

**GENERAL SYNOD**

**DRAFT BISHOPS AND PRIESTS (CONSECRATION AND ORDINATION OF  
WOMEN) MEASURE**

**DRAFT AMENDING CANON No. 30**  
**ILLUSTRATIVE DRAFT CODE OF PRACTICE**

**REVISION COMMITTEE**

**Chair:** The Ven Clive Mansell (Rochester)

**Ex officio members (Steering Committee):**

The Rt Revd Nigel McCulloch, (Bishop of Manchester) (Chair)  
The Very Revd Vivienne Faull (Dean of Leicester)  
Dr Paula Gooder (Birmingham)  
The Ven Ian Jagger (Durham) (from 26 September 2009)  
The Ven Alastair Magowan (Salisbury) (until 25 September 2009)  
The Revd Canon Anne Stevens (Southwark)  
Mrs Margaret Swinson (Liverpool)  
Mr Geoffrey Tattersall QC (Manchester)  
The Rt Revd Trevor Willmott (Bishop of Dover)

**Appointed members:**

Mrs April Alexander (Southwark)  
Mrs Lorna Ashworth (Chichester)  
The Revd Dr Jonathan Baker (Oxford)  
The Rt Revd Pete Broadbent (Southern Suffragans)  
The Ven Christine Hardman (Southwark)  
The Revd Canon Dr Alan Hargrave (Ely)  
The Rt Revd Martyn Jarrett (Northern Suffragans)  
The Revd Canon Simon Killwick (Manchester)  
The Revd Angus MacLeay (Rochester)  
Mrs Caroline Spencer (Canterbury)

**Consultants:**

Diocesan Secretaries: Mrs Jane Easton (Diocesan Secretary of Leicester)  
Diocesan Registrars: Mr Lionel Lennox (Diocesan Registrar of York)  
The Revd Canon John Rees (Diocesan Registrar of Oxford)

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## GLOSSARY

In this Report:

- **‘the Act of Synod’** means the Episcopal Ministry Act of Synod 1993;
- **‘the CDM’** means the Clergy Discipline Measure 2003;
- **‘the draft Amending Canon’** means draft Amending Canon No. 30 (GS 1710) in the form in which it received First Consideration by the General Synod in February 2009;
- **‘the revised draft Amending Canon’** means the Amending Canon as revised by the Committee;
- **‘the draft Measure’** means the draft Bishops and Priests (Consecration and Ordination of Women) Measure (GS 1708) in the form in which it received First Consideration by the General Synod in February 2009;
- **‘the revised draft Measure’** means the draft Measure in the form in which it has been amended by the Revision Committee;
- **‘the 1986 Measure’** means the Patronage (Benefices) Measure 1986;
- **‘the 1993 Measure’** means the Priests (Ordination of Women) Measure 1993;
- **‘the financial provisions Measure’** means the Ordination of Women (Financial Provisions) Measure 1993;
- **‘the illustrative draft Code’** means the illustrative draft Code of Practice (GS 1710) prepared by the Legislative Drafting Group and circulated to the General Synod in February 2009;
- **‘the Legislative Drafting Group’** means the drafting group established by the Archbishops’ Council to prepare draft legislation in accordance with the General Synod’s resolution of July 2006;
- **‘Letter of Request’** means a Letter of Request issued by a parochial church council under clause 3(1) of the revised draft Measure;
- **‘Letter of Request during a Vacancy’** means a Letter of Request during a Vacancy issued by a parochial church council under clause 3(3) of the revised draft Measure;
- **‘PCC’** means a parochial church council;
- **‘PEV’** means a provincial episcopal visitor appointed under section 5 of the Act of Synod;
- **‘Resolutions A and B’** means the resolutions for which provision is made under s.3 of, and Schedule 1 to, the 1993 Measure;
- **‘TEA’** means transferred episcopal arrangements of the kind proposed in the Report of the Working Group of the House of Bishops chaired by the Bishop of Guildford (GS 1605);
- **‘the transfer / vesting model’** means arrangements under which certain episcopal functions are transferred by operation of law (as opposed to being undertaken by way of delegation) from the diocesan bishop to another bishop so as to be exercisable by the latter bishop;

- **‘the simplest possible legislation’** means legislation confined to that necessary to allow the consecration of women to the episcopate, with any provision for those conscientiously unable to receive the episcopal ministry of women being made outside the terms of the legislation (e.g. in a non-statutory Code of Practice); and
- **‘the society model’** means arrangements under which certain episcopal functions are exercised by a bishop who is a member of a society comprising those who are unable on grounds of theological conviction to receive the episcopal ministry of women.

