

A: INTRODUCTION

- A1. After the July 2001 debate on *Working with the Spirit: Choosing Diocesan Bishops* (GS 1405), the report of the Review Group chaired by Baroness Perry of Southwark, we were appointed as a Steering Group to follow up the recommendations of that Report. Our membership was as follows:

Canon Prof. Michael Clarke (Chairman)
The Rt Revd Michael Turnbull, Bishop of Durham [until February 2003]
The Rt Revd Jack Nicholls, Bishop of Sheffield
The Revd Canon Bob Baker
Mrs Nicolete Fisher
Canon Ian Garden
The Revd David Houlding
The Revd Canon Patience Purchas
Mrs Margaret Swinson

Mr Philip Mawer (Secretary General: Assessor) [until May 2002]
Mr Anthony Sadler (Archbishops' Secretary for Appointments: Assessor)
Mr Stephen Slack (Chief Legal Adviser: Assessor)

Dr Colin Podmore (Secretary)

- A2. At the November 2002 Group of Sessions, the Synod considered our Report (GS 1465). It passed a resolution asking that those of our recommendations which did not require synodical action should be implemented..
- A3. At the February 2003 Group of Sessions, one of our members, the Revd David Houlding, reminded the Synod of the welcome which the Synod had given to *Working with the Spirit* in July 2001:

'It is important for us to begin by re-claiming our enthusiasm for the Perry report itself. We need to recall the delight of this Synod in receiving the report when it first came to us. It had been long awaited. The working party under Baroness Perry had received an immense amount of evidence which it had carefully assessed, addressing so many of the concerns around. Many of these concerns, which had led to the setting up of the Perry group in the first place, had been met. A more open process was essential for retaining the confidence of the Church at large, but still of course within the bounds of confidentiality. What was often perceived as secrecy would go; dates of the meetings would be published; two meetings for each appointment, giving time to reflect on the

proceedings in the intervening time; fuller and accredited references would be collated and distributed to all members of the Commission, and so on.’

He went on to remind the Synod that it had already accepted those of our recommendations (the majority) which did not need further synodical action.

A4. The Synod then passed all of the resolutions for amendment of Standing Order 122 (which governs the Crown Appointments Commission), except for the first, debate on which was adjourned (as it already had been in November).

A5. The business which remains outstanding is therefore:

- the adjourned motion for amendment of Standing Order 122
- the Vacancy in See Committees (Amendment) Regulation

In what follows we report on these two items of business.

B: STANDING ORDER 122

B1. Our motion (moved by Professor Clarke) sought to change the name of the Commission from ‘Crown Appointments Commission’ to ‘Crown Nominations Commission’. In November, the Revd Stephen Trott moved an amendment to that motion, to increase the number of diocesan members from four to eight. The amendment was passed, but at that point debate on the motion was adjourned. In February, a further amendment was put down by Mr Colin Slater, to disqualify members of the Archbishops’ Council from serving as elected members of the Commission. However, debate on the motion was further adjourned before that amendment could be moved.

B2. In response to the adjournment and the reasons which Professor McClean gave for moving it, the Business Committee is proposing that the motion should be further adjourned and that instead three separate motions should be moved, as follows:

- our motion (moved by Prof. Clarke) to change the name of the Commission
- a motion by Fr Trott to increase the number of diocesan members to eight
- a motion by Mr Slater to disqualify members of the Archbishops’ Council

If this procedure is adopted, it will be possible for members of the Synod to move amendments to Fr Trott’s motion. This would give the Synod the option of considering a number of diocesan members other than four (the existing number) or eight (Fr Trott’s proposal).

B3. In what follows, we repeat our comments on the name of the Commission and on Fr Trott’s proposal to increase the diocesan membership to eight. Finally, we comment on Mr Slater’s proposal.

Name of the Commission

- B4. In our previous reports, we explained the thinking behind the proposed change of name for the Commission as follows.
- B5. The Perry Group recommended (Recommendation 1: *Working with the Spirit*, para. 1.51) that the Commission should be renamed. The reasons for this were twofold. First, neither the Commission nor the Crown actually *appoints* people to diocesan sees: the Commission *recommends* two names to the Crown and the Crown *nominates* or *presents* a candidate for election by the College of Canons; it is ecclesiologically important to underline that people are made diocesan bishops by the Church not the State. Secondly, the Report pointed out that the term ‘Crown Appointments Commission’ was a cause of confusion, in that the Commission has no involvement at all in appointments which the Crown does actually make (for example to deaneries). It recommended the name ‘The Episcopal Nominations Commission’ as expressing more precisely the role and area of involvement of the body concerned.
- B6. Responses to this recommendation pointed out that the proposed name, while more accurate than the original, is still not entirely accurate, in that the Commission has no involvement in appointments to suffragan sees. We have therefore taken up a suggestion of the former Archbishop of Canterbury, Lord Carey, and propose that the name should be ‘The Crown Nominations Commission’. This name would meet both of the objections to the current name, and would be appropriate in that the Commission’s work concerns nominations both to and by the Crown. At the same time, retention of the word ‘Crown’ would avoid any misunderstanding that the change of name was somehow designed to change the Crown’s role in the process.

Number of diocesan members

- B7. The composition of the Crown Appointments Commission was among the matters considered by the original CAC Review Group (the ‘Perry Group’) in the light of the large amount of evidence, both written and oral, which it received. The Perry Group concluded, on the basis of that evidence, that the number of diocesan members should not be changed. When its report, *Working with the Spirit* (GS 1405), was debated in July 2001, no amendment requesting amendment of the number of diocesan members was moved. The Steering Group was therefore not charged with reconsidering the matter, and no one subsequently raised it with the Steering Group. For this reason, the number of diocesan members was not addressed in the Steering Group’s first report.
- B8. The reasons why the Perry Group recommended that the number of diocesan members should continue to be four were set out in paras 3.4-3.8 of *Working with the Spirit*, as follows:

Diocesan members

3.4 Some of the submissions made to us have suggested that the number to be elected to the CAC by the Vacancy in See Committee should be increased slightly. In some cases, this was in the hope that a team of five or six diocesan members would be more representative in terms of ‘categories’ (lay/ordained,

etc.), while in others the intention was to increase the proportion of diocesan members and thus their influence within the CAC. Most of the submissions did not question the size of the CAC or the balance between central and diocesan members, however.

