegated on a temporal basis and what is not delegated on a spiritual basis might help with this general problem."

At the end of the debate, the motion:

"That this Synod, welcoming the package of proposals in GS 1924 and the statement of principles endorsed by the House of Bishops at paragraph 12 of GS 1886, invite the House of Bishops to bring to the Synod for consultation in February a draft declaration and proposals for a mandatory disputes resolution procedure which build on the agreement reached by the Steering Committee as a result of its facilitated discussions."

was passed 378 in favour: 8 against; 25 abstentions. I voted in favour.

The next step is that the February 2014 General Synod will conduct the Revision Stage of the Draft Measure and Amending Canon. It will then go to dioceses for approval. If approved it will then go to General Synod for Final Approval in July 2014. If approved, the Measure will then go to Parliament. I expect that the new package will pass all these hurdles, and the first women will be able to be appointed as bishops in episcopal vacancies that occur from 2015 onwards.

Challenges for the Quinquennium: Intentional Evangelism (GS 1917)

There were some thought provoking speeches, in particular that of Revd Philip North on why Church of England evangelism is failing the poor (see **Report of Proceedings**, page number 20). At the end of the debate, Synod passed the motion which included to:

- “(d) call upon every diocesan and deanery synod and every PCC to spend the bulk of one meeting annually and some part of every meeting focusing on sharing experiences and initiatives for making new disciples; and
- (e) urge every local church in 2014 prayerfully to try at least one new way, appropriate to their local context, of seeking to make new disciples of Jesus Christ.”

Draft Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure (GS 1919, GS 1919X)

The Synod approved the document to go to the next stage, revision in committee. Charles George QC (see **Report of Proceedings**, page numbers 84-86) explained the intention, when changes are needed to a church building, more minor matters will be able to be approved by the Archdeacon, rather have to go through the Diocesan Advisory Committee. This should speed up the process and reduce bureaucracy.

The Church School for the Future - Chadwick Report: Progress since March 2012 (GS 1920)

The Bishop of St Albans' speech (see **Report of Proceedings**, page numbers 116-118) included some practical suggestions for parishes. For example:

- “virtually every parish in our diocese and in many others is being encouraged to have a lay ministry team. Why do we not have a schools team in every parish, or perhaps in the case of just one Church school in a very rural deanery a team drawn from the entire deanery, helping with collective worship and reading and offering resources to our local schools so that the pupils can meet members of the worshipping community, and if they happen to turn up at church meet them there as well?
- [...] I always suggest that we spend 20 minutes with the head, the chair of governors and the vicar and ask the simple question: how can we work better together? It is fascinating to realize how often either the head or the incumbent has ideas but they have never quite got round to discussing them and thinking about what they might be able to do better, and I am constantly astonished that before a few minutes are up they are engaged together in a conversation that they have never had previously.”

Draft Church of England (Ecclesiastical Property) Measure (GS Misc 1060, GS 1921, GS 1921X).

Clive Scowen in his speech (see **Report of Proceedings**, page numbers 132-133) expressed disappointment that the Archbishops' Council had not enacted the Synod vote to allow a PCC to own land or property without it having to be vested in the Diocesan Board of Finance. He asked the Revision Committee, when appointed, to lift some of the restrictions:

- “The very modest changes in this draft Measure are welcome - they are better than nothing - but in a spirit of simplification we could do so much better. As others have

pointed out, all PCCs are already well regulated by the Charity Commission. Much smaller charities than many PCCs are able to hold their own land subject only to regulation by the Charity Commission; and already canny PCCs get round the requirement to vest land in the DBF by establishing separate trusts that are not subject to the 1956 Measure. Would it not be better to have a system in which the incentive to do that was removed and actually rather greater influence could be brought to bear from the wider Church than is currently possible where a separate trust is established? The main argument against what I call de-nannyfication appears to be that parishes would lose the involvement and sage advice of their archdeacons who are said to have saved many a parish from folly. I do not doubt that that is so, and the role of archdeacons is enormously valuable, but alternative statutory safeguarding mechanisms could be put in place that would end the requirement for land to be vested in the DBF. PCCs could be made subject to a duty to consult the archdeacon and to have regard to his or her advice. [...] I shall vote for this draft Measure to go forward for revision, but I hope that the Revision Committee will be bold and robust in making changes to bring it more into line with what the Synod originally asked for and in the spirit of the simplification process that we have welcomed in other areas already in this group of sessions."

The Draft Measure has now gone to a Revision Committee and will come back to a future meeting of General Synod.

Electorate for the House of Laity (GS 1906).

This was the resumed debate from July (see my **July 2013 report**). Currently lay members of the General Synod (such as myself) are elected by Deanery Synod members. One alternative debated was to set up a new 'electoral college' in place of Deanery Synod members. Another alternative was to give everyone on the electoral roll the vote - 'universal suffrage'. I voted for the universal suffrage option, but this was defeated, as was the electoral college option.

The Synod did however vote for some modernisation to allow the 2020 Synod elections to be undertaken online (the changes could not be brought in in time for the 2015 elections). One Synod member had put down an amendment to prevent online voting, arguing that it would discriminate against those without internet access. In my speech (see **Report of Proceedings**, page number 209) I said that this misunderstood the proposal. The proposal was actually online voting for those who were able, with a postal option for those without internet access. My point was accepted, the amendment was duly lost and the modernisation will take place.

Before General Synod November 2013: inviting your views

All the documents for the 18-20 November 2013 General Synod are on the Church of England website: <http://www.churchofengland.org/about-us/structure/general-synod/agendas-and-papers/november-2013-group-of-sessions.aspx>

If you only have time to look at one document, I recommend reading Annex A of GS 1924 - the draft House of Bishops' Declaration regarding women bishops.

The Report is attached.

Women Bishops (GS 1924, GS 1925, GS 1926, GS 1925-6X, GS Misc 1061)

The Synod will be debating the latest proposed way forward to ordain women as bishops. The draft Measure (GS 1925) is about as close as it is possible to get to the 'single clause measure' that groups such as WATCH (Women and the Church) have always campaigned for. Clause 1(1) would make it possible for women to become bishops. Clause 1(3) would repeal the current legislative provision for traditionalist parishes - the 1993 Measure which currently gives traditionalist parishes the legal right to pass Resolutions A and B to ask for a male priest. The

Act of Synod, which currently allows traditionalist parishes to petition for extended episcopal care would also be repealed (page 8 of GS 1925).

New provisions for traditionalist parishes would be contained in a House of Bishops' Declaration, a draft of which is Annex A of GS 1924. Unlike the present provisions for traditionalists, these would not have the force of legislation, but there would be a dispute resolution procedure (Annex B of GS 1924) which would have a formal basis by being required in Canon Law (GS 1926, Canon C29).

My own reading of the draft House of Bishops' Declaration is that it is excellent and I felt some real hope when I read it. Its provisions, if implemented and stuck to, are I think probably enough to enable traditionalists (anglo-catholics and conservative evangelicals) to remain in the Church of England with theological integrity once women are ordained as bishops. However, I would like to hear from those for whom the provisions have been designed to see if they share that view.

The key question is whether deleting the current provisions for traditionalists from legislation and replacing them with a Declaration that has no statutory basis, and could be changed by the House of Bishops in the future with a two-thirds majority of Synod, is sufficient. The General Synod has not made things easy for itself. Every proposal to give traditionalists secure provision - third province; non-geographic diocese; transferred episcopal arrangements; co-ordinate jurisdiction - has been voted down by General Synod, and instead Synod is offering provision that is not in legislation, on the grounds that there should be 'grace not law', with the assurance 'trust us'.

This is a big ask for traditionalists, because the provision for them in the House of Bishops' Declaration would be given to them with one hand; whilst the current legislative provision for them is taken away with the other hand. (A motion at the July Synod to keep the current legislative provisions for traditionalists in place when women bishops legislation is introduced was not passed). When the current legislative provisions for traditionalists were given in 1993, Church representatives promised Parliament at that time that they would be "continuing provisions without limit of time built in, permanent, parochial safeguards." Those "permanent" provisions would now be taken away. I have however, recently had correspondence with Bishop David Wilbourne, who says that in the case of the non-legislative Act of Synod, that particular provision had never been intended to be permanent. Attached is my letter to Bishop David.

and attached is Bishop David's reply (he has kindly given permission for it to appear on my website).

Given that there is no option of women bishops legislation with secure provision for traditionalists currently on offer, the choice facing traditionalists is either:

a.) accept the insecure provision, and the women bishops legislation will pass at Final Approval in 2014;

or:

b.) reject the insecure provision, and the women bishops legislation will likely fail at Final Approval. The hope of traditionalists then being that General Synod after two failures will finally offer secure provision for traditionalists in order to get women bishops legislation passed. The risk being that a majority of Synod members will be so angry at a second failure that they will then try and push through women bishops legislation with no provision for traditionalists of any kind.

Personally, my current thinking is that because the wording of the draft Declaration is so excellent, as long as the text does not get watered down, I would probably vote for it. That said, the documents were published less than two weeks ago and I need to listen to the views of others, and pray to be open to God's guidance.

Challenges for the Quinquennium: Intentional Evangelism (GS 1917)

Paragraphs 65-92 could be suitable for parishes and Deanery Synods to discuss about what further evangelistic steps we might all take. There are questions after each short section for group discussion.

Draft Care of Churches and Ecclesiastical Jurisdiction (Amendment) Measure (GS 1919, GS 1919X)

Technical amendments to faculty legislation intended to improve the process.

The Church School for the Future - Chadwick Report: Progress since March 2012 (GS 1920)

Update including re-engineering Diocesan Boards of Education to help them meet the additional demands upon them, plus work on improving resources for RE teachers.

Draft Church of England (Ecclesiastical Property) Measure (GS Misc 1060, GS 1921, GS 1921X).

In July 2012, General Synod passed the motion:

"That this Synod call on the Archbishops' Council to bring forward legislation to amend the Parochial Church Councils (Powers) Measure 1956 so as to permit a PCC which is a registered charity to acquire and hold any interest in land and any interest in personal property to be held on permanent trusts, without any requirement for the interest to be vested in the diocesan authority." (Paragraph 3 of GS 1921X).

The Archbishops' Council subsequently rejected that and decided a lesser change should be made:

"The overall effect of the Council's proposals is that all land owned by PCCs, and personal property held on permanent trusts, would continue to be vested in the diocesan authority but its consent would not be required for transactions below the limit. The consequence would be that, in the absence of a need for consent, PCCs would be free to deal with their property as they thought fit - consistently with their fiduciary duties - and diocesan authorities would only be able to decline to give effect to a disposal if they had reason to suspect a breach of trust." (Paragraph 17 of GS Misc 1060).

"No decision has yet been taken on the value to be specified in that order. The amount to be specified must be endorsed by the General Synod, and the Council will note the views expressed in the debates on this draft Measure. There is, of course, a balance to be struck between the need to avoid bringing everything to the diocese and the risk that transactions of real significance could take place without the diocesan authority's knowledge." (Page 3 of GS 1921X).

I have no experience in this area and would welcome views from those with experience, especially on what level the threshold should be set.