## PREFACE

1. The draft Bishops and Priests (Consecration and Ordination of Women) Measure ('the draft Measure') and draft Amending Canon No. 30 ('the draft Amending Canon') both received First Consideration by the General Synod ('the Synod') at the February 2009 group of sessions.
2. In addition to proposals from the Steering Committee and from individual members of the Revision Committee ('the Committee'), proposals for amendments submitted in accordance with Standing Order 53(a) were received in time from the individual members of the Synod listed in Part A of Appendix 1 and from the groups of members listed in Part B of Appendix 1. Submissions were received, out of time, from those Synod members listed in Part C of Appendix 1<sup>1</sup>. Submissions were also received from the groups consisting of both Synod members and non-members listed in Part D of Appendix 1 and from the non-Synod members and bodies listed in Part E of Appendix 1.
3. All those who attended and addressed the Committee are identified in Parts A to D of Appendix 1.
4. The Committee met on 16 occasions between 1 May 2009 and 30 April 2010 for 15 full day meetings and one two day meeting. The decisions made by the Committee were agreed *nem con*, except where indicated otherwise.
5. The amendments agreed by the Committee to give effect to the proposals that it accepted are shown in the revised draft Measure and the revised draft Amending Canon (GS 1708A and 1709A) now returned to the Synod. As required by Standing Order 54(b), Appendix 2 contains a summary of the proposals received which raised points of substance and of the Committee's consideration of them. Appendix 3 contains a destination table relating the provisions of the draft legislation in the form in which it received First Consideration to those of the draft legislation in the form in which it is now returned to the Synod.
6. The Legislative Drafting Group had prepared an illustrative draft Code of Practice ('the illustrative draft Code') which was provided to the Synod (as GS 1710) alongside the draft Measure and the draft Amending Canon. The illustrative draft Code is not subject to the formal legislative process at this stage. The responsibility for drawing up the Code of Practice for which provision is made in the revised draft Measure will rest with the House of Bishops and the House will not be able to make the Code, which will require Synodical approval, unless and until the revised draft Measure has become law.
7. **It is, however, the Committee's view that further work should be done on a draft Code of Practice before the revised draft Measure and the revised draft**

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<sup>1</sup> Even though their submissions were received out of time, the Committee agreed to consider, and to invite the Rt Worshipful Timothy Briden and Mr Aiden Hargreaves-Smith to speak to, their submissions.

**Amending Canon come to the Synod for their Final Drafting and Final Approval Stages, since it will help the Synod at that point to be able to see the emerging shape of the whole package, even though one part of it will necessarily be only a draft: see paragraphs 427 to 432 below.** To facilitate that process, the Committee considered the illustrative draft Code in the light of the changes it agreed to the draft Measure and draft Amending Canon. Its views on it are set out in Appendix 6.

8. The reports of Legislative Revision Committees do not generally make for light or easy reading. Their purpose is to set out, systematically and comprehensively, the consideration given by the Committee to submissions for amendment received from members of the Synod. That necessarily involves a good deal of dense and sometimes technical material.
9. Our report is no exception. Indeed, the large number and wide range of the submissions that we have had to work through mean that this document cannot be other than a long read. Given the huge importance of the issues at stake we have, however, thought hard about how best we might fashion a report which would best enable Synod members to follow the journey that we have been on together as a committee over the past year. **We strongly urge Synod members to study this report carefully in preparation for the July debates.**
10. We have adopted a four-part structure for this report:
  - (a) In the first section, *How the journey began*, we provide some very brief historical background, a summary of what led up to the establishment of the Committee, a reminder of the nature of our task and an account of how we decided to set about our task.
  - (b) Secondly, in *How the journey unfolded*, we have provided a chronological account of that part of the Committee's deliberations which involved grappling with the fundamental choices over the underlying philosophy of the legislation. We thought it would help members of the Synod, whether or not they agree with our main conclusions, to be able to follow the story of how we got there. This long central section charts the course of what happened over our first ten meetings (one of them lasting two days) from 1 May to 26 November 2009.
  - (c) Thirdly, in *How the journey was completed*, we have provided the customary detailed account of the clause by clause consideration that was concluded between 11 December 2009 and 30 April 2010. Together with the appendices these set out the decisions we took on each of the proposals received which raised points of substance.
  - (d) Fourthly, in *Signposts for what lies ahead*, we summarise what lies beyond the Revision Committee Stage, offer some general reflections in the light of our experience and record some specific points which we believe that the

House of Bishops and others ought to take into account when they come to preparing a fresh draft of the Code of Practice that will be needed if the legislation retains its present overall shape.

11. There are two other preliminary points that we need to make. First, this has been an exceptionally demanding process for all of us who have served as members of the Committee. It has, inevitably at times, also been a painful experience. We have been wrestling with deep disagreements where matters of fundamental conviction are engaged.
12. Our report is therefore, necessarily, an account of discussions that led to decisions reached by majority votes. Given the underlying strength of views it was never realistic to expect that, on the key issues, unanimity would be possible.
13. We have endeavoured throughout this report to give as fair an account as we can of the range of views expressed on each issue. We have sought, wherever possible, to use the word 'we' only where it genuinely refers to the entirety of the Committee.
14. Secondly, this has been a process which has placed unusual burdens on the staff team. Although in many places in this report we have inevitably had to refer to 'most of us' and 'some of us', one thing that we are all agreed on is that we could not have reached the end of this arduous journey without the superb, generous and dedicated organisational, analytical and legal support that we have had from the staff team – William Fittall, Stephen Slack, Sir Anthony Hammond, Alex McGregor, Jonathan Neil-Smith and Sarah Clemenson.