3.5 The evidence which we have received does indicate that some diocesan members of the CAC have felt inadequately briefed on its procedures, overwhelmed by the preponderance of central members, and unequal to the latter in the information and experience available to them. We consider that this situation can be remedied by better briefing. We recommend that a fuller briefing document, outlining in detail the Episcopal Nominations Commission's procedures and what is expected of its diocesan members, should be sent by the Archbishops' Secretary for Appointments to all diocesan members on their election. The contents of the document should be approved from time to time by the central members of the Commission.

3.6 In some cases the diocesan four have felt that they had to be firm in their stance in order to prevent a nomination being made which would have conflicted with their view of what their diocese needed. However, we have received no evidence of names going forward against the wishes of a majority of the diocesan four. Indeed, the Standing Order which governs the CAC provides that for any matter on which a vote is required, a two-thirds majority among the voting members is needed, 'provided always that the person presiding at the meeting is satisfied that the vote in favour pays due regard to the opinions of the diocesan members'. We consider that this safeguard is sufficient.

3.7 The evidence which we have received from central members of the CAC in particular is that great attention is paid during CAC meetings to the needs of the diocese as revealed by the documents prepared by the Vacancy in See Committee and the Secretaries' report on their consultations in the diocese, and that the diocesan members are questioned until the central members are satisfied that they understand the situation and views of the diocese.

3.8 The task of the CAC is to put forward candidates for appointment not only to a particular see, but also to the collective leadership of the Church of England. In our view, it is this latter consideration which ought to be given more weight than hitherto in the course of the Episcopal Nominations Commission's deliberations. An increase in the size of the diocesan representation would tend in the opposite direction, especially since additional diocesan members are less likely than the central members to have a broad perspective of the needs of the Church of England as a whole. Any increase in the CAC's size would also tend to reduce its effectiveness as a deliberative group. Furthermore, we note that the proportion of diocesan members (33.3% of the voting members) falls between those in electoral colleges in the Church in Wales (25.5%) and the Church of Ireland (46%). We therefore do not recommend any change to the existing composition of the CAC.

B9. Thus, the Perry Group concluded from the evidence before it that the four diocesan members were able to prevent the nomination of candidates which a majority of them opposed, and that, if anything, changes needed to be such as would direct greater attention to the needs of the wider Church.

B10. At the same time, the Perry Group made a number of recommendations which will tend to reduce any sense of 'disempowerment' experienced by diocesan members. These include changes such as:

- the issuing of written briefing material;
- the two-stage process (which will mean that the meeting at which final decisions are taken is not the members' first and only meeting, and will give an opportunity for reflection between meetings)
- the enhanced documentation about candidates, which will mean that members are better informed.

The Synod agreed in November that those recommendations should be implemented.

B11. One of the concerns raised in evidence submitted to the Perry Group may be of relevance. There was some criticism of the fact that on some occasions the diocesan four was not 'balanced' in terms, for example, of inclusion of laypeople, parish priests, women as well as men. It may be that some of those who voted for Fr Trott's amendment did so in the hope that a large number of members would be more likely to result in a diocesan membership more representative in this sense. The Steering Group believes that amendments to the Vacancy in See Committees Regulation and the new Guidance Notes and Code of Practice set out in Annex 2 to its first report (GS 1465) are likely to achieve this. These changes are:

- number of candidates to be no more than 50% of the number of electors (so avoiding the situation whereby all the electors are treated as candidates, all give themselves the first preference and members are elected in consequence of random exclusions by the computer);
- candidates to be nominated and seconded;
- election to take place at the Committee's second meeting;
- before candidates are nominated, the Committee to be encouraged to consider the need for a balance of interests and representation (clergy/lay; lay/female; urban/rural; ethnic minorities; churchmanship; etc).

The Steering Group believes that this will have the desired effect and that further changes should not be made until these changes have had a chance to work.

B12. Fr Trott's proposal is that the number of diocesan members should be increased to eight. The voting membership of the Commission would therefore be:

- The Archbishop of Canterbury (Chairman)

- The Archbishop of York (Vice-Chairman)
- six elected General Synod members
- eight elected diocesan members

B13. The total number of voting members would be sixteen and the total membership (including the non-voting Appointments Secretaries) eighteen. *Working with the Spirit* warned that ‘any increase in the CAC’s size would... tend to reduce its effectiveness as a deliberative group’ (para. 3.8).

B14. In the case of the See of Canterbury, there would be twenty-one members (eighteen voting); eight of the voting members would be from the Diocese of Canterbury. The Steering Group has already indicated that it considers that the delegation of the Archbishop’s diocesan powers to the Bishop of Dover should be made permanent and the process for choosing the Bishop of Dover changed, and that if this is done, the number of members from the Diocese of Canterbury on the Commission for the See of Canterbury should be reduced (GS 1465, section E). This formed part of the package of recommendations which the Synod approved in November.

B15. For the See of York, there would be nineteen members (seventeen voting), eight of them from the Diocese of York. In our view, if the change to eight members is passed, further consideration should be given to the balance of membership when the See of York is vacant.

B16. A further consideration is that a diocesan ‘team’ consisting of four members is more likely to be able to work together cohesively in representing the Vacancy in See Committee’s view of the diocese’s needs than a group of eight or even six diocesan members. Those of us who have experience of CAC meetings believe that a larger group of diocesan members might, paradoxically, be less able to function effectively in presenting a coherent view of the diocese’s needs than a team of four members.

Disqualification of members of the Archbishops’ Council

B17. The effect of Mr Slater’s motion would be to prevent the General Synod and Vacancy in See Committees from electing members of the Archbishops’ Council to serve as elected central or diocesan members of the Commission. Any elected central or diocesan member who was subsequently elected to the Archbishops’ Council would immediately cease to be a member of the Commission.

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B18. There is always a question to be asked about the concentration of power in too few hands. It is for this reason that the National Institutions Measure 1998 prevents members from serving as elected members of more than one of the following bodies at the same time: the Archbishops’ Council, the Church Commissioners, the Pensions Board, the Appointments Committee and the Business Committee. Standing Order 119 (d) similarly prevents members from serving on more than one of the bodies answerable to the Synod through the Archbishops’ Council at the same time (save with the consent of the Business Committee). A similar restriction applied to members of the former Standing Committee. There has, however, never been a bar on members of the Standing Committee or the Archbishops’ Council serving on the CAC and over the years the elected central members of the Commission have often

included at least one member of the Standing Committee and more recently the Archbishops' Council.

