

GENERAL SYNOD

Ecclesiastical Fees – Implementing the new legislation

Background

1. The Ecclesiastical Fees (Amendment) Measure received Final Approval from the General Synod at the February 2010 group of sessions, with overwhelming majorities in all three Houses. It had previously been considered at both the February 2009 and July 2009 groups of sessions. The Measure has been found expedient by the Ecclesiastical Committee of Parliament and, if it completes the remaining parliamentary stages, will go forward for Royal Assent.
2. The Measure arose out of a report ‘Four Funerals and a Wedding’ which was issued in January 2008 (GS Misc 877) and a subsequent report from the Deployment, Remunerations and Conditions of Service Committee dated June 2008 (GS 1703). This whole process has been intended to clarify a number of uncertainties as to the legal basis of ecclesiastical fees and to make good known omissions. The General Synod’s Legal Advisory Commission, having re-examined the 1986 Measure and other relevant legislation, had called for fresh legislation.
3. Over the years there has always been a tension between the need to provide for the church’s ministers (and certainly the present Incumbent’s Fee was seen historically as part of the incumbent’s income) and the perceived inappropriateness of making a charge for ministry. As long ago as 1978, Chancellor Garth Moore wrote as follows (in GS 385):

"So far as legislation is concerned, it is difficult to discover any consistent attitude or policy towards the payment of rewards for the services and facilities provided by the Church. This is not surprising, since the Church itself, irrespective of her association with the State, has never really come to grips with the problem. Down the ages since Christianity began the Church has recognised on the one hand that her ministers (sacred and secular) must live and, in order to live, receive support in money or in kind, and, on the other hand, there may be something unseemly in the passing of rewards for spiritual ministrations."
4. That tension remains, but the new Measure at least seeks to clarify the position, establish a more secure legal framework and iron out inconsistencies. In particular it will:
 - provide for fees to be payable to Parochial Church Councils and to Diocesan Boards of Finance, in the latter case replacing the present ‘Incumbent’s Fee’;
 - establish a list of services and other ministries for which a fee may be prescribed; this will include services not previously covered such as Memorial Services and Services of Prayer and Dedication after a Civil Marriage;
 - recast the powers of the Archbishops’ Council to draft a Fees Order prescribing those fees; such an Order (which is subject to approval by Synod and Parliament) may be made for 5 years at a time, specifying annual increases within those 5 years according to a formula decided by the Council;
 - give an express power to prescribe what costs and expenses are included within each fee;
 - clarify the powers to waive fees; and
 - abolish all ecclesiastical fees for funerals of those under the age of 16.
5. During 2009 and 2010 a Working Group has been preparing advice for the Council as to how it might set fees for the first Fees Order under the new Measure. The same Working Group is also

drafting guidance which the Council may wish to issue to Diocesan Boards of Finance concerning those fees which will become due to them.

6. The purpose of this paper, which follows discussion in the Archbishops' Council and is brought to Synod for a take note debate at the Council's request, is twofold. First it provides an opportunity for the new Synod, more than a third of whom have become members since the legislation was debated, to engage with the subject before the first new Fees Order is brought forward for decision, probably in July. Secondly, it is intended as an opportunity for the Council- and the Fees Working Group- to hear views on the principles that should inform the levels at which fees are set, before deciding what proposals to bring to Synod..

Ecclesiastical Fees: the current context

7. Any discussion of fees has to be set in the context of the Church of England's pastoral and missionary ministry to the nation. The church and its ministers have the great privilege of sharing the love of God through the various pastoral rites and ministries for which the Council may specify a fee – mainly those for which there is liturgical provision in *Common Worship: Pastoral Services*. The mission potential of these pastoral opportunities has been powerfully underlined by the work of the Weddings Project, and a similar project around funerals would be very likely to show the same. Our approach to setting fees should take full account of the pastoral services and ministries being a mission opportunity.
8. During the passage of the legislation some argued that the mission setting for these pastoral ministries meant that there should be no fee for some or all elements of the ministry provided. It was argued that such a move could be seen as giving a bold and clear message about grace, not least in times of financial hardship. Synod did not accept this proposal.
9. It decided that the legislation should continue to provide for fees to be prescribed in respect of specified duties carried out by the clergy and others. It did, however include a power to set a nil fee in respect of any of the matters for which fees may be prescribed. It also gave incumbents a discretion to waive fees in an individual case (following consultation with the wardens in the case of the PCC fee). It remains a matter of principle that no one should be denied access to the ministry of the church because of an inability to pay.
10. As noted above, the Measure also abolishes all ecclesiastical fees for the funeral of someone aged under 16.
11. The most recent available figures suggest that dioceses currently receive just under £20m a year from money assigned to them by incumbents from their fees; while PCCs received some £30m. While some of this latter sum will include money received and paid on to others (bell ringers, organists etc), probably at least half goes to defray church costs.
12. So, while relatively small compared with annual church expenditure of over £1bn, it can be seen that fee income, at somewhere over £35m a year, makes a significant and much needed contribution towards the real costs associated with making ministry available in every community in the nation. Indeed, continuing to offer them on a universal basis has clear implications for the funding and availability of authorised ministers and for the maintenance of our 16,000 church buildings (of which over 13,000 are listed).
13. Another issue raised by many during the discussions around the Measure has been the importance of maintaining and indeed enhancing the quality of the ministry offered on these occasions. Anecdotal evidence (as well as the more rigorous research of the Weddings Project) gives us clear examples of excellent and imaginative ministry exercised by ministers and parishes in many places; sadly, it also tells us of ministry that falls short of the best.

