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CLERGY TERMS (Revisited. Again.)

By David Phillips

It does not have the most exciting of titles but the proposed Ecclesiastical Offices (Terms of Service) Measure could have far reaching implications for the Church of England. It is quite difficult to grasp what the impact might be but the same could be said of the 1983 Pastoral Measure which is now used in a way that was never intended and it is already being proposed to amend the Clergy Discipline Measure 2003 because of problems it is creating. This new measure could easily prove to be a Trojan Horse.

Though the measure will cover some lay office holders it is mainly concerned with clergy.

Proposals for clergy Terms of Service have been rumbling on for at least 15 years and probably longer. What prompted the present proposals however was the Government threatening to provide their own safeguards for clergy without freehold. Alongside this are those who say that there are too many clergy who are failing in ministry and that there is no need to address it. But also there is a desire for more flexible patterns of ministry because of falling clergy numbers and the need to be dynamic in how we reach out when so many in our nation do not know Christ.

General Synod will get a second look at the Measure in February and if it goes forward it could come in during 2009. But there is a lot of work to do if it is to be fully implemented and therefore an Implementation Panel has already begun work and is likely to continue for 3 years at least.

The Measure as proposed will have the following effect:

- All future Clergy appointments will be to Common Tenure rather than Freehold (this will not affect those already in post).
- Terms of Service will be provided - including the requirement that the Diocesan Parsonages Board provides accommodation.
- Parsonages will be transferred to a Diocesan body so that they can provide accommodation
- Ministerial Development Review will be mandatory
- Grievance procedures will be introduced
- Dioceses will be expected to have human resources officers or departments to ensure necessary skills and good practice.
- Clergy Capability Procedures will be introduced.

There are considerable cost implications including the need for Dioceses to have staff to implement it and hidden costs for Bishops and Archdeacons though everyone hopes that in the long-term it will be beneficial.

Many of these matters have been touched on in *Cross†Way* previously but some of the more important aspects are set out here again.

Freehold / Common Tenure

Traditionally most clergy, except curates, had freehold of office. This is not 'a job for life' because legislation requires that clergy retire and allows that in some circumstances they can be removed from office. Nevertheless the concept of freehold does not fit well with some of the proposals and so it is proposed to remove it. Clergy moving to a new post will then be appointed under Common Tenure.

When making representation to the Revision Commission I was asked to define Common Tenure as I understood it and could not. I still cannot with any clarity. This in itself is a concern because we are proposing to move from a system (freehold) which is governed by law and practice over centuries with much case law and precedent to something which is very difficult to get a clear grasp of.

However, if the enthusiasts are to be believed then Common Tenure will give us all the benefits of Freehold and those who are worrying about it do so needlessly. Then again, if this is the case, why is it proposed to change? If people want to get rid of Freehold and bring in Common Tenure there must be a reason and might it not be that what is being changed is for the worse? Actually, that is pretty much how our presentation to the Revision Committee went (myself and Michael Walters, Chairman of Church Society Trust). Some on the Committee argued that we weren't losing anything to which we retorted that something is changing (otherwise why bother) and what is changing feels like a loss.

Of particular concern for us is how the change will affect patronage since this is undeniably linked to freehold. The patron presents the incumbent to the benefice which includes the freehold properties. Patrons have been assured that patronage is not going to be affected and we are hoping that the Revision Committee will allow a phrase to this effect to be put into the Measure to make sure no-one can claim otherwise in the future. If they are not prepared to put this in it will imply that they know the assurances are hollow.

Despite all the reservations it has to be admitted that freehold does not fit comfortably with the need for more innovative approaches to ministry in an environment when there are so many to win for Christ.

Parsonages

The most controversial area so far has been the proposals regarding parsonages. One Archdeacon on the Revision Committee resigned from it in order to contest the proposals in the General Synod with integrity.

One of the conditions of service is that a person with Common Tenure should usually be provided with accommodation. The duty to provide it is laid on the Diocesan Parsonages Board though it could be laid elsewhere. In order that they might have accommodation to offer it is proposed that they should become the custodians of all parsonages. It needs to be remembered that under the original proposals it was intended to transfer all benefice property (thus including the church and churchyard) to a Diocesan body. This was related to the proposal to do away with freehold completely and was firmly rejected by the General Synod. People were especially wary because of all the property disputes now taking place in the United States Episcopal Church. The new proposal is more limited but still means moving some locally owned property to be centrally owned. Many are also concerned that if a Diocese goes bankrupt (which is possible) or is sued then the houses could be seized regardless of what is written into the Measure.

Some argue that because the Parsonages Board has a duty to maintain the buildings it therefore makes logical sense for them to take custodianship of them. But against this it should be remembered that it is the parishes that pay share or quota so that the DPB can do its work. In effect the parishes are sub-contracting the care of their property to the Board.

At present the houses of Team Vicars, some Curates houses and some parsonages that no longer have parsons to fill them do belong to one Diocesan pot or another.

Capability Procedures

As explained above capability is often cited as one of the pressing reasons for this measure. It is claimed that there are too many instances of clergy who are obviously failing in ministry but who cannot be helped.

Capability procedure is not about removing clergy. It is first and foremost about addressing issues that arise in the performance of duty. But, inevitably the final recourse is removal of office and this is what people tend to focus on. The matter is particularly sensitive because clergy also face losing their home and some may find it very difficult to fit into other areas of employment. A good capability procedure will recognise all this and will seek to ensure that as much as possible is done as it is worked through to find a good solution or dismiss needless or malicious complaints.

It is not, however, necessary to remove freehold in order to bring in capability. There are provisions to remove clergy in the case of pastoral breakdown and it would be possible to modify or replace that legislation.

The problem with what is being proposed is that there is a lot of concern about how it will be used, and that concern comes from all quarters. There are clearly instances where change is needed but how is it to be decided when there is a real problem? Broad definitions can be produced but the difficulty will be in applying them. Some fear that the legislation may be used to get rid of people who don't fit with a prevailing theological view. On the other hand will incompetent clergy be shielded because they claim they are being victimised because of their particular churchmanship? What about a parish where a new minister causes a lot of anguish and people leave, but the church then flourishes. Would capability procedure have stopped necessary change or might the people who left have good cause?

None of these things are going to be easy to deal with and there are many more scenarios that can be dreamt up. What is needed is careful guidelines and procedures and sensible mature judgement being used. But at present there is a failure of trust within the Church of England. Unless that trust can be rebuilt the new procedures could end up causing more problems than they solve.

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