- B19. In considering whether the restriction on elected membership of more than one body should now be extended to cover membership of the Commission, the Synod will need to consider whether there is a potential advantage in the Commission having a member other than the Archbishops who brings to its deliberations perspectives gained from membership of the Archbishops' Council and if so, whether the danger of power being concentrated in too few hands is so great as to outweigh this.
- B20. A further consideration is that if there is a member of the Archbishops' Council among the members of a vacancy in see committee, the other members of the committee might well conclude that such a member's knowledge of the Church at national level would make him or her a particularly useful representative of the diocese on the Commission. Mr Slater's proposal would prevent the committee from electing him or her as one of the diocesan members of the Commission.
- B21. The Synod will need to decide whether it should prevent such dual membership in all circumstances, or whether it should leave itself and diocesan vacancy in see committees free to judge in each case whether dual membership would or would not be helpful and to elect or not elect the candidates concerned.

**C: THE VACANCY IN SEE COMMITTEES REGULATION:
EXPLANATORY MEMORANDUM**

C1. *Working with the Spirit* recommended a number of changes to the Vacancy in See Committees Regulation 1993. We are therefore laying before the Synod a draft Vacancy in See Committees (Amendment) Regulation (GS 1508) to give effect to the recommendations. (This version differs from the version circulated last November only in its date (2003 instead of 2002) and the date when it would come into effect (1 December instead of 1 May).) A commentary on the amending Regulation follows. For the consolidated text of the Vacancy in See Committees Regulation as amended by this amending Regulation, see Annex 1.

C2. It is proposed that the amending Regulation should come into force on 1 December 2003. This will allow time for vacancies on Vacancy in See Committees to be filled before paragraph 5(a) takes effect, and for preparation of the booklet mentioned in paragraph 6(b).

C3. **Paragraph 2 and sub-paragraph 5(b)** of the amending Regulation change the terms of the Regulation so that masculine pronouns are no longer used to refer to women as well as men.

C4. **Sub-paragraph 3(1)** of the amending Regulation makes three distinct changes (additional to those recommended by *Working with the Spirit*). It deletes reference to provosts, which are now anachronistic. It changes the provision for situations where the dean is unable to serve, so that instead of the dean and residentiary canons electing a residentiary canon, the Chapter will elect a member of the Chapter. It also ensures that the person so elected is not already a member of the Committee in another capacity.

C5. **Sub-paragraph 3(2)** deletes references to the possibility of the diocesan registrar or diocesan secretary being the secretary of the Committee. This will be covered instead by the new provision in sub-paragraph 6(a).

C6. **Paragraph 4** of the amending Regulation gives effect to Recommendation 38 (paras 4.10-11 of *Working with the Spirit*). It allows the Bishop's Council to nominate four additional members (instead of two) either (as at present) because they 'reflect a special interest in the diocese' or because their nomination is, in the opinion of the Bishop's Council, 'appropriate in order to secure a better reflection of the diocese as a whole'. These changes would enable the Bishop's Council to redress imbalances in the membership of Committees (for example, geographical imbalances or, where relevant, an absence of Anglicans from ethnic minorities).

C7. **Sub-paragraph 5(a)** introduces a new provision, not recommended by *Working with the Spirit*. In order to avoid a situation whereby the Vacancy in See Committee's work is delayed by a need to fill vacancies, and in order to encourage dioceses to keep their Vacancy in See Committee at full strength, the Regulation will provide that vacancies existing when an impending vacancy in see is announced are not to be filled until the Committee's consideration of the vacancy in see has been completed.

C8. **Sub-paragraph 6(a)** of the amending Regulation concerns the secretaryship of the Committee. At present, the Bishop's Council is required to appoint either the diocesan registrar or the diocesan secretary. It has been suggested to us that this is too restrictive; there are circumstances where, for example, the Bishop's Council might judge that a Deputy Diocesan Secretary or another member of the staff would be the most appropriate choice. This new provision leaves the choice to the Bishop's Council, while retaining the rule that the Secretary cannot also be a member of the Committee.

C9. **Sub-paragraph 6(b)** of the amending Regulation is the Group's response to Recommendation 41 (paras 4.22-24). It requires that as soon as practicable after the vacancy is announced, all members of the Committee should be sent a briefing booklet. One of the effects of this would be that the Archbishops' Secretary for Appointments would not need to be present at the Committee's first meeting in order to brief members orally about its work, and the Committee would therefore be able to hold an initial meeting very soon after the announcement of a vacancy (see sub-paragraph 7(a)). The Steering Group concluded that it would be more helpful for members to receive such a booklet at the beginning of the Committee's work than for them to receive it on election to the Committee (as the Review Group recommended). Paragraphs 7.2 and 7.3 of the revised *Guidance Notes and Code of Practice* (see Annex 2 to this Report) recommend, however, that the Chairman should receive a copy of the booklet and the members a single-sided summary of it on election to the Committee. The Steering Group has added to the contents of the briefing booklet a reference to the future role of most diocesan bishops as members of the House of Lords.

C10. **Sub-paragraph 7(a)** of the amending Regulation gives effect to the intention of Recommendation 40 (para. 4.21 of *Working with the Spirit*). It requires the Committee to meet at least twice, the first meeting being held as soon as practicable after the announcement of a vacancy. This is related to the requirement that, in order to allow time for informal discussion between meetings about possible candidates for election to the Commission, the election should not take place at the Committee's first meeting (see sub-paragraph 7(b)).

C11. Sub-paragraph 7(a) of the amending Regulation also requires that the discussion of the needs of the diocese should take place at the Committee's second meeting, and that the Statement of Needs should be drawn up following that discussion. It is desirable that the Archbishops' Secretary for Appointments should be present to hear the substantive discussion of the needs of the diocese, but it is not envisaged that he would attend the preliminary meeting. It is also desirable that drafting of the Statement should begin after such a discussion.

C12. *Working with the Spirit* recommended (Recommendation 46, para. 4.29) that the Regulation should be amended to require that the Statement of Needs be approved at a meeting of the Committee rather than by correspondence. If a draft Statement is circulated and no objection to its terms is received, we do not consider that the Committee should be required to meet in order formally to approve it. We have therefore not included such a requirement in the amending Regulation, but the question is addressed in paragraph 15.3 of the revised *Guidance Notes and Code of Practice*.