14. The need is, therefore, clear for continuous ministerial development (CMD) which encourages clergy and other ministers to see this ministry as a high priority, and which fosters excellence in the exercise of this ministry. Such excellence is of course important in its own right, but our attention to it is focussed more sharply by the increasing presence of civil celebrants and others offering pastoral rites and services. There is of course a cost to providing good CMD.

The Level of Fees – General Principles

15. The Measure provides for the Council to prescribe fees payable to Parochial Church Councils and Diocesan Boards of Finance on the basis that these are the two bodies that are responsible for the costs of providing ministry and also, in the case of PCCs, for maintaining church buildings and churchyards.
16. In all the thinking around the Measure, the amount payable to a PCC has been seen as related to the provision of a church building or churchyard (where appropriate) and the costs of local administration and ministry. The amount payable to a DBF has been conceived as a contribution towards the cost of providing authorised ministry. Unlike the Incumbent's Fee (which it broadly replaces) the DBF fee is no longer a payment or remuneration for a particular minister, but rather a contribution to the church's costs in providing ministry. A DBF would, however, be free to offer remuneration to those not in receipt of a stipend (retired ministers, SSMs, Readers etc) – indeed some dioceses already do this.
17. Following the previous Synod's decision that fees should be prescribed, **a first general principle which has guided the Working Group is that fees should be justifiable on the basis of some relationship to actual costs incurred.** This principle leads to a greater degree of transparency than is possible with the present fee levels, where the amounts bear no relationship to actual costs or indeed to any other identifiable figures. Account would, therefore, be taken of the real costs and fees set at a level which covers most situations in relation to, for example, the costs of maintaining a church building.
18. **A second principle is that of uniformity in the main fees specified.** Information about fees is readily available on web-sites and people find it strange when there is no consistency across what they see as one entity – the Church of England. While some have argued for 'banding' according to the size or running costs of a church building, the Working Group has resisted that argument on the basis that a parishioner (or person with a qualifying connection) should not have to pay a different amount simply because their parish church happens to be a particularly grand or costly building.
19. In point of fact, the Measure does not give any power to make such variations, the same arguments against the creation of a 'post-code lottery' in relation to parochial fees having been accepted by those responsible for the policy behind the Measure.
20. **A third principle is that of inclusivity and is intended to reduce the scope for the sort of 'extras' that are currently charged by some churches.** All necessary costs and expenses regularly incurred would, therefore, be expressly included in the statutory fees, leaving no scope for extra charges for such things as heating, lighting, cleaning, care-taking; administration etc.
21. The level of fees would reflect this. Experience suggests that it is these 'extras' that have in the past caused difficulties and misunderstanding when, for example, wide variations in charges are found between different parishes. The only allowable 'extras' would be where there is a genuine choice – music, bells, flowers, additional printing etc. For some churches this will be quite a significant change on the present situation.
22. **The final general principle is that of affordability, not least for those least able to pay.** While fees help offset the real costs of church buildings and authorised ministry, it would be entirely wrong to give any appearance of simply seeking to make money from our ministry.

The fee level should, therefore, be that of a ‘reasonable contribution towards the costs incurred’. In addition, as noted above, wherever the level is set there will be those for whom the right course is to exercise the right of waiver as provided for in the Measure.

23. These four principles (link to actual costs, uniformity, inclusivity and affordability) are those which are guiding the Working Group’s thinking at present. The Working Party does not envisage advising the Archbishops’ Council to exercise the power to set a nil fee.

Fees due to a Diocesan Board of Finance

24. A rigid formula may well not be sensible or practicable. But the principles outlined above would lead to a DBF fee which had some relationship to the total, actual cost borne by a DBF for a full time stipendiary minister (at present reckoned to be £45,414pa) adjusted pro rata for the average ministerial time likely to be devoted to the ministry in question.
25. Because this fee will in law belong to the DBF, it will be for each DBF to decide how this income will be applied. It is likely that most of this will be towards stipends (but see below on payments to ministers without stipend). DBFs may also wish to apply some fee income to CMD, promotion of church marriages and covering the DBF’s own administration costs.
26. While the level set nationally for the DBF fee would be based on costs relating to a stipendiary minister, it would be payable irrespective of who happened to officiate at a particular service. Stipendiary clergy would not receive any part of the fee.
27. Guidance to DBFs would suggest an amount which they might wish to offer as remuneration to ministers (clergy and Readers), including the retired, who are not in receipt of a stipend. This amount needs to be a reasonable remuneration, bearing in mind that we rely on the willing participation of such ministers in order to offer a universal ministry to the nation.