**Report from the Steering Committee
for the Draft Legislation on
Women in the Episcopate**

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GENERAL SYNOD

Women in the Episcopate

Report from the Steering Committee

for the draft Bishops and Priests (Consecration and Ordination of Women) Measure and draft Amending Canon No 33

Introduction

1. The text of the resolution passed by the Synod at the end of the debate on 8 July was:

‘That this Synod:

- (a) reaffirm its commitment to admitting women to the episcopate as a matter of urgency;*
 - (b) instruct the Appointments Committee to appoint this month a Steering Committee to be in charge of the draft legislation required to that end;*
 - (c) instruct the Business Committee to arrange for the First Consideration stage for that draft legislation to be taken at the November 2013 group of sessions, so that the subsequent stages can follow the timetable set out in paragraph 141 of the annex to GS 1886;*
 - (d) instruct the Steering Committee to prepare the draft legislation on the basis described in paragraphs 79-88 of the annex to GS 1886 as ‘option one’ with the addition of a mandatory grievance procedure for parishes in which diocesan bishops are required to participate and invite the House of Bishops to bring to the Synod for consideration at the February 2014 group of sessions a draft Act of Synod or draft declaration to be made by the House to accompany the draft legislation; and*
 - (e) urge that the process of facilitated conversations continue to be used at significant points in the formulation and consideration of the draft legislation’.*
2. During the course of the debate the Bishop of Willesden had proposed that “*we put together a bigger than usual steering group that would include people of all sorts and conditions, both those from the pressure groups and those of no groups at all, who quite often are left out of these sorts of discussions, which will be tasked with engaging in a facilitated discussion with David Porter and, based on our debate this morning and the parameters set here, proposing legislation that meets with universal approval... it would be a different way of framing what we do and it might just work.*”
 3. A number of speakers in the debate expressed support for this proposition and, although the Bishop of Willesden had not sought to test the mind of the Synod on it by tabling an amendment, the Synod accepted an amendment from Mr Keith Malcouronne (paragraph (e)

of the resolution as passed) which commended the process of facilitated conversations in the formulation and consideration of the legislation.

4. In the light of the debate, the Appointments Committee decided to appoint an unusually large Steering Committee of 15 members (plus a consultant) not all of whom had voted for the motion at the end of the 8 July debate. In doing so the Committee was mindful of Standing Order 49(a) under which it *“may at any time vary the number of persons appointed to the Steering Committee and the members appointed thereto.”*
5. The chair of the Appointments Committee accordingly explained to the Synod on 9 July that the size and membership of the Group would be reviewed by the Committee as soon as it had completed its initial stage of work and before first consideration of the draft legislation in November.
6. We are grateful to the Appointments Committee for the trust invested in us. We are conscious that there were those who questioned the wisdom of departing from the normal convention that all those appointed to a Steering Committee should be supporters of the principle of the relevant legislation. The convention is a sound one but, in this highly unusual situation, we believe that there has been advantage in involving people from a wide range of views in this particular phase of the work.
7. That is because we have been able, with the agreement of the Standing Committee of the House of Bishops, to work not only on the draft measure and amending canon but also on those other elements of the overall package which are needed in the light of the decision that the Synod took in July.
8. While, therefore, we have discharged the normal Steering Committee responsibility in relation to preparing the legislation we have, in fact, spent rather more of our time on what might be included in a declaration from the House of Bishops and how the proposed mandatory grievance procedure might work.
9. Given the view reached by the Synod and the House of Bishops that the legislation should be simpler than the measure which failed to secure final approval last November, the contents of the declaration and of the grievance procedure assume particular significance. There are likely to be many Synod members who will only finally make up their minds on the proposed legislation once they are clear about the totality of the package.
10. It is for this reason that we have, unusually for a Steering Committee, decided to produce this report rather than simply leaving the draft measure and amending canon, and the accompanying explanatory memorandum, to speak for themselves. In attempting to assemble a complete package of proposals we have had to grapple with a lot of quite complex material and we thought that members of the Synod, as well as the House of Bishops, would find it helpful to have a full account of our discussions, not least in relation to the grievance procedure, where we have had to develop a worked-up scheme from scratch.

Our discussions

11. We met for two days in Coventry on 5/6 September and in London on 11/12 October and on 17 October. At each of our meetings we had invaluable help from three facilitators, David Porter, Bill Marsh and Sandra Cobbin. We are greatly indebted to them for the skill and expertise that they contributed to our discussions. We are also grateful to the Dean of York for her invaluable contribution as a consultant and to the Secretary General, the Legal Adviser and Deputy Legal Adviser and Standing Counsel for the way in which they produced and revised papers and the draft legislation to extremely challenging deadlines.
12. It was explained to us that our mandate, both on substance and process, was contained in the motion passed by the Synod in July, though there were other points raised during the debate on which we also needed to reflect. Many of us had voted enthusiastically for that motion. Others of us voted against it, having supported unsuccessful amendments which would have required more extensive arrangements to have been included in the draft legislation itself. Nevertheless, we have worked together to develop a package consistent with the motion.
13. The question for us, therefore, has not been whether women should become bishops nor, given the clear decision taken by the Synod in July, how extensive the legislation should be, but rather how best, given the decisions already reached, we might move forward together in a way that maintains the breadth and rich diversity of the Church of England.

Our overall approach

14. In their report to the House of Bishops in May the Working Group proposed *“something around which all those who aspire to keep the Church of England as a broad Church might gather. For our own discussions we are clear that are elements within this vision which will cause discomfort to those on various sides of the argument. But they need to be held one with the other and held together in tension. We are perhaps at a moment when the only way forward is one which makes it difficult for anyone to claim outright victory.”*
15. Subject to two clarifications, the House of Bishops endorsed this vision- or ‘guiding principles’, as we have termed them- at paragraph 12 of GS 1886. These five principles underpinned the proposals brought to the Synod in July, though the motion laid before the Synod did not invite it explicitly to endorse them.
16. Left to ourselves, some of us would have wanted to draft parts of the text slightly differently. But, as the Working Group noted, each of the five elements needs to be read, and held in tension with, the others. We all believe that there would be a real danger that any further attempts at redrafting could upset the careful balance that the five guiding principles, read as a whole, were designed to strike.
17. We all agree, therefore, that securing a wide measure of assent to them would help significantly in the process of building the trust which needs to characterise the new legislative process. To that end we have included them at the beginning of the proposed declaration that the House of Bishops might issue. The House has not yet had the opportunity to consider our ideas for the other material that might be included in the declaration. But it has already endorsed the five guiding principles proposed by the working

group. In the motion we shall be bringing in November on this report we are proposing to give the Synod the opportunity to welcome this approach.

Measure and amending canon

18. **We have also produced a draft measure and amending canon** to give effect to the decision taken by the Synod in July. At four clauses and a single schedule the draft **measure** is significantly shorter than the one which failed to secure approval in November and which ran to twelve clauses and four schedules.
19. Clause 1 covers the same ground as the previous measure, providing the necessary statutory authority for the making of a canon so that women can be consecrated to the office of bishop. The rest of the measure, save for Clause 2, simply deals with statutory amendments consequential on the repeal of the 1993 measure and the other usual formal provision concerning the title of the measure, its coming into force and its extension to the Channel Islands and the Isle of Man.
20. Clause 2, which follows discussion with the Prime Minister's Appointments Secretary and with the Government Equality Office, makes a small, clarificatory amendment to the Equality Act 2010. Its effect is not to provide a special exemption for the Church of England but to put it in the same position, so far as the Equality Act is concerned, as all other denominations and faiths whose senior appointments do not require the formal involvement of the Crown.
21. As explained in paragraphs 121-129 of GS 1886, under section 50 of the Equality Act it is unlawful to discriminate not only in making appointments to a 'public office' but also by discriminating as to the terms of such an appointment. A 'public office' for this purpose includes one made "*on the recommendation of, or subject to the approval of, a member of the executive.*"
22. If diocesan bishoprics fall within that definition (which is not entirely clear), it would not be lawful for the Church of England to create the expectation, even though it were not a legal requirement, that diocesan bishops would, in certain circumstances, invite other bishops to exercise ministry in parishes which, on grounds of theological conviction, did not wish to receive episcopal oversight from a woman.
23. Government officials share the view of the Legal Office that the matter is not free of doubt and that, therefore, if the Church of England wishes to have certainty the clarificatory amendment in clause 2 is necessary. **The definition of 'public office' is solely for the purpose of the Equality Act and has no implications for the public role of bishops more generally.** A similar exclusion is already provided in the Equality Act in relation to life peerages and other honours and dignities conferred by the Crown.
24. The **amending canon** provides for the admission of women to the episcopate. It does so by amending Canon C 2 to say that "A man or a woman may be consecrated to the office of bishop", thereby avoiding the need to insert a new Canon C 2A making special provision for the consecration of women alone. Similarly, amendments are made to Canon C 4 (which deals with the ordination of deacons and priests) so that it applies to both men and women, so

enabling the present Canons C 4A and Canon C 4B (which made special provision for the ordination of women as deacons and priests) to be revoked. **We are all agreed that the new drafting will helpfully reflect the first element of the five guiding principles.**

25. Although the number of deaconesses in the Church of England is now small, the specific canonical provision made by Canon C 4A for their ordination as deacons is retained in the revised form of Canon C 4.
26. The amending canon also imposes a duty on the House of Bishops to make regulations prescribing a procedure for the resolution of disputes arising from the arrangements for which the proposed House of Bishops' declaration makes provision. The intention is that the House will consider our proposed draft declaration this December and, in accordance with July's motion, bring it to Synod for consultation in February.
27. It will then be for the House of Bishops, on its own authority, to make the declaration. To provide reassurance we have included in the draft amending canon a requirement that if the House wished at some later date and in the light of experience to amend the regulations it would need to bring the revised text to the Synod and secure a two-thirds majority for it in all three Houses.
28. We have reached agreement on what, in our view, should be included in the House of Bishops' declaration and in the grievance procedure. **It is important to underline that we believe they are an integral part of an overall, balanced package and need to be agreed before the Measure and Canon are brought to final approval. Indeed, although not formally part of the Article 8 reference they will need to be shared with the dioceses in final or near final form so that they can vote on the legislation in the knowledge of how all the elements of the package fit together.**

Draft Declaration

29. We attach at **Annex A** a first draft of the possible House of Bishops' Declaration on the Ministry of Bishops and Priests. It has not yet been considered by the House of Bishops and needs therefore to be understood as our proposal to the House until the latter has had the opportunity to consider it at its meeting in December.
30. That said we have sought to incorporate in the first half of the Declaration much of the material that the House of Bishops has already seen and endorsed from the Working Group, which reported to it in May. We see the Declaration as the vehicle for giving authority to many of the proposals in GS 1886.
31. Thus, as explained above, we think it would be sensible for the Declaration to begin with the five guiding principles already agreed by the House. In paragraphs 6-15 we have, as the Working Group did before us, set out some specific consequences which should flow from an approach based on simplicity, reciprocity and mutuality.
32. We have then in paragraphs 16-29 set out **a number of commitments which we believe that the House could give to parishes and a number of expectations that the House is entitled to create in return for the way in which parishes approach these issues.** We have

deliberately sought to keep the text short and, rather than summarise it here, we would urge members to read it in full.