C13. **Sub-paragraph 7(b)** of the amending Regulation gives effect to the intention of Recommendation 47 (para. 4.30 of *Working with the Spirit*) – that the election of the diocesan four should not take place at the Committee's first meeting. As explained above, the intention was to provide an opportunity for informal discussion between meetings about possible candidates. *Working with the Spirit* recommended that the preliminary meeting mentioned above should be recommended by the Guidance Notes, rather than mandatory, but that the election should take place at the Committee's final meeting (implying more than one meeting) instead of 'as the final business of the Committee' (which might not meet more than once). If the Committee decided to meet again after its main meeting, both the current requirement and the modification proposed in *Working with the Spirit* would require the election to be postponed until that final meeting, and this would delay the process. Making a preliminary meeting mandatory makes it possible to require that the election be held at the second meeting. This fulfils the intention of the recommendation in *Working with the Spirit* without causing such a delay.

C14. The regulation will continue to provide that the election should be the final business at the meeting at which it is conducted. This is so that the election may take place in the light of the discussion of the needs of the diocese; members will vote having heard both the discussion and the candidates' contributions to that discussion.

C15. The Regulation will no longer specify the number of members to be elected to the Commission, but will instead simply require that the number of members specified by the CAC Standing Order be elected. This means that a change could be made to the CAC Standing Order in that regard in future without a consequential amendment to the Regulation being required.

C16. Sub-paragraph 7(b) of the amending Regulation also gives effect to Recommendation 48 (para. 4.34 of *Working with the Spirit*). It requires that candidates should be proposed and seconded by other members of the Committee, with no member allowed to propose or second more than one candidate. The purpose of this is to ensure that the number of candidates does not exceed 50% of the number of electors, so that the STV system will work better and the scenario is avoided whereby all or nearly all of the members stand for election and vote for themselves and because of the equality of votes the diocesan four are effectively chosen as a result of random exclusion of other candidates by the computer.

C17. The first part of **sub-paragraph 7(c)** is consequential on the proposed change of name from ‘Crown Appointments Commission’ to ‘Crown Nominations Commission’ (see para. D3 below).

C18. *Working with the Spirit* recommended (Recommendation 49, para. 4.35) that if one of the diocesan four was unable to serve, the replacement should be chosen not by the Chairman and Deputy Chairman of the Vacancy in See Committee jointly, but by re-counting the original voting papers, guarding those candidates who have already been elected and are able to serve. This procedure, analogous to that used for casual vacancies in positions which the General Synod fills by election, was intended to remove any possibility of the balance of opinion within the diocesan four being altered as a result of the Chairman and Deputy Chairman’s choice. However, we are concerned that given the small electorate involved and the even smaller number of candidates, such a procedure might not in fact replicate the balance of opinion within the original four. It would also be unsatisfactory if, for example, it resulted in the substitution of a priest for the only layperson among the four. The second part of sub-paragraph 7(c) therefore inserts instead of this provision a requirement that in making their choice the Chairman and Deputy Chairman should ‘have regard to the desirability of maintaining, amongst those members, a similar balance of opinion and representation of the interests which those members represented’. We note that announcement of the dates of the Commission’s meetings before the Vacancy in See Committee meets reduces the likelihood of one of the diocesan four discovering after the election that he or she is unable to attend.

C19. *Working with the Spirit* also recommended (Recommendation 51, para. 4.43) that if there is to be formal consideration of possible names this should be decided at the preliminary meeting but take place at a subsequent meeting. Members were to be cautioned to avoid inappropriate discussion and reminded that the diocesan four could not be mandated as to how they should vote during meetings of the Commission. It was also recommended that a phrase referring to the submission of names to the Commission should be deleted, since a Vacancy in See Committee (as distinct from the diocesan four) cannot in fact require the Commission to consider a particular name. In practice, Vacancy in See Committees are now advised not to discuss names and most follow this advice. We do not consider that the discussion of names by a Vacancy in See Committee, without the confidential documentation which will be available to the Commission as a result of the recommendations of *Working with the Spirit*, would be appropriate or beneficial. **Sub-paragraph 7(d)** therefore deletes the provision which empowers Vacancy in See Committees to discuss names.

GENERAL SYNOD

VACANCY IN SEE COMMITTEES REGULATION 1993

**as proposed to be amended by the Vacancy in See Committees (Amendment)
Regulation 2003**

**A REGULATION passed by the General Synod to make fresh
provision with respect to Vacancy in See Committees**

1. **Establishment and Composition:**

- (a) In every diocese there shall continue to be in existence at all times a Vacancy in See Committee consisting of:

Ex Officio members:

- (i) the suffragan bishop or bishops and any full-time stipendiary assistant bishop who is a member of the diocesan House of Bishops.
- (ii) the dean of the cathedral or, if he *or she* is unable to serve, *a member of the Chapter of the cathedral elected by the Chapter excluding from election any person who is a member of the Committee in any other capacity*; where there is an equality of votes, the matter shall be decided by lot.
- (iii) two archdeacons elected by and from the archdeacons of the diocese; if there are no more than two archdeacons in the diocese, those archdeacons or archdeacon. Where there is an equality of votes, the matter shall be decided by lot.
- (iv) the proctors elected by the diocese to the Lower House of Convocation excluding the representative archdeacon appointed as a member of Convocation pursuant to Canon H 2.
- (v) the members elected by the diocese to the House of Laity of the General Synod.
- (vi) the chairman of the House of Clergy and the chairman of the House of Laity of the Diocesan Synod.

Elected members:

- (vii) not fewer than two Clerks in Holy Orders being clerks beneficed in the diocese or licensed under seal by the bishop of the diocese, elected by the House of Clergy of the Diocesan Synod except that no archdeacon and no person in episcopal orders shall be eligible for election under this paragraph.
 - (viii) not fewer than two actual communicant lay persons whose names are on the electoral roll of a parish in the diocese elected by the House of Laity of the Diocesan Synod.
- (b) The number to be elected under sub-paragraphs (a)(vii) and (viii) of this Regulation shall be such as to ensure (having taken account of the place of residence of ex officio members) that -
- (i) every archdeaconry in the diocese will be adequately represented; and
 - (ii) the number of members of the Committee (including ex officio members) who are in Holy Orders and who are lay persons shall, as far as possible, be equal
- and shall not otherwise exceed two clerks in Holy Orders and two actual communicant lay persons.
- (c) The Bishop's Council and Standing Committee of the diocese may nominate not more than *four additional persons who reflect a special interest in the diocese or whose nomination is in the opinion of the Bishop's Council and Standing Committee appropriate in order to secure better reflection of the diocese as a whole* to serve on the Vacancy in See Committee for a term ending on the date on which the elected members of the Committee cease to hold office under paragraph 2(a) of this Regulation.
- (d) The Committee shall have no power to co-opt additional members.