Fees due to a Parochial Church Council

28. In its thinking so far, the Working Group has seen the fees payable to a PCC as incorporating contributions towards:
 - running and maintaining church buildings, calculated by reference to the national statistics for such costs;
 - care-taker/verger, parish administration and lay pastoral ministry.
29. In line with the principles (above), the Working Group’s intention is that the prescribed fees would be as inclusive as possible, thus minimising the scope for PCCs to charge so-called ‘extras’. Thus the fee would:
 - make a good contribution to the real costs of running and maintaining a church building; there would be no additions allowed such as for heating in the winter as the overall fee would be calculated to include full costs over a year;
 - be sufficient to pay for the time of a paid secretary and a paid verger/caretaker – if in a particular parish those tasks are undertaken on a voluntary basis, then the parish benefits through the volunteers giving of their time;
 - provide the PCC with some income even for a funeral taking place at a crematorium, thus recognising that such services make demands on the PCC even without using the church building.

Payments to others

30. Last summer there was a certain amount of reaction arising from a newspaper report about fees for organists and other musicians. It is worth making clear that it is not intended to bring these fees within the scope of Parochial Fees Orders. They will continue to need to be covered by PCCs in their agreements with musicians with fees being agreed with, and charged to, those who wish to engage the services of organists and other musicians.
31. Particular concern has been expressed about organists taking a fee when another organist plays, and lack of clarity about when a recording is such as to justify an additional fee. These are contractual matters between the various parties involved rather than issues for a Parochial Fees Order. It will be for the Council to decide whether to enter into a more structured discussion with RSCM and other bodies on these two matters.

A Fees Order for 2012

32. If Royal Assent for the Measure is given in the early part of this year, the immediate task for the Archbishops' Council will be to prepare a Fees Order for the period 2012 to 2017 and bring it before Synod in July 2011. The Council will be assisted in its work by listening to the Synod's response to this paper.
33. The Working Group is preparing advice for the Council on the basis of the principles outlined above - in particular the setting of fee levels in some relationship to actual costs incurred. The legislation was not prepared with the intention of securing any fundamental change to the overall contribution that fee income makes to the church's income. But, even if the overall income were to remain broadly similar, the unclear and largely arbitrary basis on which fees seem to have been set down the years means that there could well be some noticeable changes to individual fees – with some going down and others up.
34. In considering the options for specific fees, the Working Party is conscious that some apparent increases might well not amount to net increases in real terms because the prescribed fee would include many of the items previously charged as 'extras'. The Working Party has also found that even quite small changes to the underlying assumptions (e.g. about the time needed to exercise a particular ministry in an excellent way) can significantly affect the resulting figures. The position in relation to two particular services may serve as useful indicators to help Synod to consider the principles.
35. At present the basic fees for a wedding (including publishing banns) amount to £284, but many PCCs then seek to add various additional charges for administration, cleaning, special heating etc., (separate from the fees payable to musicians, bell-ringers etc).
36. If the possibility of making those additional charges were removed by a new fees order (because the order provided that those costs and expenses were to be included in the statutory fee), the basic fee would need to be quite a bit higher to preserve the present overall contribution to the costs incurred by the Church of England in providing marriage services in church. In terms of the Church of England as a whole, couples would pay no more overall than they do now; but the introduction of a common fee across the country would mean that at the moment of transition, the amount payable would go up in some churches and down in others.
37. A particularly difficult instance is that of a Funeral Service in church before or after burial or cremation. In the past, the fee for such a service has been deliberately held down in order to make it the same as the fee for a full service at a crematorium. As a result the present PCC fee of £45 is about 30% of the figure that would emerge from a calculation based on costs incurred. Clearly an increase of that level would be problematic. There is, therefore, a question whether the cost of a service in church should continue to be kept at its present low level, or, if not, by how far it should be allowed to rise, whether immediately or over a transitional period.

38. In any event, the introduction of a new system will require an effective communications strategy. The Working Party hopes that the Council will ask the Communications Office to design suitable material for national and diocesan use.

Conclusion

39. The Synod is invited to take note of this report and, in the course of debate, members may wish to offer guidance to the Council in its task of preparing a Fees Order under the new Measure. In particular, members of the Synod may wish to:
- respond to the general principles outlined in this paper;
 - offer any other comment relevant to the level at which specified fees may be set.

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January 2011*

**Published by the General Synod of the Church of England
and on sale at the Church House Bookshop**

31 Great Smith Street, London SW1P 3BN

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