

GENERAL SYNOD

Review of Employment Status and the Clergy

1. In the White Paper *Fairness at Work* (HMSO, 1998) the Government expressed concern about the position of certain groups, such as home workers, who were excluded from some or all statutory employment rights. This concern was subsequently addressed in the Employment Relations Act 1999. Section 23 of the Act gives the Secretary of State for Trade and Industry the power to confer some employment rights on people who are not technically employees ('atypical workers', among whom the majority of clergy as office holders are included). Section 23 does not give the Secretary of State the power to make anyone an employee. It provides that, for certain purposes, people can be treated as if they were party to an employment contract, but the actual legal relationship remains unchanged.
2. The Government made it clear, through answers to questions in Parliament, that there was a possibility that clergy would be included in the scope of the legislation but promised that this would not happen until consultation had taken place. A discussion document *Employment Status in relation to Statutory Employment Rights* was published in July 2002 as the basis for the consultation.¹ Responses were required by 11 December.
3. The Church of England's response reflected discussions in the Archbishops' Council at its meetings in October

and December, consideration by the House of Bishops, a consultation with dioceses and consideration by the Deployment, Remuneration and Conditions of Service Committee. The final response was submitted to the DTI on 6 December. A copy is attached as **Annex 1**.

4. In summary, the Council acknowledged that, for some clergy, the Church's present arrangements do not provide sufficient safeguards against possible injustice. This is particularly true for those clergy who do not have the security of tenure afforded by the freehold or contracts of employment. The Council argued that the Church needed to conduct its own study of the options for amending current arrangements, with a view to enhancing safeguards against injustice and ensuring a proper balance between rights and responsibilities.
5. The Council agreed to set up a working group with the membership and terms of reference contained in **Annex 2**. The group met for the first time on 17 January and will produce its first report this year. The group will draw on the work undertaken by the Clergy Conditions of Service Group and the consultation of the mid-1990s. During the first year the focus for the group's work will be to recommend proposals relating to enhanced protection for clergy without the freehold or employment contracts.
6. In stage two - by the end of 2004, if possible - the group will consider the balance between clergy rights and responsibilities and the future of the freehold. The General Synod agenda already contains a Diocesan Synod Motion from Oxford diocese that requests a review of the freehold as a matter of urgency. A

number of dioceses have written in support of this Motion.

7. Other denominations have also argued against an order under section 23 in respect of ministers of religion.. The precise arguments vary, but their general contention has been that they should not be brought within section 23 if they can demonstrate that they have in place (or will be able to put in place over a specified period of time) a system of equivalent protections for ministers, which can be enforced with appropriate rights of appeal.
8. The Synod is invited to take note of this report.

Archbishops' Council
January 2003

¹ The discussion document is available on the DTI's web site at www.dti.gov.uk/er/individual/statusdiscuss.pdf