33. The move to a simpler form of legislation, while unwelcome to some of us in certain respects, has provided an opportunity to come afresh at some issues that were problematic during the earlier legislative process.
34. We have not, for example, attempted to define in the declaration the additional characteristics of the bishops and priests whose ministry would be sought by those parishes for which maleness was a necessary, but not a sufficient, characteristic. Instead we have provided for consultation after a resolution has been passed so that the diocesan bishop can ascertain the nature of the theological conviction underlying the parish's decision. In relation to priestly or episcopal ministry the bishop (and others involved in parochial appointments) should then pursue outcomes that did not conflict with the nature of the parish's conviction.
35. We have addressed in paragraphs 26-29 the **choice of the male bishop by the diocesan bishop** and the ministry that would be entrusted to him in relation to those parishes that had passed resolutions.
36. We considered carefully how prescriptive to be in relation to **the extent of the ministry to be exercised** but we noted that, in law, these will be decisions for the relevant diocesan bishop. We also all recognised that the variety of diocesan contexts would make it very difficult to come up with a set of recommendations in a national document that would make practical sense everywhere. Paragraphs 27-29 do, however, set out a number of important expectations.
37. Paragraph 30 addresses the issue of 'supply'. For Conservative Evangelicals and for Traditional Catholics an important issue is whether the Church of England remains committed, in the long term, to enabling their parts of the Church to flourish. That in turn raises questions about the leadership and oversight which they will be able to receive.
38. Although the concerns are shared by both traditions, the nature of them is not identical as between Conservative Evangelicals and Traditional Catholics. For the former the issue is not so much about ensuring a supply of bishops who will be able to provide oversight for their parishes, since there will continue to be a significant number of bishops who are men and can therefore meet the headship concern. For them the issue is the more general one of wishing to see one or more bishops from their tradition within the college of bishops of the Church of England.
39. Conservative Evangelicals (and Traditional Catholics) fairly point to the recommendations in the 'Pilling Report' of 2007 on senior appointments (*Talent and Calling*, GS 1650) which were endorsed by the General Synod and which said that the Church of England needed to make more efforts to secure the appointment of Conservative Evangelicals and Traditional Catholics to episcopal office.
40. We have, therefore, proposed a specific acknowledgement by the House of the importance of reflecting within the College of Bishops the full diversity of theological conviction within the spectrum of Anglican teaching. It has not been helpful that, for a little while now, there has

been no Evangelical in the college of bishops who takes the conservative position on 'headship'.

41. We have also included a reference to the three sees currently occupied by the provincial episcopal visitors. The definition of those roles is provided by the Act of Synod, but the sees will continue to exist, and the post holders continue to remain in office, when the Act is rescinded. The continued existence of the sees will therefore provide one of the ways by which the Archbishops should, over time, ensure a continuing supply of suitable bishops to the extent that that is not achieved through appointments to other sees.
42. We have not thought it right to address here the particular issues that will arise in relation to consecration services for Traditional Catholic bishops once women are members of the College of Bishops. Further, and arguably sharper, issues will arise in due course as and when there is a woman archbishop. The particular arrangements that are made for consecration services are principally a matter for the archbishop concerned and these are therefore issues on which we would encourage the Archbishops and the House of Bishops to reflect further with a view to producing an agreed way of proceeding.
43. Paragraphs 31-33 deal with **cathedrals, chaplaincies and other non-parochial ministry**.
44. In paragraphs 34-36 we have offered some clarification in relation to the **oath of obedience** with a view to assisting those for whom taking the oath may raise issues once the episcopate has been opened equally to women and men.
45. In our discussions we noted that it is not in fact the taking of the oath which creates the duty of canonical obedience. The duty exists in any event (see Canon C 1.3). Altering or removing the oath would not therefore change the underlying legal position that all priests and deacons in a diocese owe canonical obedience to the diocesan bishop.
46. The fact that the duty of canonical obedience exists in any event has led to a suggestion that oaths are unnecessary and could simply be abolished. We disagree. It would be disingenuous to abolish the oaths. Moreover the taking of the oath is an important symbolic action which needs to be seen in the context of the two other promises which people take at ordination or when taking up a new office, namely the Oath of Allegiance to Her Majesty the Queen and the Declaration of Assent.
47. Each emphasises the importance of relationship- to the nation and wider community, to the tradition of faith as the Church of England has received it and to the diocesan bishop as chief pastor of all within the diocese. It is right that clergy should continue to own and acknowledge that through making the necessary promise made under Canon C 14.
48. It is also important to note that duty of canonical obedience does not give bishops any general power to give clergy instructions. Rather, the duty requires clergy to obey such directions as the diocesan bishop is authorised by law to give. Thus taking the oath of canonical obedience does not mean agreeing to obey the bishop whatever he or she may purport to instruct the clergy to do. Nor does it entail acting contrary to theological conviction.

49. In drafting the declaration we have given careful attention to questions concerning the **Equality Act 2010**. In July's debate an amendment from the Ven. Clive Mansell was only narrowly defeated on the question of providing protection from discrimination claims for parish clergy, PCCs, patrons and parish representatives.
50. The underlying legal analysis remains as set out in paragraphs 130-134 of GS 1886. Nevertheless, in discussion we had our attention drawn to a number of additional points, which, while they do not remove all risk – indeed nothing can entirely eliminate the possibility of legal challenge – have nevertheless provided some reassurance.
51. First, we were advised that there had been discussions between the Legal Office and Government Equality Office lawyers about the meaning of the expression "*the strongly held religious convictions of a significant number of the religion's followers*" in the exception conferred by paragraph 2 of Schedule 9 to the Equality Act. While there is no case law on the subject, government lawyers share the view of the Legal Office that, because of the reference in that provision to the "*nature and context of the employment*", the phrase has to be understood in relation to the particular circumstances of the appointment in question. So it is not, therefore, the case that the Equality Act exception applies only where there is a single view and practice across an entire Church or denomination.
52. Secondly, if a discrimination claim were to be brought even now in relation to a particular appointment the exception would have to be established within the terms of Schedule 9 to the Equality Act. The existence of the separate statutory duty to act in accordance with resolutions passed under the 1993 Measure, while in some senses making the matter more clear cut, does not mean that discrimination claims could not be brought.
53. Moreover the defence to them now, as in future, would be on the basis of Schedule 9 to the Equality Act. The evidence to which the bishop, parish representatives or others would need to point in defending a claim would currently be the resolutions which had been passed and through which the Church of England had explicitly acknowledged the legitimacy of the diversity of convictions on this matter by virtue of the 1993 Measure.
54. Under the arrangements which we envisage under the House of Bishops' Declaration there will continue to be a resolution-making procedure so as to ascertain that the decision has the support of the majority of the PCC. Moreover, the Church of England will continue, through the Declaration and the mandatory grievance procedure, to have made it clear nationally that there remains a diversity of opinion within the Church of England on this matter, despite the clarity established in ecclesiastical law.
55. So, in summary, what will matter in future, as now, in the event of any discrimination claims being brought will be to be able to produce evidence that a proper process has been followed in accordance with the arrangements established by the Church of England nationally. Provided that is done, the legal risks will not be appreciably different even though some of the argumentation and evidence will have changed.
56. Thirdly we found it helpful to be reminded that discrimination claims only arise if a particular individual believes that, in the context of a particular selection exercise, they have

been a victim of discrimination. Challenges cannot be brought by third parties or be of a general kind. It seems to us that the likelihood of a woman seeking to challenge the decision of a patron, bishop, incumbent or parish representatives not to be willing to consider her for a parish appointment when the PCC has properly passed the relevant resolution in the House's declaration is extremely small given that such an act would also be inconsistent with the elements of the statement of five guiding principles set out by the House of Bishops.

57. We are, however, conscious of the concerns expressed that parish representatives could find themselves having to take all the strain if a particular decision were to be challenged. But it is relevant in that connection that the Patronage (Benefices) Measure 1986 generally involves the consent of three parties- the patron, the diocesan bishop¹ and the parish representatives. We believe that diocesan bishops should accept the responsibility to act as the protector of the interests of the parish in the light of any resolution it has passed.
58. Thus if a patron were minded to make an appointment inconsistent with the resolution the Bishop should be prepared to withhold his consent under the 1986 Measure rather than leaving the parish representatives to use their own veto. Paragraph 24 of the declaration addresses this.
59. We have also given careful consideration to **the need to provide assurance that the careful balances contained in any package agreed now could not easily be changed in future**. It is accepted on all sides that practical adjustments might be warranted in the light of experience. But if trust is to be nurtured there needs to be confidence that the legislation, declaration and grievance procedure will not be changed in the absence of a significant consensus.
60. In this respect it is helpful that, once women have been admitted to the episcopate there will be no further need for legislation. No fresh provision will be needed for women to become archbishops. There is, therefore, no reason why this new legislation, the House of Bishops' Declaration and the mandatory grievance procedure should not continue indefinitely.
61. As noted above, we have proposed in the canon that the regulations establishing the disputes resolution procedure should not, once made by the House, be capable of subsequent amendment by it without the approval of the Synod, supported by a two-thirds majority in each of its three Houses. Similarly, we have included in the draft declaration a commitment on the part of the House that, in the event of its wishing to amend the declaration once made, the amendment would be laid before the Synod for approval, with a corresponding requirement for two-thirds majorities in all three Houses.
62. We recognise that it is unusual to require a special majority of this kind except in relation to certain sorts of legislation and liturgy. We think, however, that it will be helpful in this context given the very special and interconnected nature of this package of proposals. We do not believe that it will get in the way of making any sensible and uncontroversial changes that may become needed in the light of experience.

¹ The consent of the diocesan bishop is not required for appointments to Crown benefices.

Mandatory Disputes Resolution Procedure

63. We attach at **Annex B** a first draft of the Regulations that the House would make under the Canon providing a procedure for the resolution of disputes that might arise from the arrangements for which provision is made in the House of Bishops' Declaration.
64. This has been the most innovative part of our work and we have been particularly assisted by the knowledge in this field of one of our facilitators, Bill Marsh, and two of our members, Dr Philip Giddings and Dr Jamie Harrison. We have attached at **Annex C** some material about the design of dispute resolution procedures, drawing on experience in a number of other contexts.
65. After considering various possible models we wish to recommend an Ombudsman-type scheme. This is an approach followed in various parts of the public sector, including Whitehall and the Health Service as well as in higher education where there is an Independent Adjudicator for student complaints against universities.
66. The advantage of such a scheme is that it can be procedurally simple, independent of those whose actions are being reviewed and expeditious. It does not need to involve the formality of a more tribunal- or panel-based process. But it can provide a trusted and authoritative way of determining whether proper processes have been followed.
67. The success measure of such a scheme is not ultimately the number of cases it handles but the impact it has in acting as an incentive to all concerned to resolve disagreements by discussion between themselves. Where cases do need to go through the review process it is important that the outcome secures closure.
68. Our proposal is for an Independent Reviewer who would be appointed by the Archbishops with the agreement of the Chairs of the House of Laity and Clergy. He or she would not necessarily have judicial experience but would need to be judicious. A knowledge of, and commitment to, the Church of England would be important but the Reviewer should not be someone with other current national or diocesan responsibilities.
69. It might be that the work would prove too much for one, part time, appointee undertaking the role on a *pro bono* basis, in which case we have allowed for the possibility of one or more deputies to be appointed as well. But in the early days we see advantage in one person having the opportunity to take an overview across the country as issues arise for the first time. That will, of course, mean that the choice of a person of quality, integrity and fairness will be absolutely crucial. He or she will need also administrative support.
70. By providing for the Independent Reviewer to operate according to Regulations made under Canon we have given effect to Synod's desire that the procedure be mandatory. Any failure on the part of bishops and other clergy to participate in the procedure would lay the person concerned open to a complaint under the Clergy Discipline Measure 2003.
71. It is important to underline that a review process of this kind is about ensuring that the relevant provisions of the House's declaration were followed. It is not for the Reviewer to

substitute his or her judgement for decisions which it was properly for the bishop or other to take. His or her role is to check process and fairness.

