

The Draft Order

1. At its recent group of sessions in York, the General Synod declined to approve the Draft Parochial Fees Order 2011 that had been laid before it by the Archbishops' Council. The Draft Order had been prepared by the Council under powers contained in the Ecclesiastical Fees Measure¹ 1986, as recently amended by the Ecclesiastical Fees (Amendment) Measure 2011 ("the 2011 Measure").

The effect of the Draft Order not having been approved

2. **The effect of the Synod's decision is that the Parochial Fees Order 2010 ("the 2010 Order"), which came into operation on 1st January 2011, remains in force.**

3. The 2011 Measure made amendments to the primary legislation governing parochial fees. It provided for fees to continue to be payable to parochial church councils but instead of some fees, as now, being payable to incumbents it made them payable to diocesan boards of finance. **That change has not taken effect** and will not do so until a new Parochial Fees Order is made.

4. For the time being, therefore, incumbents remain entitled to the fees prescribed as payable to them under the 2010 Order. The vast majority of incumbents have assigned their entitlement to fees by deed to the diocesan board of finance. Those deeds remain in force. Incumbents who have assigned their fees continue to be obliged to pass them on to the diocesan board of finance.

Transitional provisions for incumbents to retain entitlement to fees

5. Information was circulated with June's clergy payslips informing incumbents who had not assigned their fees and who wished to retain their entitlement to receive fees that they were required to give written notice of their wish to do so to their diocesan bishop by 31st December. That remains the case, even though the new Fees Order was not approved.

6. In summary the position is as follows—

- Incumbents who have not assigned their fees and who give notice to the bishop by 31st December of their wish to retain them will retain their entitlement to fees for so long as they continue in the benefice held by them on 1st July this year.
- Incumbents who have not assigned their fees and who do not give notice to the Bishop by 31st December will lose their entitlement to fees once a new Parochial Fees Order is made and comes into operation. While the 2010 Order remains in force they will remain entitled to receive the present incumbents' fees.
- Incumbents who have assigned their fees to the diocesan board of finance continue to be obliged to pass fees received by them to the diocesan board of finance.
- Priests in charge have never been personally entitled to fees (unless the diocesan board of finance has directed that they should be paid to the priest in charge). Priests in charge should, therefore, continue to pass fees (other than PCC fees) to the diocesan board of finance.

Parochial Church Councils

7. Parochial church councils remain entitled to fees prescribed as being payable to them under the 2010 Order.

¹ A Measure is a form of primary legislation passed by the General Synod exercising powers devolved to it by Parliament. Once it has received the Royal Assent following resolutions in each House of Parliament, a Measure is to be treated to all intents and purposes as if it were an Act of Parliament. A Parochial Fees Order is subordinate legislation made by the Archbishops' Council, with the approval of the General Synod.

‘Extras’

8. As the Draft Order was not approved, the provisions that it contained specifying that certain costs and expenses were included in some of the prescribed fees are not in force. It has, however, never been lawful for an incumbent or PCC to impose compulsory charges, over and above the statutory fees, except for genuinely optional extras – i.e. items in respect of which those who are marrying or those who are arranging a funeral have a real choice. That is because parishioners² have a legal right to receive the occasional offices of the Church and neither the incumbent nor the PCC has any power to make the exercise of that right conditional upon the payment of money. The law in that regard remains unchanged despite the fact that the Draft Order has not been approved.

9. It remains permissible for incumbents and PCCs to impose charges for certain items **if those marrying or those arranging a funeral etc genuinely opt to have them and agree in advance to the charges being made. Examples include—**

- organist, choir and other musicians (including recording fees where applicable)
- bellringers
- flowers and flower arranging (if provided by the church)
- printing of service papers (if provided by the church)
- vergers
- special heating and lighting (i.e. where the church would not otherwise be heated or lit – or heated or lit to a particular extent – on the occasion, and heating and/or lighting is therefore provided specially)

10. It remains the case that there is no lawful authority for an incumbent or PCC to impose mandatory charges in respect of weddings or parishioners’ funerals for items that are not genuinely optional, for example—

- opening the church building for the occasion
- use of the church building (including ordinary wear and tear to the fabric)
- “administration” such as the completion of registers, booking dates for a service etc.

Nor is there any lawful authority for an incumbent or PCC to impose an additional non-specific, ‘general’ charge or supplement in addition to the statutory fees and any charges for genuinely optional extras.

Waiver of fees

11. While the 2010 Order remains in force, the position on the waiver of fees remains that:

- Where an incumbent has assigned his or her fees to the diocesan board of finance, those fees may not lawfully be the subject of waiver by the incumbent without the prior consent of the DBF to whom they belong by virtue of the assignment.
- An incumbent who has not assigned his or her fees is free to waive them at his or her discretion.
- A fee payable to a parochial church council may be waived by the incumbent, in a particular case, after consulting the churchwardens.

Next steps

12. The Archbishops’ Council will be considering at its next meeting in September what conclusions to draw from the points made during the July debate and how best to create the conditions in which revised proposals might be brought back to Synod for approval, probably in February.

William Fittall
Secretary General

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² And certain others: e.g., in the case of marriages and funerals, those on the electoral roll of the parish, and also in the case of marriages, those who have a ‘qualifying connection’ with the parish.