2. Elections:

- (a) Subject to paragraph 3(d) of this Regulation the elected members of the Committee shall be elected by the Houses of Clergy and Laity of the Diocesan Synod and their term of office shall commence on the first day of January following the election of a new synod and end on 31st December following the election of the next synod.
- (b) Persons eligible to stand for election shall be proposed and seconded by members of the appropriate House of the Diocesan Synod.

- (c) The election shall be conducted by the method of the single transferable vote in accordance with the Regulations of the General Synod currently in force.

3. **Casual Vacancies:**

- (a) A casual vacancy among the elected members shall be filled within six months of the occurrence of the vacancy by a further election by the House concerned ***provided that if a vacancy of the bishopric is announced before a vacancy on the Committee has been filled the vacancy on the Committee shall remain unfilled until the Committee has completed its consideration of the vacancy of the bishopric and shall then be filled within six months of the completion of such consideration.***
- (b) Where a proctor becomes the representative archdeacon for the diocese pursuant to Canon H 2 he ***or she*** shall cease to be an ex officio member of the Committee under paragraph 1(a)(iv) of this Regulation but without prejudice to his ***or her*** becoming a member of the Committee under paragraph 1(a)(iii).
- (c) Where a clerk in Holy Orders elected under paragraph 1(a)(vii) of this Regulation becomes an archdeacon in the diocese he ***or she*** shall cease to be a member of the Committee under that paragraph but without prejudice to his ***or her*** becoming a member of the Committee under paragraph 1(a)(iii).
- (d) A person shall cease to be a member of the Committee when he ***or she*** ceases to hold the office by virtue of which he ***or she*** was eligible for or entitled to such membership.

4. **Officers and Procedure:**

- (a) At the first meeting of the Bishop's Council following the election of the members of the Committee a Chairman of the Committee shall be elected by the members of the Bishop's Council from among the members of the Committee both ex officio and elected. The person elected as Chairman shall hold office for the same term as the elected members referred to in paragraph 2(a) of this Regulation subject to paragraph 4(e) hereof.
- (b) At the first meeting of the Committee a deputy chairman shall be elected by and from the members of the Committee.
- (c) ***The Secretary of the Committee shall be a fit and proper person (not being a member of the Committee) appointed*** by the Bishop's Council at the first meeting of the council held following the election of the Committee ***and if the Secretary is already a member of the Committee at the time of his or her appointment he or she shall forthwith resign his or her office as a member.*** The Secretary shall convene meetings of the Committee in accordance with the directions of the Committee or the chairman thereof.

- (d) The Secretary of the Committee shall invite the Prime Minister's Secretary for Appointments and the Archbishops' Secretary for Appointments to attend meetings of the Committee.
- (e) For the purposes of completing the consideration of any vacancy on which the Committee shall have begun work, elected members shall continue to act as members of the Committee instead of the new members notwithstanding the expiry of their term of office and where, pursuant to paragraph 4(c) above, the Bishop's Council has decided to appoint a different person to act as secretary of the Committee, the former secretary shall continue to act.
- (f) Subject to the foregoing provisions the Committee shall have power to regulate its own business and procedure.
- (g) *As soon as practicable following the announcement of a vacancy of the bishopric the diocesan secretary shall provide to each member a booklet, prepared by the Archbishops' Secretary for Appointments and approved by the Legal Adviser to the General Synod, containing –*
 - (i) *an explanation of the dual role of a diocesan bishop as the bishop of his diocese and as a member of the House of Bishops of the General Synod and, in the case of a bishop who is or may become a member of the House of Lords, of his role as a member of that House and of the importance of giving due weight to those roles when considering candidates for a vacant bishopric;*
 - (ii) *a description of the procedures to be followed concerning the nomination of persons to fill a vacant bishopric;*
 - (iii) *a copy of this Regulation, as amended, and of the document entitled "Guidance Notes and Code of Practice"; and*
 - (iv) *recommendations concerning the procedure to be adopted for meetings of the Committee.*

5. **Functions:**

- (a) *The Committee shall hold at least two meetings, the first of which shall be held as soon as practicable after the vacancy which the Committee is considering has been announced. At its second meeting the Committee shall discuss the needs of the diocese. It shall then prepare a statement setting out those needs and shall send it to the Crown Nominations Commission of the General Synod, together with such factual information about the diocese and its organisation as the Commission may request.*
- (b) *The Committee shall elect by ballot from amongst its members persons to be members of the Crown Nominations Commission in connection with the discharge by the Commission of its function in relation to the vacancy of the diocesan bishopric, numbering such number of members as may be required by the Standing Orders of the General Synod. Such election shall normally be taken as the final business of the second meeting of the Committee held to consider the vacancy and shall be conducted by the method of the single transferable vote in accordance with the Regulations of the General Synod*

currently in force. No candidate shall be eligible for election unless proposed and seconded by members of the Committee other than the candidate and no member shall propose or second a candidate if he or she has proposed or seconded another candidate.

- (c) Where, before the *Crown Nominations Commission* have agreed upon the two names to be submitted to the Prime Minister, any of the members of the Commission elected under sub-paragraph (b) above dies or becomes incapable of acting as such, the chairman and deputy chairman of the Committee shall jointly appoint a member of the Committee to act as a member of the Commission in place of the first mentioned member *and in making such an appointment shall have regard to the desirability of maintaining, amongst those members, a similar balance of opinion and of the interests which those members represented.*

6. **Miscellaneous:**

- (a) In the carrying out of the provisions of this Regulation the Archbishop of the province shall have power –
- (i) to make provision for any matter not herein provided for;
 - (ii) in any case in which difficulties arise to give any directions which he may consider expedient for the purpose of removing the difficulties.
- (b) The power of the Archbishop under this paragraph shall not enable him –
- (i) to validate anything that was invalid at the time when it was done;
 - (ii) to give any direction that is contrary to any paragraph of this Regulation.
- (c) No proceedings of any Committee constituted under this Regulation shall be invalidated by any vacancy in the membership of that Committee or by any defect in the qualification, election or appointment of any members thereof.
- (d) During a vacancy in an archbishopric or where by reason of illness an archbishop is unable to exercise his functions under this paragraph the functions of an archbishop under this Regulation shall be exercised by the other archbishop.