72. The provisions in the declaration which most naturally lend themselves to a review process are those which set out the arrangements for parishes in connection with the making and implementation of resolutions. We have therefore provided that grievances should be brought by PCCs.
73. Like other ombudsmen, the Independent Reviewer would have no powers to impose penalties as a result of his or her findings. But the ability to publish reports critical of actions taken would in practice have a significant impact. Whether the fact that a cleric was found by the Independent Reviewer to have acted inconsistently with the House of Bishops' Declaration might form the basis for a complaint under the Clergy Discipline Measure is uncertain and would depend on future decisions of courts and tribunals under the Measure.
74. We considered carefully whether there might be circumstances in which someone other than a PCC might bring a grievance but we concluded against this. A number of the expectations created in the declaration (for example, in relation to a continuing supply of bishops) could not readily be the subject of grievances about the actions or omissions of a particular individual. And in the case of those pursuing the discernment process for ordained ministry we do not believe that it would be sensible or practicable to graft a grievance process onto the arrangements which bishops, dioceses and the Ministry Division already follow where people are dissatisfied with decisions reached about them.
75. We do, however, believe that the Independent Reviewer, like the Health Service Ombudsman, should have the power to conduct special reviews where he or she believes that concerns have arisen about the operation of the House of Bishops' Declaration more generally. The threshold for intervention should be reasonably high but if, for example, he or she had reason to believe that there were systemic issues in one or more dioceses or some issue which merited attention nationally he or she could initiate such a review.
76. While grievances should be brought only by PCCs, we therefore propose that anyone should be able to register concerns with the Independent Reviewer about the operation of the Declaration. This would enable him or her to consider whether to draw attention to them in the annual report or, if they were sufficiently serious or persistent, to launch a special review.
77. We considered carefully whether the regulations establishing the grievance procedure should be made under canon or measure but concluded that the former was the better course. This is partly because if they were made under measure they would have to be approved by the Synod and laid before Parliament in a statutory instrument. That could only happen after the final approval of, and the giving of the Royal Assent to, the measure so there would be some degree of uncertainty when the final approval vote was taken as to just what form the regulations would take.
78. In addition we do not see that making the regulations under measure, and therefore in theory making them apply to the laity as well as the clergy, would be of practical benefit. A lay private patron who chose to act contrary to the provisions of the declaration would not in

practice be deterred by being within the terms of the regulations since there would be no sanction if he declined to engage with the Independent Reviewer. The remedy for any such actions would be for the bishop (and as necessary the parish) to use the powers that they have under the 1986 Measure.

What Next?

79. Many members of the Synod found it very helpful to have the opportunity in July to discuss matters in small groups before coming to the main debate in Synod. Given the importance of the subject and the significant new material which Synod members will be receiving for November we have recommended to the Business Committee that there should be some, albeit necessarily somewhat briefer, group work in November before we come to debate. The Business Committee has, therefore, agreed that the Chair of the Steering Committee should make a short presentation immediately before the close of business on Monday evening.
80. On the Tuesday morning Synod members will meet for worship in small groups and have the opportunity for a couple of hours of private discussion. To create some space for reflection the Synod will then deal with other business for the rest of Tuesday before coming to two debates on our proposals on Wednesday morning after the service of Holy Communion.
81. This report, including our emerging proposals on the House of Bishops' Declaration and the disputes resolution procedure, will form the subject of the first debate. Firm decisions on the Declaration and the procedure cannot be taken until the House of Bishops has had its own opportunity to consider what we have said. Nevertheless, we thought that it would be more helpful to the Synod not to debate this report simply on a take-note motion.
82. The Chair of the Steering Committee will therefore move a motion in the following form:

“That this Synod, welcoming the package of proposals in GS 1924 and the statement of principles endorsed by the House of Bishops at paragraph 12 of GS 1886, invite the House of Bishops to bring to the Synod for consultation in February a draft declaration and proposals for a mandatory disputes resolution procedure which build on the agreement reached by the Steering Committee as a result of its facilitated discussions”
83. The motion will be amendable and we welcome the decision of the Business Committee to delay the deadline for amendments until 2.30pm on Tuesday so that members have the opportunity for discussion in groups before deciding whether to table amendments.
84. Given the measure of progress made within our Committee we venture to express the hope, however, that this debate might be an occasion when the Synod might be prepared to focus more on how to nurture the degree of consensus that has started to emerge rather than having a series of detailed and potentially divisive debates on amendments.
85. After the debate on this motion the Synod will be asked to give first consideration to the draft measure and amending canon. The Bishop of Willesden suggested in his speech in July that, instead of that debate taking the normal form (under which the motion involves the draft legislation being referred for revision by a Revision Committee) the Steering Committee

should move, as it may if it has the consent of the Business Committee under Standing Order 57, that the legislation should “*be considered for revision in full Synod*”.

86. The Steering Committee has given very careful thought to this proposal and has decided to endorse it. The decision whether to move straight to the Revision Stage without a Revision Committee will be for the Synod itself to take but the Business Committee has given its consent to the Steering Committee’s wish for the mind of the Synod to be tested on this approach.
87. Standing Order 57 speaks of legislation which is ‘of a kind to justify such treatment’ - that is, to go straight to revision in full Synod - and the Steering Committee thinks there are three reasons which suggest that it is:
- It is part of a much bigger package.
 - It would be helpful to the Synod if the revision process and consideration of the declaration and dispute resolution procedure (once the House of Bishops has considered them in December) could be at the same group of sessions (ie in February).
 - Given the brevity of the legislation and the clear mandate that the Synod has already given in July, the risk of a large number of amendments is not high and such amendments as are made are likely to be on points of principle which will in any event best be taken on the floor of the Synod rather than in a Revision Committee.
88. If the Synod agrees, the next steps after November would therefore be for the House of Bishops to consider the declaration and dispute resolution procedure in December and bring them to the Synod in February. At that point it would be open to the Synod, by amending the motion from the House, to invite it to reflect further on any particular points. The House might then need to meet during the course of the group of sessions to do so.
89. Then, towards the end of the group of sessions, the revision stage for the measure and amending canon would be taken in full Synod. If this were satisfactorily concluded in February (though the Synod would retain the power to commit the legislation to a Revision Committee at that stage) the way would then be clear in February for the legislation to be referred immediately to the dioceses under Article 8, potentially paving the way for final approval during 2014.
90. We are conscious that there are a number of wider practical and cultural issues which go beyond the scope of our proposed package but which will nevertheless need to be considered so that the introduction of women to the episcopate can be managed well. It is helpful in this respect that a number of senior women clergy will, from December, be attending meetings of the House of Bishops and the College. In addition, last month’s engagement between the Transformations Group and the College, and the work flowing from that, need to be seen as complementary to our proposals.

Conclusion

91. The past few weeks have been intensive and demanding. For all of us the burden of expectations has at times been difficult to bear. But through the process of facilitated discussion and respectful listening we have sought to identify a way forward that is consistent with the motion passed by the Synod in July and could command assent not only across the breadth and diversity of our Committee but across the Church of England as a whole.
92. As noted in paragraph 12 above, some of us had voted against that motion because it required legislation to be drawn up on the basis of ‘option one’ in paragraphs 79-88 of the annex to GS 1886. Because of that restriction on what we could consider, two of our members, the Reverend Paul Benfield and Mrs Susie Leafe, decided to record abstentions when the other 13 of us voted at the end of our deliberations to commend to the Synod and the House of Bishops the proposals that we have prepared.
93. Nevertheless, we all agree that the balanced package of Draft Measure, Amending Canon, House of Bishops Declaration and Dispute Resolution procedure that, together, we have produced gives full and effective expression to that motion. And the belief of those of us who commend this package is that, in all the circumstances, it now offers the best way forward for the Church of England in its ministry and mission and a possibility of securing an early resolution of this unfinished business.

21 October 2013

The Rt Revd James Langstaff (chair)

The Revd Paul Benfield

The Revd Canon Jane Charman

The Revd Canon Robert Cotton

Dr Philip Giddings

Dr Paula Gooder

The Ven Christine Hardman

Dr Jamie Harrison

Mrs Susie Leafe

The Revd Dr Rosemarie Mallett

Canon Margaret Swinson

The Revd Prebendary Rod Thomas

The Rt Revd Martin Warner

The Rt Revd Trevor Willmott

The Revd Canon Dr Dagmar Winter

Draft House of Bishops' Declaration on the Ministry of Bishops and Priests

Introduction

1. The character and calling of the Church of England are set out in the Preface to the Declaration of Assent, which all clergy are required to make at ordination and subsequently on admission to any office. As part of the One, Holy, Catholic and Apostolic Church it is called to proclaim afresh in each generation the faith uniquely revealed in the Holy Scriptures and set forth in the catholic creeds.
2. Those who serve the Church of England in holy orders are required to affirm their loyalty to this 'inheritance of faith' and bring 'the grace and truth of Christ to this generation.' Bishops have a particular responsibility to gather God's people and build up the Body of Christ. We have each promised at our consecration to promote peace and reconciliation in the Church and to seek to unite its members in a holy fellowship of truth and love.
3. The opening of all orders of ministry equally to women and men is a significant moment in the long history of this part of the Church Catholic. It brings with it new opportunities for building up the Body of Christ and proclaiming the good news of the kingdom.
4. It also brings with it a particular responsibility for us, as a House of Bishops. As well as seeking to channel and nurture the energy and renewal that will flow from this development we have a duty to ensure that the welfare of the whole Church of England is sustained in all its theological depth and breadth. We accordingly commend this declaration to all members of the Church of England so that the good gifts that God has given to all His people may be used to His glory.

Statement of guiding principles

5. The House reaffirms the five guiding principles which it first commended in May 2013 when submitting legislative proposals to the General Synod for the consecration of women to the episcopate [and which the Synod welcomed in its resolution of 20 November 2013]. They need to be read one with the other and held together in tension, rather than being applied selectively:
 - **Now that legislation has been passed to enable women to become bishops the Church of England is fully and unequivocally committed to all orders of ministry being open equally to all, without reference to gender, and holds**

that those whom it has duly ordained and appointed to office are the true and lawful holders of the office which they occupy and thus deserve due respect and canonical obedience;

- **Anyone who ministers within the Church of England must be prepared to acknowledge that the Church of England has reached a clear decision on the matter;**
- **Since it continues to share the historic episcopate with other Churches, including the Roman Catholic Church, the Orthodox Church and those provinces of the Anglican Communion which continue to ordain only men as priests or bishops, the Church of England acknowledges that its own clear decision on ministry and gender is set within a broader process of discernment within the Anglican Communion and the whole Church of God;**
- **Since those within the Church of England who, on grounds of theological conviction, are unable to receive the ministry of women bishops or priests continue to be within the spectrum of teaching and tradition of the Anglican Communion, the Church of England remains committed to enabling them to flourish within its life and structures; and**
- **Pastoral and sacramental provision for the minority within the Church of England will be made without specifying a limit of time and in a way that maintains the highest possible degree of communion and contributes to mutual flourishing across the whole Church of England.**

Simplicity, reciprocity and mutuality

6. The House believes that the outworking of these principles needs to be accompanied by **simplicity, reciprocity and mutuality**.
7. The **simplicity** of the legislation now agreed by the General Synod is reflected in the fact that it makes no changes to the structures of the Church of England, leaves unaltered the position of each diocesan bishop as Ordinary and preserves the historic requirement for canonical obedience to the diocesan bishop ‘in all things lawful and honest’ and for the taking of oaths acknowledging this duty².

² Canon C 1.3 provides that “*According to the ancient law and usage of this Church and Realm of England, the priests and deacons who have received authority to minister in any diocese owe canonical obedience in all things lawful and honest to the bishop of the same ...*”. By way of acknowledgement of that duty, under Canon C 14 clergy are required on various occasions to make or reaffirm the Oath of Canonical

8. The practical arrangements to be made for parishes which, on grounds of theological conviction, are unable to receive the priestly or episcopal ministry of women need to be made with the same principle of simplicity in mind.
9. **Reciprocity** means that everyone, notwithstanding differences of conviction on this issue, will accept that they can rejoice in each other's partnership in the Gospel and cooperate to the maximum possible extent in mission and ministry. There will need to be an acknowledgement that the differences of view which persist stem from an underlying divergence of theological conviction.
10. In particular reciprocity will mean that those of differing conviction will do all within their power to avoid giving offence to each other. There will need to be sensitivity to the feelings of vulnerability that some will have that their position within the Church of England will gradually be eroded and that others will have because not everyone will receive their ministry.
11. Now that the Church of England has admitted women to the episcopate there should within each diocese be at least one serving bishop, whether the diocesan or a suffragan, who ordains women to the priesthood. This has a bearing on the considerations that the Crown Nominations Commission and diocesan bishops will need to take into account when considering diocesan and suffragan appointments.
12. In addition, dioceses are entitled to express a view, in the statement of needs prepared during a vacancy in see, as to whether the diocesan bishop should be someone who will or will not ordain women. In dioceses where the diocesan bishop does not ordain women he should ensure that a bishop who is fully committed to the ordained ministry of women is given a role across the whole diocese for providing support for female clergy and their ministry.
13. All bishops have a shared responsibility for the welfare of the whole Church of England. It will be important that senior leadership roles within dioceses continue to be filled by people from across the range of traditions.
14. **Mutuality** reflects the Church of England's wider commitment to sustaining diversity. It means that those of differing conviction will be committed to making it possible for each other to flourish. All should play a full part in the lives of the deaneries and dioceses and be prepared to engage with the diocesan bishop whoever he or she is.

Obedience to their diocesan bishop. But we are advised that, in the light of the decision of the Privy Council in *Long v Bishop of Capetown* (1863), the duty of obedience does not require the cleric to comply with any and every direction given by the bishop; rather, it requires the cleric to obey such directions as the diocesan bishop is authorised by law to give.

15. Equal treatment, for example in relation to resource issues and the discerning of vocations to the ordained ministry, is essential irrespective of convictions in relation to gender and ministry. In discerning vocations bishops will continue not to discriminate on the grounds of a candidate's theological conviction on this issue. In addition, ordination services for deacons and priests should be planned and conducted in a way that is consistent with the five guiding principles set out in paragraph 5 above.

Arrangements for parishes

16. The House is committed to enabling parishes in one part of the country to receive broadly comparable and consistent arrangements to those provided in another, notwithstanding differences in the culture and ethos of particular dioceses or the approach of the relevant diocesan bishop.
17. The practical outworking of the arrangements may vary according to local circumstances but the approach commended in the following paragraphs will, in the view of the House, enable all dioceses and parishes to act consistently with the guiding principles set out above and the requirements of the law, including the Equality Act 2010.
18. The responsibility for signalling that a parish wishes to take advantage of arrangements available to those whose theological conviction leads them to seek the priestly or episcopal ministry of men rests with the relevant parochial church council ('PCC').
19. A meeting of a PCC to consider a motion seeking arrangements of this kind should either be one held under section 11 of the Patronage (Benefices) Measure 1986 or one for which the secretary of the PCC has given members at least four weeks' notice of the place and time of the meeting and the motion to be considered. Given the importance of the issue such a motion should have been passed either (a) at a meeting at which at least two-thirds of the members of the PCC who are entitled to attend are present or (b) by a majority of such members.
20. The recommended form of the resolution to be passed by the PCC is as follows: "***This PCC requests, on grounds of theological conviction, that arrangements be made for it in accordance with the House of Bishops' Declaration on the Ministry of Bishops and Priests.***" A PCC which has passed a resolution should send a copy of it to the diocesan bishop, archdeacon, diocesan registrar and registered patron.
21. Parishes which have passed a resolution may rescind it at any time. The same procedures as are set out in paragraphs 18-19 should apply in relation to a PCC meeting which is to consider a motion rescinding a resolution. Parishes which have passed a resolution should review it from time to time, especially when a vacancy in a benefice arises.

22. The House recognises that the nature of the theological conviction on the ordained ministry of women which underlies a decision to pass such a resolution will vary according to the tradition of the parish concerned. Where a resolution has been passed, and before clergy are appointed to the parish or a bishop chosen by the diocesan bishop to provide oversight, there will, therefore, need to be consultation between bishop and parish to ascertain the nature of that conviction so that the resolution can be implemented effectively. The House will provide guidance for bishops and parishes to help facilitate these conversations.
23. Anyone involved in making appointments to ordained parochial roles, whether of incumbents, priests in charge or assistant curates, or in exercising the power conferred by Canon C 8.2(a) to allow occasional ministry in a parish, should do everything possible to achieve an outcome that does not conflict with the nature of the conviction on this issue underlying the PCC's resolution. Where a clerk in holy orders is the registered patron of a benefice in right of his or her office, he or she should not limit his or her selection of candidates to those of a particular sex except in circumstances where a parish has passed a resolution.
24. In the event that any difficulties arise between a patron and a parish following the passing of a PCC resolution, the diocesan bishop should do all in his or her power to achieve an outcome that respects the declared view of the parish and protects the parish representatives from having to resort to their own power of veto under the Patronage (Benefices) Measure 1986. The archbishop of the province should also seek to achieve such an outcome in the event of the right of presentation lapsing to him or her under the 1986 Measure.
25. In the case of multi-parish benefices the needs of parishes in the benefice that have not passed a resolution should be weighed alongside those of any parish that has when decisions are taken about appointments to the benefice.
26. The choice of a bishop to undertake ministry in respect of a parish which has passed a resolution is for the relevant diocesan bishop to make, again with a view to avoiding conflict with the theological conviction on this issue underlying its resolution. In all cases the choice should be made from among the male bishops who are members of the House of Bishops of the diocesan synod of that or another diocese of the Church of England.
27. As noted in paragraph 16, parishes which pass a resolution in one part of the country are entitled to expect equivalent treatment to that provided in another. In all cases the diocesan bishop should seek to ensure that pastoral and sacramental ministry is provided in accordance with the guiding principles set out in paragraph 5 above.

28. In addition the diocesan bishop and the bishop invited to minister to the parish should explore how they can best cooperate in a variety of ways to contribute to its welfare, resourcing and mission and in its relationship with the diocese.
29. The precise extent of the ministry entrusted to the bishop is for the diocesan to determine and is likely, for practical reasons to vary according to the pattern of episcopal ministry in that diocese and the extent of the bishop's other commitments. But the expectation is that there will be many similarities with the range of responsibilities carried by any suffragan bishop within a diocese.

The College of Bishops

30. The House affirms the importance of there continuing to be consecrations of bishops within the Church of England to enable such ministry to be provided. The fact that the sees of Ebsfleet and Richborough in the diocese of Canterbury and Beverley in the diocese of York remain in existence will provide one of a range of means by which the Archbishops will ensure that a suitable supply of bishops continues where it would not be secured in other ways. The House also accepts that the presence in the College of Bishops of at least one bishop who takes the Conservative Evangelical view on headship is important for sustaining the necessary climate of trust.

Arrangements in relation to other places of worship

31. The cathedral is the seat of the bishop, who has the right to officiate there in accordance with the cathedral's constitution and statutes. It is for this reason that, while some cathedrals are also parish churches, the House does not believe that the arrangements set out in the preceding paragraphs for the passing of resolutions can apply to cathedrals.
32. The House does not believe that gender or theological conviction in relation to the ordained ministry of women should be an obstacle to appointment as dean or cathedral canon. What matters is that all appointed to cathedral ministry are willing to work together in close partnership and with the highest possible degree of communion in the interests of the institution that they serve.
33. Given the great variety of chaplaincies and other non-parochial places in which regular worship and ministry take place it is not sensible to try and generalise about the arrangements that should be made in relation to them beyond affirming that the guiding principles set out in paragraph 5 above are of as much relevance to them as to the rest of the Church of England.

Oaths

34. At ordination and on taking up any office in the Church of England priests and deacons are required under Canon C 14 to swear or affirm that they will “*pay true and canonical obedience to the Lord Bishop of C and his successors in all things lawful and honest.*” Bishops are similarly required to take an oath of due obedience to the archbishop of the province. Clergy and bishops also take an Oath of Allegiance to the Queen and make the Declaration of Assent.
35. These Oaths and the Declaration are important because they each involve recognition that a person does not exercise ministry in isolation or on their own authority but within a framework of relationship with others and within the tradition of faith as the Church of England has received it. The House acknowledges that the taking of the oath to the diocesan bishop or the oath of due obedience to the archbishop may, in future, raise issues for those who, for theological reasons, remain committed to a male episcopate and priesthood.
36. Nevertheless, the House believes that all ministers of the Church of England will be able, in good conscience, to take the oath. Doing so adds nothing legally to the duty of canonical obedience, which already exists in law. Rather, it is a recognition of the pattern of relationships which underpins the exercise of ministry by those who make and receive the oath. It follows from the guiding principles set out in paragraph 5 above, and the spectrum of Anglican teaching and tradition which they acknowledge, that the giving and receiving of the oath does not entail acting contrary to theological conviction.

Grievances and mediation

37. Canon C 29 requires the House to make Regulations prescribing a procedure for the resolution of disputes arising from the arrangements for which this declaration makes provision. In accordance with that requirement the House has made the Declaration on the Ministry of Bishops and Priests (Resolution of Disputes Procedure) Regulations 201-, the text of which is set out in the Annex to this declaration. Participation in the procedure is mandatory for those clerical office holders against whom a grievance may be brought under it.

Providing assurance

38. This declaration has been prepared in connection with legislation to admit women to the episcopate, proposals for which have been the subject of extensive debate in the Church

of England over a number of years. It flows from the House's desire to establish a climate of trust within which there can be mutual flourishing, notwithstanding the differences of conviction which will continue to exist on this issue.

39. The present members of the House, like the members of the General Synod, cannot give binding commitments which would prevent their successors from considering matters afresh in the light of experience and new developments. Nevertheless, the House accepts its responsibility for creating and sustaining the necessary confidence that the arrangements set out in this declaration can be relied on and will prove durable.
40. Adjustments may prove necessary in the light of experience and be uncontentious. But the House undertakes that, should it be minded to propose changes to this declaration, it will consult the General Synod and will not proceed with its proposals unless they command two-thirds majorities in all three Houses.