7. **Revocation:**

The Vacancy in See Committees Regulation 1977 is hereby revoked.

8. **Citation and Commencement:**

(a) This Regulation may be cited as the Vacancy in See Committees Regulation 1993.

#(b) This Regulation shall come into force on the first day of September 1993.

**VACANCY IN SEE COMMITTEES REGULATION 1993
(AMENDED 2003)**

GUIDANCE NOTES AND CODE OF PRACTICE

These Guidance Notes and Code of Practice have been drawn up by the Steering Group charged with following up the recommendations of the report *Working with the Spirit: Choosing Diocesan Bishops* (GS 1405). This document is not legally binding.

Numbers in square brackets refer to the relevant paragraph of the Vacancy in See Committees Regulation 1993 (as amended by the Vacancy in See Committees (Amendment) Regulation 2003). The amended regulation, which governs the membership, functions and procedure of Vacancy in See Committees, was declared an Act of Synod in [July 2003] and its new provisions came into force on 1 December 2003.

PART I FORMATION OF COMMITTEE

Formation of new Committee

1. The procedure for the formation of a new Committee is set out in the Regulation. The Committee is reconstituted after the election of a new diocesan synod and, although the Committee continues in existence at all times, the term of office of elected members, and of archdeacons if elected under para. 1 (a) (iii), begins on 1 January of the year following that election. The term of office of elected members of the Committee expires on 31 December of the year in which the new diocesan synod is elected [2 (a)].
2. **Membership**
 - 2.1 **Ex officio Members**
 - 2.1.1 All suffragan bishops and any assistant bishops who are both in full-time stipendiary service and members of the diocesan House of Bishops are ex-officio members of the Committee [1 (a) (i)]. Other bishops resident in the diocese do not qualify.
 - 2.1.2 The dean is an ex-officio member of the Committee [1 (a) (ii)], because of the central role of the cathedral in the life of the diocese. If the dean is unable to serve, then a member of the Chapter is to be elected by the Chapter to serve instead of the dean. A member of the Chapter (for example an archdeacon or a proctor in Convocation) who has become a member of the Committee by another route is not eligible for election to represent the Chapter [1 (a) (ii)].
 - 2.1.3 The archdeacons of the diocese (if there are not more than two), or, if there are more than two, then two archdeacons elected by and from their number, are also included in the ex officio membership [1 (a) (iii)]. No special provision is made for the representative archdeacon appointed as a member of Convocation to be one of these two, but it is important to note that that archdeacon cannot be an ex-officio member of

the Committee under the provisions of sub-paragraph (iv), nor can any archdeacon stand for election under sub-paragraph (vii). The representative archdeacon in Convocation should therefore seek election, if he or she so wishes, under the provisions of sub-paragraph (iii).

- 2.1.4 The proctors in Convocation (except for the representative Archdeacon) and the members of the House of Laity of the General Synod are all ex-officio members of the Committee [1 (a) (iv) & (v)], but it should be noted that if a member of the Committee is appointed by the Bishop's Council to act as secretary to the Vacancy in See Committee, he or she must immediately resign from membership of the Committee [4 (c)].
- 2.1.5 The Chairman of the House of Clergy and the Chairman of the House of Laity of the diocesan synod are also ex-officio members [1 (a) (vi)]. In the event of their being members of the Committee by some other route, there is no provision for a deputy to be appointed to replace them.

2.2 Elected Members

- 2.2.1 Archdeacons and persons in episcopal orders are excluded from the elected membership of the Committee [1 (a) (vii)], and if an elected member is appointed to act as secretary, he or she must immediately resign from membership [4 (c)].
- 2.2.2 The Regulation attempts to give some flexibility to dioceses to determine the size of the Committee, and the Bishop's Council will need to address the geographical spread of representation, including the question of adequate representation from each archdeaconry [1(b)]. It is important to note that the requirement that 'every archdeaconry in the diocese will be adequately represented' does not necessarily imply either equal or proportional representation. It is for each diocese to decide what constitutes adequate representation of particular archdeaconries in its own context.
- 2.2.3 The number of Clerks in Holy Orders and the number of lay persons to be elected must not, in each case, be fewer than two [1 (a) (vii) and (viii)]. In order to determine the number that should be elected, the distribution of the ex-officio members of the Committee must first be taken into account. The aim is to achieve a Committee which (a) represents every archdeaconry in the diocese and (b) comprises an equal number of clerical and lay members. If, after considering the distribution of the ex-officio members, both these considerations are already satisfied, then the number to be elected must not exceed two clerical and two lay members [1 (b)].
- 2.2.4 The preponderance of ex-officio clergy on the Committee means that it is important that, in determining the size of the Committee, special attention is paid to achieving an equality of clerical and lay representatives. Consideration should also be given to achieving a spread of representation among the clergy membership to represent different interests (for example, parish priests, sector ministers and non-stipendiary ministers).
- 2.2.5 Elections to the Committee must be carried out using the method of the Single Transferable Vote [2 (c)].

2.3 Nominated members

- 2.3.1 The provision for the nomination of additional persons reflecting special interests in the diocese [1 (c)] was originally included in the Regulation so that, for example, the two ancient Universities could be given a say in discussions concerning the appointment of the Bishops of Ely and Oxford.
- 2.3.2 The amended Regulation allows for the nomination of up to four additional persons either because they reflect a special interest in the diocese or because their nomination is, in the opinion of the Bishop's Council, appropriate in order to secure better reflection of the diocese as a whole. It is for the Bishop's Council to determine whether and how this provision should be used. The Bishop's Council may wish to consider issues of geographical spread, ethnicity, gender and age. There are no further powers of co-option to the Committee [1 (d)].