**THE DECLARATION ON THE MINISTRY OF BISHOPS AND PRIESTS
(RESOLUTION OF DISPUTES PROCEDURE) REGULATIONS 20—**

Regulations made by the House of Bishops under Canon C 29

1. The House of Bishops makes these Regulations under Canon C 29.

Appointment of Independent Reviewer

2. The archbishops must appoint a person to act as Independent Reviewer for the purposes of these Regulations. The appointment must be made with the concurrence of the Chairs of the Houses of Clergy and Laity of the General Synod.
3. The archbishops may also appoint a person to act as a Deputy Independent Reviewer for the purposes of these Regulations, with the concurrence of the Chairs of the Houses of Clergy and Laity of the General Synod. If a Deputy Independent Reviewer is appointed, he or she will perform such of the Independent Reviewer's functions as the Independent Reviewer may from time to time determine. Any Deputy Independent Reviewer will also undertake the functions of the Independent Reviewer in the event that he or she is unable to do so for any reason.
4. The Independent Reviewer, and any Deputy Independent Reviewer, shall hold office for such period as the archbishops may determine, with the concurrence of the Chairs of the Houses of Clergy and Laity of the General Synod.
5. The Independent Reviewer, and any Deputy Independent Reviewer, may be removed from office by the archbishops, with the concurrence of the Chairs of the Houses of Clergy and Laity of the General Synod, only on grounds of incapacity, misconduct or other good cause.
6. Subject to Regulation 5, the terms on which the Independent Reviewer, and any Deputy Independent Reviewer, will hold office shall be determined by the archbishops.

Exercise of the Independent Reviewer's functions

7. In exercising his or her functions, the Independent Reviewer must:
 - (a) act impartially and fairly; and
 - (b) have regard to the 'five guiding principles' referred to in paragraph 5 of the House of Bishops' Declaration.

Scope of the grievance procedure

8. A grievance may be brought in relation to any office holder in respect of:
 - (a) any action taken by the office holder under paragraphs 16 to 29 inclusive of the House of Bishops' Declaration; and
 - (b) any failure on the part of the office holder to act in accordance with paragraphs 16 to 29 inclusive of the House of Bishops' Declaration.

Bringing a grievance

9. Before bringing a grievance a PCC must give the office holder in respect of whom it wishes to bring a grievance a reasonable opportunity to address the grievance.
10. A PCC may bring a grievance by giving written notice of its desire to do so to the Independent Reviewer.
11. The bringing of a grievance must be authorised by a resolution of the PCC passed either:
 - (a) at a duly convened meeting at which at least two-thirds of the members of the PCC who are entitled to attend are present; or
 - (b) by a majority of such members present at a duly convened meeting.
12. A PCC may normally bring a grievance only if it does so within three months of the action or omission in question.
13. In exceptional circumstances, and if he or she is satisfied that there is good reason to do so, the Independent Reviewer may allow a PCC to bring a grievance where the action or omission in question took place more than three months previously.
14. The notice given by the PCC of its desire to bring a grievance must specify:
 - (a) the office holder in respect of whom the grievance is brought;
 - (b) the nature of the act or omission in question; and
 - (c) the nature of the PCC's grievance in relation to that act or omission.
15. The PCC must send a copy of its notice to:
 - (a) the diocesan bishop; and
 - (b) (if different) the office holder in respect of whom the grievance is brought.

Consideration of grievances by the Independent Reviewer

16. The Independent Reviewer may decline to deal with a grievance if, in his or her opinion:

- (a) it does not fall within Regulation 8;
- (b) it is vexatious or malicious; or
- (c) there has been undue delay in bringing it.

17. If the Independent Reviewer declines to deal with a grievance, he or she must provide the parties and the diocesan bishop (if he or she is not one of the parties) with a written explanation of the reasons for that decision.

18. Once the Independent Reviewer has accepted a grievance he or she must carry out a review to decide whether the grievance is justified, partly justified or unjustified.

19. Subject to Regulation 22, the Independent Reviewer must either complete his or her review within two months of receiving the written notice from the PCC or, if he or she is unable to do so, must give the parties reasons for his or her inability to do so and complete the review as soon as possible thereafter.

20. The process for a review will be as follows:

(a) The Independent Reviewer must decide what further information (if any) he or she needs in order to be able to conduct the review. Subject to the requirements of the general law, the Independent Reviewer may require the parties, within such reasonable period as he or she may specify, to:

- (i) provide such information, documents or other materials; and
- (ii) answer such questions

as he or she thinks fit.

(b) Subject to the requirements of the general law, the Independent Reviewer may disclose to all the parties any information, documents or other materials which have been disclosed by any of them.

(c) The Independent Reviewer may at any time give the parties the opportunity to comment on representations received.

(d) The Independent Reviewer may hold an oral hearing.

(e) The Independent Reviewer may appoint one or more experts to advise him or her.

21. The Independent Reviewer may at any time seek to achieve a settlement of the grievance which is acceptable to the parties, by some means other than the completion of the review (whether through a process of mediation conducted by some other person or persons or otherwise).

Independent Reviewer's decision on a review

22. On the conclusion of his or her review the Independent Reviewer will issue a decision. The decision must be in writing and give the reasons for it.
23. Before issuing a decision, the Independent Reviewer may send a draft of it to the parties for the purpose of enabling them to identify any errors of fact or making representations as to the practicality of any recommendation the Independent Reviewer proposes to make.
24. If the Independent Reviewer considers that the grievance is justified or partly justified, he or she may include in the decision recommendations for addressing the grievance.
25. The Independent Reviewer must send a copy of his or her decision to each of the parties and to the diocesan bishop (if he or she is not one of them).
26. The Independent Reviewer must publish his or her decision on a review (including any recommendations he or she has made) unless he or she considers that there are good reasons for not doing so. Decisions may be published in an anonymised form if the Independent Reviewer considers that to be in the interests of the parties or any other person.

Raising of concerns about the operation of the House of Bishops' declaration

27. Any person may raise a concern, in writing, with the Independent Reviewer in relation to any aspect of the operation of the House of Bishops' Declaration. Any such concern may relate to more than one act or omission under the House of Bishops' Declaration and to more than one parish or diocese.

Undertaking of inquiries

28. Following the raising of one or more concerns under Regulation 27, the Independent Reviewer may undertake an inquiry into the subject matter of such concern or concerns.
29. When conducting an inquiry under Regulation 28, the Independent Reviewer may:
 - (a) require any office holder, subject to the requirements of the general law and within such reasonable period as he or she may specify, to:
 - (i) provide such information, documents or other materials; and
 - (ii) answer such questions as the Independent Reviewer thinks fit; and
 - (b) appoint one or more experts to advise him or her.

Independent Reviewer's annual report

30. Following the end of each calendar year the Independent Reviewer must provide an annual report to the archbishops on the exercise of his or her functions during that year.

31. The annual report must contain information about:

- (a) grievances with which the Independent Reviewer has declined to deal;
- (b) grievances in respect of which the Independent Reviewer has carried out reviews;
- (c) decisions (including recommendations) made by him or her following such reviews;
- (d) the extent to which any recommendations made by him or her have been acted upon;
- (e) concerns received by the Independent Reviewer about the operation of the House of Bishops' Declaration; and
- (f) inquiries undertaken by the Independent Reviewer as a result of the expression of such concerns.

32. The annual report must be published, in such manner as the archbishops, with the concurrence of the Chairs of the Houses of Clergy and Laity of the General Synod, may determine.

Interpretation

33. In these Regulations:

- (a) 'the archbishops' means the Archbishops of Canterbury and York;
- (b) 'the diocesan bishop' means the bishop of the relevant diocese;
- (c) 'the House of Bishops' Declaration' means the House of Bishops Declaration on the Ministry of Bishops and Priests made by the House of Bishops on [--] 20[--], as from time to time amended;
- (d) 'the Independent Reviewer' means the person appointed by the Archbishops of Canterbury and York under Regulation 2 to act as the Independent Reviewer;
- (e) 'office holder' means any archbishop, bishop, archdeacon, rural dean or minister having the cure of souls;
- (f) 'PCC' means:
 - (i) the parochial church council of a parish (other than a parish of which a cathedral is the parish church);
 - (ii) the guild church council of a guild church; and
 - (iii) the governing body for any non-parochial place; and
- (g) 'the parties' means (i) the PCC bringing the grievance and (ii) any office holder in respect of whom it is brought.

34. Functions conferred upon the archbishops under these Regulations must be performed by them jointly, save that:

- (a) in the event of one of the archbishops being incapacitated through illness; or
- (b) during a vacancy in one of the sees

the functions may be performed by the other of the archbishops.

These Regulations were made by the House on [--] 20[--].

Background material on the draft grievance procedure

The objectives of the grievance procedure

1. The Steering Committee began by considering what the objectives of a grievance procedure would be and why it had been thought necessary now to introduce such an arrangement when it did not feature at all in earlier discussions.
2. The 1993 Measure created statutory rights and duties which were in principle enforceable through the ecclesiastical courts. In the event, there has been no litigation on the 1993 Measure because the effect of the resolutions was sufficiently clear-cut for there to be consistent compliance. The Act of Synod did not create legally enforceable rights or duties, though it did give the PEVs the responsibility to “*assist the archbishops in monitoring the operation of this Act of Synod.*” So there has in principle been a mechanism by which concerns could, as necessary, be registered.
3. The draft Measure which failed to secure sufficient support in November 2012 also created some rights and duties, non-compliance with which could have been challenged in the civil courts by way of judicial review. They were, however, less clear cut than those under the 1993 Measure because the obligations in relation to the provisions of the statutory Code of Practice were to ‘have regard to’ its terms.
4. The proposal made by the House of Bishops in GS 1886, and endorsed by the Synod in July, is that the legislation should not create any statutory rights and duties. The question of enforcement in the courts no longer therefore arises. This effective removal of the scope for judicial review did not seem to the Steering Committee to be inherently contentious since even those unable to accept the priestly and episcopal ministry of women are not necessarily in favour of taking internal church disputes to the secular courts. But the question for them is what assurance they can have that arrangements which are not set out in or under legislation will in practice be honoured consistently.
5. The Steering Committee understood the House to have proposed a mechanism for addressing grievances and attempting dispute resolution because it recognised that something of this kind was necessary to underpin arrangements which are primarily to be founded on trust. To offset the loss of any opportunity to go to the courts there needed, at the very least, to be some internal church arrangements which would turn the statements in the proposed House of Bishops’ Declaration into something more than mere aspiration.
6. The decision in July that participation in the procedure should be mandatory goes a stage further since it implies that, in some circumstances, there might be internal church penalties for non-participation.

7. The objectives of the procedure and its mandatory nature are, however, to make it more likely that all concerned will act consistently with the House of Bishops' Declaration without the need for anyone to make formal grievances under the procedure. And the reference to mediation is designed to underline that any difficulties that arise would better be solved relationally, and by discussion, rather than through legal processes.
8. Finally, the Steering Committee also considered it important to be clear that the mandatory grievance procedure is not intended - and indeed cannot be - a way of introducing, by the back door, legally enforceable rights and duties that could only properly be provided for in the legislation itself. That is not the approach that the House and the Synod have adopted.

The general nature of the procedure

9. In starting to draft the procedure, the Steering Committee had to consider some general, but closely related, issues about the form it should take, as follows:
 - Should it involve a determination by some sort of tribunal, or should it be based on an 'Ombudsman-type' model?
 - In either event, should the procedure be created *de novo* in all respects for the purpose of the House of Bishops' Declaration or could some use be made of existing Church tribunals, institutions or processes?
 - How detailed should the provisions of the procedure be?
10. To assist it in addressing these issues, Dr Philip Giddings helpfully referred the Steering Committee to a number of relevant websites, including some giving details of specific dispute resolution schemes. Of those, the Committee was particularly assisted by the material on the website of the Ombudsman Association³, especially its *Criteria for the Recognition of Ombudsman Offices*⁴ (from which it is possible to deduce the characteristics of a well-constructed Ombudsman-type scheme). As to specific schemes, one which seemed to offer some useful parallels to the context involved here was that⁵ run by the Office of the Independent Adjudicator for student complaints against universities⁶.
11. Having considered the range of options open to it, the Steering Committee considered that the grievance procedure should (a) take the form of an Ombudsman-type process, created entirely anew for the purpose, and (b) be as simple and straightforward as possible – in terms both of the provisions creating it and the processes under it. In its view the following considerations all supported the adoption of an Ombudsman-type approach:
 - the procedure will not involve the performance of any judicial or disciplinary function – in particular, it will not involve determining questions of law;
 - rather, its function will be to consider alleged departures from the expectations set out in the House of Bishops' Declaration, a function which more closely

³ <http://www.ombudsmanassociation.org/>

⁴ <http://www.ombudsmanassociation.org/docs/BIOA-Rules-New-May2011-Schedule-1.pdf>

⁵ <http://www.oiahe.org.uk/media/1258/oia-rules-march-2013.pdf>

⁶ <http://www.oiahe.org.uk/>

resembles those of Ombudsman-type procedures. Relevant characteristics of such schemes include that:

- they seek to resolve complaints about ‘maladministration’ (including failure to follow prescribed procedures), unfair treatment, other inequitable conduct or poor service;
- they use informal procedures based around investigation as much as arguments advanced by the parties;
- they place emphasis on what is ‘fair’ in the circumstances; and
- they exist at least partly with a view to identifying lessons learned so that mistakes and shortcomings are recognised as such and avoided in future.

12. As regards the question of how complex the procedure should be, the Steering Committee took the view that, since the arrangements made by the House of Bishops’ Declaration themselves are to be simple, it would be very strange if the mechanism for promoting and monitoring compliance with them were complex.

More specific issues

13. In addition to taking a view on the general nature of the procedure, the Steering Committee needed to take decisions on a number of more specific issues about its content. They included:

- the identity of those responsible for taking decisions under the procedure;
- the qualifications / skills of those responsible;
- their resourcing;
- the procedure they should follow;
- the reporting of decisions under the procedure; and
- the decisions in relation to which the procedure could be invoked.

14. A key issue was whether responsibility for taking decisions under the procedure should be vested in a **single adjudicator or in a tribunal / panel** and, if they were vested in a single adjudicator, whether there should be any role for **assessors**.

15. The Steering Committee considered that the nature of the reviewer’s role is such that it can be undertaken effectively by a single person - and that it should accordingly be vested in a single reviewer alone. Indeed, it saw positive advantage in having one person who could take an overview of how the declaration is working across the country and seek to encourage the consistency of approach to which the House of Bishops is already committed.

16. The Steering Committee considered, in particular, that the reviewer should be empowered to exercise his or her functions without the assistance of ‘assessors’ since it was not clear to it that to involve them routinely would add to the process. However, it believed that the reviewer should have the ability to appoint assessors or experts to advise him or her in a suitable case where that would assist – eg in order to advise on the theological position of a particular parish.

17. The Steering Committee accepted that there were some potential risks in vesting responsibility in a single individual, though it noted that these had been managed successfully in several other Ombudsman-type schemes. One is that there will be a premium on finding a candidate with the right mix of skills, qualities and experience. Another is that, depending on the workload (which it is hard to predict) the burden on a single reviewer, albeit provided with administrative support, could be significant. The Steering Committee concluded, however, that the risk of that could be satisfactorily mitigated by allowing for the appointment of one or more deputies.
18. The Committee also considered whether there were wider risks in entrusting this sensitive task to one person (with deputies as needed). Would it, for example, create greater trust to create a panel of persons drawn from a variety of traditions within the church? After discussion, however, the Committee concluded that this was a role best carried out by someone who, though a member of the Church of England was not chosen for any particular affiliation.
19. As to **the other qualifications of the reviewer**, the need for demonstrable independence suggested to the Steering Committee that he or she should not be a bishop or former bishop. And the reviewer must be objective and fair minded, with an analytical mind, and be comfortable with the idea of working within a formal framework and reaching decisions about the propriety of decisions taken by others within such a framework. He or she needed to command trust and be seen as fair, tough minded, independent and sensible. In an ideal world, he or she should have had experience of sifting evidence and undertaking investigations.
20. That did not seem to the Steering Committee to require that the reviewer be a lawyer (though he or she could be), given that the issues arising for decision will not be of a legal character. Nor was any other professional or other formal qualification necessary. The reviewer should, however, be a person of high calibre and have both a wide range of experience and achievement and an understanding of the dynamics of the Church of England.
21. The question would then arise as to **who should appoint** the reviewer. The Steering Committee recognised that there were various possibilities in that connection, in terms of the parties involved and their respective roles. The over-riding requirements in choosing between them must be that the reviewer is seen to have sufficient independence, and to be of sufficient calibre, to enjoy the confidence of the Church.
22. The Steering Committee considered that the latter objective would best be achieved by conferring the power to appoint the reviewer on the archbishops. But a power of that kind, left unfettered, could have adverse implications for the reviewer's perceived independence. That difficulty could be overcome by making the archbishops' power of appointment subject to the need to obtain the approval of others – whom it proposes should be the Chairs of the Synod's Houses of Clergy and Laity.
23. As to **how the procedure will be resourced**, it seemed to the Steering Committee that the resourcing requirements of a reviewer are likely to be relatively modest, though expenses

will need to be met and some administrative support provided. In the light of that it seemed preferable to it for the Regulations to be silent on the matter - on the basis that provision for the resourcing of the procedure would in practice be made by the national Church institutions, through their ordinary budgetary processes. That position would not be unusual in the Church context: no provision is made for the resourcing, for example, of the Dioceses Commission or the Church Buildings Council in their constitutional documents. The necessary staffing and other resources are made available through Vote 2 from within the divisions of the Archbishops' Council.

24. Nor should the fact that the reviewer was supported by staff of the national Church institutions compromise his or her independence: staff of the NCIs are used to giving impartial advice and support to a range of different bodies, some of whose interests have the potential to conflict.
25. Turning to more detailed questions of how the procedure would operate, the Steering Committee considered that there should be a **time limit on invoking the procedure**. Such a proviso is usual in Ombudsman-type – and indeed tribunal – processes to promote certainty by avoiding the raising of issues long after they arose. But it should be possible for that limitation to be waived, exceptionally, if there are compelling reasons for doing so.
26. The Steering Committee considered whether there should be any requirement, as there is under some Ombudsman-type processes, for the parties to engage in some sort of **formal mediation process** before the procedure is invoked, or as part of the procedure itself. The Steering Committee considered that there should be no general requirement that the parties should have sought to engage in mediation before they invoke the procedure. However, it did agree that the party against whom the grievance would be brought should be given the opportunity to address it before the procedure is invoked and that, once it had been brought, the reviewer should have discretion to promote a mediation process if he or she considered it appropriate to do so. But the nature of that process should not be spelled out, being left for the reviewer to determine in the light of the circumstances of the case.
27. As to the nature of **the process to be followed** under the procedure, the Steering Committee considered that – consistently with the procedure being as straightforward as possible – the Regulations should not spell out processes in detail but should simply address some key issues, so leaving the reviewer otherwise free to determine the procedure to be followed.
28. As regards those matters on which provision is made, the Steering Committee agreed that the reviewer be given powers to require the submission of further information and to hold an oral hearing, though there should be no expectation that a hearing was the norm. Indeed the probability is that it would be the exception rather than the rule.
29. The Steering Committee considered whether the procedure should impose any obligations on the reviewer as to the timeliness of his or her decision-making. It noted that these were normal in other Ombudsman type procedures and that expedition was important where grievances of this kind arose since delay could simply aggravate the situation. It concluded that there should be an expectation that a decision should be reached within a specified

period (which it proposes should be two months) but that the reviewer should have discretion to extend that where necessary (in which case the position would need to be explained to the parties).

30. The Steering Committee agreed that, whilst the outcome of the procedure could not be binding on anyone, the reviewer should be able to make **recommendations** as well as findings of fact: it considered that it would be odd to allow the reviewer to make findings (which is necessary for the performance of his or her functions) but not then to be able to make recommendations as to what should follow from them, especially when the nature of his or her findings would effectively imply recommendations as to what should happen.
31. Finally, the Steering Committee considered that provision should be made for the **reporting** of the reviewer's decisions, except where he or she considered there were good reasons for not doing that or for doing so in only summary form. As with other Ombudsman type schemes where there is no process for the enforcement of findings, the power to publish findings will be an important means of bringing closure and of creating a climate within which decision-makers will seek to act consistently in accordance with the House of Bishops' Declaration.
32. Last, but by no means least, one of the principal questions to be decided by the Steering Committee was that of **the decisions in relation to which it can be invoked**. The Steering Committee's views on that important issue are set out in paragraphs 72 to 76 of its report.

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3 November 2013

Dear Bishop David,

Enquiry regarding your speech to the Governing Body of the Church in Wales

I am a member of the General Synod of the Church of England. I have received a mailing from Group for Rescinding the Act of Synod (GRAS) in advance of the forthcoming 18-20 November Synod meeting debate on the latest draft proposals for women bishops legislation.

The GRAS mailing includes a transcript of your speech to the Governing Body of the Church in Wales in September:

“...as the chaplain who sat at Archbishop John Habgood’s feet when he devised the Act of Synod and all its works in 1993, I know how even well-intentioned provision, when it is enshrined in law, can mutate beyond the original intentions. John Habgood, the architect of the Act of Synod, intended it as a very temporary measure during a short period of transition as the Church because used to women priests. The brevity of that transition period was flagged up by the three PEVs appointed being senior men near retirement age. Watch my lips, that was deliberate policy, consonant with the spirit of the transitory measure. [...] I know first hand the danger of how temporary provision when established in Church Law can mutate beyond its original intent.”

I would be grateful if you would help me to better understand this matter.

Firstly, when you refer to “temporary provision when established in Church Law”, were you referring to the *Priests (Ordination of Women) Measure 1993*, or the *Episcopal Ministry Act of Synod*? The context suggests that you were referring to the Act of Synod, but an Act of Synod is not a Canon or Measure, so is not “established in Church Law.”

Secondly, I would be interested to know more about Archbishop Habgood's intention for the Act of Synod to be a temporary provision, in particular what evidence is available, because this is currently a matter of some dispute. GRAS quote comments from that time which indicate a temporary nature; whereas Forward in Faith quote comments from that time which indicate the opposite.

GRAS evidence of the Act of Synod as intended to be temporary

A GRAS report by the Revd Rosalind Rutherford¹ quotes Archbishop Habgood in a July 1993 General Synod debate:

“...if he reads the Act of Synod carefully he will see that there is built into it a high degree of flexibility. The Archbishops say that they shall ordain from time to time and the ‘shall’ represents a commitment; ‘from time to time’ recognises that times may change. One has heard voices on one side saying, ‘We do not know what the future is.’ We have to live with those kinds of uncertainties. This is why we must not set proposals in concrete. We must make a commitment, give an assurance and go ahead in faith, not knowing what the future is going to bring.” [p 701 –2]

She also quotes Archbishop Habgood in the Synod debate of November 1993:

“To begin with, however, I imagine that we shall not be appointing men who could be there for 40 years or men, who if the need was no longer felt, could not move anywhere else. Clearly there must be a flexibility in this depending on need.” [p998-9]

She downplays the 1993 statement from the Archbishop of Canterbury to the Ecclesiastical Committee of Parliament² “it is our intention for this to be permanent and we are not thinking of rescinding it” by arguing that this remark was made prior to the “key” November 1993 General Synod debate.