3 Chairman and Deputy Chairman

- 3.1 The Regulation provides that there shall always be a Chairman of the Committee 'in waiting'. This enables the Archbishops' Secretary for Appointments, as Secretary to the Crown Nominations Commission, to begin the task of liaison with the diocese immediately a vacancy in the see is announced.
- 3.2 The Chairman is to be 'elected' (not merely appointed) by the Bishop's Council from among the members of the Committee at the first meeting of the Council after the election of the Committee [4 (a)]. It is inappropriate for the diocesan bishop to nominate or second a candidate or to vote in the election.
- 3.3 There may well be advantages in the Chairman being a person of perceived neutrality and objectivity in the diocese, known for his or her ability to deal with complex business and issues in a relatively short period of time. It is imperative that the Bishop's Council form its own view as to what is required.
- 3.4 The election of the deputy chairman of the Committee takes place at the first meeting of the Committee [4 (b)].

4. Secretary

- 4.1 Originally, the Secretary of the Committee was always the diocesan registrar. From 1993 there was the option of appointing either the registrar or the diocesan secretary and now it is open to the Bishop's Council to appoint any 'fit and proper person'. The Regulation requires the Bishop's Council to decide, at the same meeting at which the Chairman is elected, who is to be the Secretary. If the person appointed is a member of the Committee, he or she must immediately resign from membership. [4 (c)]

5. Continuation of term of office of existing Committee

- 5.1 The elected and nominated members of an existing Vacancy in See Committee continue in office until 31 December of the year in which a new diocesan synod is elected [2 (a)]. This ensures that there is always a full complement of Committee members in place whenever a vacancy occurs.

5.2 Where a Vacancy in the See occurs and a Committee has begun its work, the Committee membership as convened shall continue to serve, irrespective of the election of new members following a diocesan synod election [4 (e)].

6. Casual vacancies

6.1 Because the Committee is a permanent committee of the diocese, it is essential that casual vacancies are filled as soon as possible; at the latest, they must be filled within six months of the casual vacancy occurring. Any casual vacancy which exists when a vacancy is announced, or arises before consideration of the vacancy is concluded, remains unfilled until the Committee has completed its consideration of the vacancy. The procedure for filling vacancies is election, not appointment or nomination [3 (a)].

7. Briefing booklet

7.1 As soon as practicable following announcement of a vacancy, the diocesan secretary is to send each member a booklet, prepared by the Archbishops' Secretary for Appointments and approved by the Legal Adviser to the General Synod [4 (g)]. This booklet contains

- an explanation of the dual role of a diocesan bishop as the bishop of his diocese and as a member of the House of Bishops of the General Synod and, in the case of a bishop who is or may become a member of the House of Lords, of his role as a member of that House, and of the importance of giving due weight to those roles when considering candidates for a vacant bishopric;
- a description of the whole process leading to the nomination of a diocesan bishop;
- a copy of these Guidance Notes and Code of Practice, with the Regulation appended;
- recommendations concerning the procedure to be adopted for meetings of the Committee;

7.2 A copy of this booklet should be given to the Chairman on his election.

7.3 It is recommended that members should be sent a summary of the booklet, covering a single side of A4 paper, as soon as possible following their election.

8. Functions of Secretary of Committee

8.1 The Secretary is charged with

- convening meetings of the Committee (in consultation with the Chairman),
- ensuring that the Secretaries for Appointments are invited to attend meetings of the Committee,
- announcing the dates of the main meeting of the Committee and the two meetings of the Crown Nominations Commission (in liaison with the Archbishops' Secretary for Appointments – see para. 10.2 below),

- overseeing the election of the four diocesan representatives to the Crown Nominations Commission,
- announcing the names and addresses of the representatives in the local media and sending the Description of the Diocese and Statement of Needs to the Secretary of the Commission [4 (c) & (d), 5 (a)].

PART II ACTIONS IN ADVANCE OF THE FIRST MEETING AND BETWEEN MEETINGS

9. Chairman and Secretary of the Committee

- 9.1 The Archbishops' Secretary for Appointments (ASA) will contact the Chairman and the Secretary as soon as a vacancy is announced. It is suggested that the Chairman and Secretary should arrange to visit the ASA so that he can brief them on the process.

10. Publication of information about the Committee and the Process

- 10.1 It is important that the names of the members of the Committee are publicly available, so that anyone wishing to make individual representations to them may be able to do so. One way of publicizing the membership of the Committee would be to include it in the diocesan year-book or similar publication.
- 10.2 After the preliminary meeting, the Secretary of the Committee should insert in the national church press (in liaison with the Archbishops' Secretary for Appointments) an announcement of the vacancy, following a standard wording. This should
- invite people to send comments and possible names to the Archbishops' Secretary for Appointments by a certain date
 - indicate the dates of the main meeting of the Vacancy in See Committee, the dates of the two meetings of the Crown Nominations Commission and a date by which it is anticipated that the name of the new bishop-designate will be announced.

PART III MEETINGS OF THE COMMITTEE

11. Dates and Times of Meetings

- 11.1 Thought should be given to the most convenient times and places for meetings. Meetings should be held at times which do not make it difficult for lay members to attend. There is no reason why meetings (especially the main meeting) should not be held on a Saturday. For many laypeople, Saturday is the best day, and a Saturday meeting provides the opportunity for proceedings to be more unhurried than might be the case on a weeknight.
- 11.2 At its preliminary meeting, the Committee should agree dates and times for its subsequent meetings. The Archbishops' Secretary for Appointments (ASA) and the Prime Minister's Secretary for Appointments must be invited to all meetings of the Committee [4 (d)]. It is unlikely that they will in fact attend the preliminary meeting of the Committee, but it is essential for them to be present at the main meeting, so that they may both hear the views expressed and also offer members a perspective which

also takes account of the interests of the wider Church. To this end, the ASA will give the Chairman and Secretary an indication of the Appointments Secretaries' availability to attend a main meeting of the Committee, and it is recommended that the date and time should be fixed so as to make their attendance possible. However, although the Appointments Secretaries must be invited to all meetings of the Committee, it is entitled to meet whether or not they choose to attend.

12. Confidentiality

- 12.1 The business of the Vacancy in See Committee (but not the date, time and place of its meetings) must be kept confidential in order to maintain the integrity of the process.
- 12.2 It may well be that a member of the Committee is also an elected 'central' member of the Crown Appointments Commission. Nothing prevents such a member from playing a full part in the deliberations of the Vacancy in See Committee, although central members are clearly privy to a great deal of confidential information that they will not be at liberty to reveal.