Forward in Faith evidence of the Act of Synod as intended to be permanent

Forward in Faith³ quote the speech of Archbishop Habgood in the General Synod on 9 November 1993:

"I turn finally to the question why an Act of Synod rather than legislation ... This is a point which is re-occurred again and again in the ecclesiastical committee of Parliament on which some members in the synod continue to feel strongly. There are short answers based on practical considerations. It is possible now to act swiftly with an Act of Synod without legislation, and here then are two legal safeguards. What the Act does over and

¹ *Promises – kept, broken or never made?: A reading of General Synod debates from 1993*
Rosalind Rutherford <http://www.gras.org.uk/promises.pdf>

² 203rd and 204th Reports of the Ecclesiastical Committee [p134]

³ Quoted in *New Directions* January 2011

http://trushare.com/0188%20January%202011/10%20broken_promises.htm

above is to appoint PEV's. Is the Act of Synod enough? Can it be trusted? An overwhelming endorsement of this Act would send a message to those who are worried that we mean what we say. Such an overwhelming endorsement would be difficult to undo."

Michael Ellison 2nd Estates Commissioner, speaking in the House of Commons on 29 October 1993:

"Recognising the divided views in the church on the issue the remainder of the measure provides an elaborate and comprehensive set of safeguards designed to ensure that those who in conscience cannot accept the ordination of women as priests are not asked to act against their conscience [...] These are continuing provisions without limit of time built in, permanent, parochial safeguards."

Michael Ellison speaking to General Synod on 9 November 1993:

"I must tell the synod that it was really touch and go whether the ecclesiastical committee would wish to go down the line of this measure, (Act of Synod). It required only a tiny handful of my colleagues on the ecclesiastical committee to decide on the balance of safety and security, that the benefit of doubt had to be given to those present on the third measure and specific legislation.

We still managed to persuade the critical number in the ecclesiastical committee, very much with the help of the assistance of the Archbishop of Canterbury and York when they came to the ecclesiastical committee to advise us and give evidence.... It was an act of faith on the part of the ecclesiastical committee that you would you give our cherished minority this Act of Synod in good faith and in good heart and with sweeping and heartfelt approval and support".

They also quote from the 'Manchester Report' that quote some of the previous assurances.

"In 1993, Professor McClean explained to the Ecclesiastical Committee of Parliament that the General Synod had rejected proposals which would have placed a twenty year limit on the provisions of the Priests (Ordination of Women) Measure. He said that this *"signalled [the Synod's] resolve that protection for incumbents and, in particular parishes, should remain in perpetuity for as long as anyone wanted it."*

Similarly the then Bishop of Guildford, the Rt Revd Michael Adie, said, *"...the time limit was removed in order to give permanence and continuity to provisions in the Measure so that they can last as long as they need."* Again Professor McClean noted that: *"there are no time limits left at all in the Measure, although there were in earlier versions, and we see that the safeguards will be there and in perpetuity or for as long as they are required."*

A similar question was asked of the then Archbishop of Canterbury about what, at the time, was the proposed Act of Synod. In reply to the question about whether it would have a temporary life and cease to operate in some future date, for example when the last

of the bishops then in office retired, Archbishop Carey replied: "*it is our intention for this to be permanent and we are not thinking of rescinding it.*"

They quote⁴ Lady Saltoun of Abernethy in the House of Lords on 2 November 1993:

"I myself asked the most reverend Primate the Archbishop of Canterbury whether it was envisaged that the Act of Synod would operate in perpetuity or whether it would be in the nature of a temporary measure which would cease to operate at some future date. He replied that it was the intention that it should be permanent and that they were not thinking of rescinding it or anything like that. Then he added the caveat, 'with the goodwill of the House of Bishops'. He went on to say that of course anything could happen in the future."

Archbishop Habgood's speech in the House of Lords on 2 November 1993:

"People have said, 'Well, it is possible to revert an Act of Synod'. Of course, it is possible to revert anything, even legislation. However, as I am sure that your Lordships realise, it is not very easy to reverse things in the Church of England; indeed, it is not easy to do anything in the Church of England, especially if one is trying to undo something. Any motion of that kind requires the approval of all three Houses. Therefore, once you have something, it is really quite hard to get rid of it. I believe that the House can, with confidence, vote for the Measures before us unamended. I feel that we will all come together and that the synod will, next week, see the point of enshrining this treasured diversity of the Church of England in the Act of Synod."

Implications for the Church of England November 2013 General Synod meeting

The reason I ask about this is not only historical interest. It has implications for how I should vote on the present proposals. The current proposals would rescind the provisions for traditionalist parishes in both the *Priests (Ordination of Women) Measure 1993* and in the Act of Synod. In its place would be some provisions, and they would be in a House of Bishops Declaration. The report of the Steering Committee⁵ to the November Synod states:

"60. In this respect it is helpful that, once women have been admitted to the episcopate there will be no further need for legislation. No fresh provision will be needed for women to become archbishops. There is, therefore, no reason why this new legislation, the House of Bishops' Declaration and the mandatory grievance procedure should not continue indefinitely.

⁴ New Directions March 2011 http://trushare.com/0190%20March%202011/14-15%20remember_1993.htm

⁵ GS 1924 *Report of the Steering Committee for the Draft Legislation on Women in the Episcopate* <http://www.churchofengland.org/media/1872454/gs%201924%20-%20report%20of%20the%20steering%20committee%20for%20the%20draft%20legislation%20on%20women%20in%20the%20episcopate.pdf>

61. As noted above, we have proposed in the canon that the regulations establishing the disputes resolution procedure should not, once made by the House, be capable of subsequent amendment by it without the approval of the Synod, supported by a two-thirds majority in each of its three Houses. Similarly, we have included in the draft declaration a commitment on the part of the House that, in the event of its wishing to amend the declaration once made, the amendment would be laid before the Synod for approval, with a corresponding requirement for two-thirds majorities in all three Houses.

62. We recognise that it is unusual to require a special majority of this kind except in relation to certain sorts of legislation and liturgy. We think, however, that it will be helpful in this context given the very special and interconnected nature of this package of proposals. We do not believe that it will get in the way of making any sensible and uncontroversial changes that may become needed in the light of experience.”

One of my concerns is, if the legislation is passed, with the provisions for traditionalists only in a House of Bishops Declaration, within ten years, will be a campaign (e.g. a new *Group for the Rescinding of the House of Bishops Declaration* or similar) which will argue that the provisions for traditionalist parishes in the Declaration should be removed. They will argue that the provisions were only ever intended to be for a temporary transitional period whilst people adjust to women in the episcopate. Traditionalists would respond by pointing to paragraph 60 in the Steering Group report the provisions could continue “indefinitely”. Those arguing for the removal of provisions would point to paragraph 62 that the Declaration could be changed “in the light of experience.” Someone may say that they were close to the original drafter of the Declaration, and the drafter had always intended the provisions in the Declaration to only be for a short period of transition.

I would be very grateful to receive your response.

Yours sincerely,

Adrian Vincent



YR EGLWYS YNG NGHYMRU THE CHURCH
IN WALES



ESGOB CYNORTHWYOL LLANDAF, Y GWIR BARCHEDIG DAVID WILBOURNE
ASSISTANT BISHOP OF LLANDAFF, THE RIGHT REVEREND DAVID WILBOURNE

Mr Adrian Vincent
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Woodham
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4 November 2013

Dear Adrian,

Many thanks for your letter of 3 November.

I made two speeches during the recent Governing Body debate on women in the episcopacy. The speech addressing the substantive measure (as amended) was crafted over several days, with my main intention to reassure whoever felt they had lost at the end of the day that they had not lost Christ. The speech in favour of the amendment was drawn up during the debate itself. The debate on the amendment was a long and complex one, and I felt it was important to reassure folk that even provision provided by statute would not impair episcopacy, as well as warning them that provision provided by statute had the habit of evolving beyond its original intention. Both speeches can be found at

<http://llandaff.churchinwales.org.uk/wp-content/uploads/sites/5/2013/09/The-wound-speech-to-the-main-GB-motion.doc>

and

<http://llandaff.churchinwales.org.uk/wp-content/uploads/sites/5/2013/09/DJW-speech-to-the-amendment.doc>

I was talking about the Act of Synod, which as you so rightly say is not strictly established in English Church Law. However in the disestablished Church in Wales an act of synod (known as a Governing Body Bill) is thereby enshrined in the Constitution and Canons; given the time limits on my speech, I didn't have the space to explain Church of England subtleties, which would not have been relevant to our context. And though the Act of Synod wasn't strictly a Canon or Measure, the success of the 1993 Measure in Parliament depended on its promulgation, so there was a substantial link with more formal legalities.

Llys Esgob, Lawnt y Gadeirlan, Llandaf, Caerdydd CF5 2YE
Llys Esgob, Cathedral Green, Llandaff, Cardiff CF5 2YE

The evidence I can offer for Archbishop Habgood's intention is based on my recollections of working with him at Bishopthorpe during the salient period, both as his Domestic Chaplain and Director of Ordinands (when I arranged the first ordinations of women in the York Diocese). As Domestic Chaplain, I shadowed the archbishop everywhere, reading through each day file of correspondence, talks and articles, and daily consulting with the Archbishop, his Lay Assistant and PA about any generation of policy. When John Habgood asked me to write his biography in October 2005, we set up a series of monthly day-long interviews over four years, and spent several of these days discussing the Act of Synod and its aftermath. John Habgood was uncharacteristically angry that what he had intended to service a short period of transition was still in place some 15 years later, with a life of its own.

Period of transition was a neutral term in reasonably wide usage in those days. Certainly John Habgood saw the 1985 measure which enabled women to be deacons as itself heralding a period of transition, which gave space for folk to get used to women ministering in one of the three orders prior to their inhabiting the other two. John Habgood felt that the 1992 GS discussion and vote came too soon during this transition period; had it come a few years later he felt that people would have had sufficient time to move on. In many ways he saw the Act of Synod as a limited extension of the transition period afforded by the Women Deacons' measure.

I have read through the GRAS and F-in-F submissions, which rather than correcting each other (or me) actually illustrate my point that well-intended provision, be it guaranteed by Church Law or Act of Synod, has a habit of mutating or evolving quite quickly from its original genesis. Given my knowledge of the personalities and contexts involved, namely John Habgood, George Carey and Michael Alison (not Michael Ellison as in the F-i-F notes) in particular, I could give further evidence as to how their traits led them to say what they said when they did, although I do not want to overload you with biographical detail!

Your concern seems to focus on whether the traditionalist camp were misled as to the nature of provision, which was intended as transitory, but which they understood to be permanent. Given the quotes you air, I can see how misunderstanding, compounded by the mists of time, has arisen. All I can say is that John Habgood saw any alternative episcopal oversight as running against all his catholic ecclesiology and theology stood for. There was an episode earlier in 1992 when George Carey wished to raise the profile of an eminent British evangelist by conferring episcopal orders on him. Since no see could be found for him in England, Carey proposed that he be consecrated abroad by an overseas bishop to a notional suffragan see, but then continue to minister mainly in the UK. The idea was dropped after John Habgood utterly opposed it as contrary to modern Anglican polity, where a bishop chiefly resided and ministered in his diocese, where he was the centre of unity. Despite this major unease, John Habgood promulgated the Act of Synod as a necessary evil/least worst solution to carry us through a time of major change. As I say, deliberately appointing men as PEVs who were close to retirement age was a major signal that John Habgood and others were being open about such a transition time being comparatively brief.

With all good wishes,

Yours,

+ David Wilbourne