13. Preliminary Meeting

- 13.1. The Committee is required to meet at least twice, the first meeting being held as soon as practicable after the announcement of a vacancy [5 (a)].
- 13.2 The main purpose of the first (preliminary) meeting is for the members to get to know each other, but there will also be some preliminary business to conduct.
- 13.3 It is recommended that the meeting should begin with an act of worship, which might be a celebration of the Eucharist.
- 13.4 The recommended agenda for this meeting is as follows:
 - 1. Introductions
 - 2. The process and the Committee's part in it
[briefing by the Chairman or Secretary on the basis of the briefing booklet and a conversation with the ASA]
 - 3. Election of Deputy Chairman
 - 4. Commissioning of work towards production of factual material for the Description of the Diocese
 - 5. Preparatory discussion of possible composition of a drafting group for the Statement of Needs
 - 6. Preparatory discussion for election of diocesan members of the Crown Nominations Commission and distribution of nomination forms

7. Dates, times and venues of subsequent meetings
 - (a) main meeting
 - (b) meeting to finalize Description of the Diocese and Statement of Needs (to be held if required)

- 13.5 While it is helpful for work towards production of factual material for the Description of the Diocese to be set in train in advance of the main meeting, work on drafting the Statement of Needs should not begin in advance of the discussion of those needs, which should take place at the main meeting [5 (a)].

- 13.6 A drafting group for the Statement of Needs should be appointed at the main meeting. The purpose of agenda item 5 is to encourage members to give some thought to the composition of the drafting group in advance of that meeting.

- 13.7 The election of diocesan members of the Commission is to be the final business of the main meeting [5 (b)]. This is so that members can make their choice having heard the discussion of the needs of the diocese and the contributions of the candidates to that discussion.

- 13.8 Before candidates are nominated, the Committee should be encouraged to consider the need for a balance of interests and representation (clergy/lay; male/female; urban/rural; ethnic minorities; churchmanship; etc.) among its representatives. However, it is highly unlikely that all aspects of the life of the diocese will be reflected directly in the four members elected. It is therefore important above all that those who are elected are people of sound judgement who understand, and can be trusted to represent, the needs of the diocese and will also be sensitive to those of the wider Church. The task with which they are charged is an onerous one.

- 13.9 Candidates must be proposed and seconded by members of the Committee and no member shall propose or second more than one candidate [5 (b)]. (This is so as to ensure that the number of candidates does not exceed 50% of the number of electors, thus minimizing the likelihood of a need for random exclusion of candidates at an early stage in the counting of votes.) Nomination forms should be distributed at the preliminary meeting, so that members may discuss possible candidates informally, and sign the forms, in advance of the main meeting.

14. Main Meeting

- 14.1 The principal tasks of the Committee are to prepare a brief Description of the diocese and a Statement setting out the needs of the diocese and to elect members to serve on the Crown Nominations Commission. The Regulation requires that the Statement should be drafted following discussion at the second meeting of the Committee (the main meeting) and that the representatives on the Commission should be elected at that meeting. [5 (a) & (b)] The provision in the 1993 regulation which enabled the Committee to discuss names has been removed.

14.2 The recommended agenda for the main meeting is as follows:

1. Worship
2. Welcome to the Appointments Secretaries
3. Remarks by the Appointments Secretaries
4. Discussion of the principal features and issues of the diocese, including
 - (a) geographical and social factors
 - (b) factors affecting the Church
5. Discussion of the qualities needed in the new diocesan bishop
6. Appointment of drafting group
7. Confirmation of nominations for election to the Commission
8. Short break (if necessary)
9. Election of members to serve on the Commission

15. Statement of Needs

- 15.1 The purpose of the Description of the Diocese and Statement of Needs is to provide the Crown Nominations Commission with a description of the principal characteristics of the diocese and of the qualities thought to be needed in its new bishop. The Commission may from time to time issue guidance to Vacancy in See Committees about the form which these documents should take and what the subjects which they might helpfully cover.
- 15.2 It is recommended that a drafting group of three or four should be appointed to prepare a draft Description and Statement for consideration by the whole Committee.
- 15.3 The draft Description and Statement should be circulated to the members of the Committee with an indication of the date by which any comments should be sent in. If changes are made in response to comments, a second draft should be circulated with an indication that unless objection is made by a certain date, the Committee will be deemed to have given its approval, in which case it will not be necessary to hold a third meeting of the Committee. If agreement cannot be achieved by correspondence in this way, the Description and Statement should be finalized at the third meeting (for which a date will have been agreed at the first meeting).
- 15.4 The Statement of Needs should be sent to the Secretary of the Commission as soon as possible after the Committee has agreed it. It will be distributed, together with the memorandum prepared jointly by the two Secretaries after their independent consultation, to all members of the Commission, including the members elected from

the diocese. It is for the Vacancy in See Committee to decide whether it should be confidential.

16. Diocesan Representatives on the Commission

- 16.1 The election of the diocesan representatives to serve on the Commission is to be taken at the second meeting of the Committee (the main meeting), as the last item of business [5 (b)] – in the light of the discussion of the needs of the diocese. The Chairman is advised to ask the meeting after the discussion whether there are any further nominations, which should be submitted in writing in the normal way [cf. paras 13.8 & 14.2]. It is important to note that those elected are representatives and not delegates; they cannot be mandated as to how they should vote at meetings of the Commission.
- 16.2 The election must be carried out by using the method of the Single Transferable Vote [5 (b)].
- 16.3 It is helpful, though not essential, if the representatives, once elected, can appoint one of their number to act as convener.
- 16.4 In the event of one of the representatives being unable to serve, the Chairman and Deputy Chairman of the Committee, acting jointly, appoint a replacement and notify the Secretary of the Crown Appointments Commission accordingly. In making their decision, they are required to have regard to the desirability of maintaining, amongst those members, a similar balance of opinion and representation of the interests which those members represented'. [5(c)]

PART IV ANNOUNCEMENT OF REPRESENTATIVES

- 17.1 As soon as practicable after the main meeting of the Committee, the Secretary of the Committee should announce, using the local press and other media, the names and addresses of the diocesan representatives. The announcement should invite people to write to them with an expression of view or suggested names by a certain date (identified on the advice of the Archbishops' Secretary for Appointments). It should be made clear that representatives will not be able to enter into correspondence. The announcement should seek and encourage the prayers of the diocese for all those involved in the process, and especially for the Commission and its members.
- 17.2 Diocesan representatives will bear suggested names in mind when considering which names (if any) they should submit for mandatory or discretionary consideration by the Commission.