## **PART 1: HOW THE JOURNEY BEGAN**

### **Before 2000**

15. The first deaconess in the Church of England was dedicated to her work in 1861 by Bishop Tait of London. Those who served the Church as deaconesses were understood to have been admitted to an office in the Church of England – though subsequently described by some as an order *sui generis* – rather than to have taken holy orders. Until the 1980s all three historic orders of ministry were reserved to men.
16. In 1985 the Synod gave Final Approval to a Measure for the admission of women as deacons. Then, in November 1992, the Synod gave Final Approval to legislation for the ordination of women as priests. The first ordinations of women as priests took place in 1994.
17. The legislation included provision for parishes to pass resolutions precluding a woman from presiding at Holy Communion (or pronouncing absolution) or the appointment of a female incumbent. For the avoidance of doubt the legislation also stated explicitly that it did not apply to the admission of women to the episcopate.
18. In 1993 the Synod endorsed supplementary, non-legislative, proposals from the House of Bishops in the Episcopal Ministry Act of Synod ('the Act of Synod'). In addition to passing the statutory resolutions this enabled parishes to petition their diocesan bishop for extended episcopal care, either by a Provincial Episcopal Visitor ('PEV') or by another bishop nominated for the purpose by the diocesan bishop (whether from within the diocese or another diocese).

### **From 2000 to February 2009**

19. A Synod motion of July 2000 initiated the process of exploring whether women should be admitted to the episcopate in the Church of England. The theological issues were exhaustively considered by a group chaired by the then Bishop of Rochester, whose report, published in November 2004<sup>2</sup>, remains an important reference work.
20. Because the Rochester group's report offered no recommendations, the House of Bishops decided in January 2005 to establish a working group consisting of the Bishops of Guildford, Blackburn, Lincoln and Willesden and the then Archdeacon of Worcester to look further at options. While that group was deliberating, the Synod took note of the Rochester report in February 2005 and voted in July 2005 "*to set in train the process for removing the legal obstacles to the ordination of women to the episcopate*".

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<sup>2</sup> GS 1557.

21. The Guildford report looked primarily at three possible options – a ‘single clause’ Measure, a ‘third province’ and ‘transferred episcopal arrangements’ (‘TEA’). Of these, it concluded that TEA merited serious consideration as representing the most realistic way forward.
22. When the House of Bishops considered in January 2006 what advice to offer the Synod, it agreed to invite it in February 2006 to agree that *“an approach along the lines of ‘Transferred Episcopal Arrangements’, expressed in a Measure with an associated Code of Practice, merits further exploration as a basis for proceeding”*. The discussions within the House revealed, however, a good deal of uncertainty as to whether, once further developed, TEA would ultimately prove the right answer. Certainly a number of bishops expressed significant doubts within the House. The Synod agreed to the further work proposed by the House, which was undertaken by the Bishops of Guildford and Gloucester.
23. In June 2006 the House of Bishops had to consider what advice to offer the Synod in the light of the report from the Bishops of Guildford and Gloucester<sup>3</sup>, an address at the meeting of the College of Bishops from Cardinal Kasper, and a discussion with a number of female clergy. Despite the clarifications provided by the Guildford and Gloucester report and the development of a further possible model – ‘special episcopal oversight’ – the House of Bishops was unable to endorse either TEA or any other particular option for the admission of women to the episcopate.
24. Instead it invited Synod to *“welcome and affirm the view of the majority of the House of Bishops that admitting women to the episcopate in the Church of England is consonant with the faith of the Church as the Church of England has received it and would be a proper development in proclaiming afresh in this generation the grace and truth of Christ”*.
25. It also invited the Synod to commit to a legislative drafting group the tasks both of preparing the draft Measure and Amending Canon necessary to remove the legal obstacles to the consecration of women as bishops and preparing drafts of possible additional legal provision. Thus, the Legislative Drafting Group, under the Bishop of Manchester’s chairmanship, was left to grapple with a potentially wide range of possible approaches.
26. The group produced its first report<sup>4</sup> in April 2008, in which it set out three possible broad approaches and some variations within them. This was considered by the House of Bishops in May 2008. The House decided to recommend to the Synod that special arrangements should be made available for those unable, as a matter of theological conviction, to receive the ministry of women as bishops or priests.
27. The majority of the House was not prepared to recommend arrangements which involved the creation of new structures. Instead, the majority favoured the drawing

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<sup>3</sup> GS Misc 826.

<sup>4</sup> GS 1685.

up of a national Code of Practice to which all concerned would be required to have regard. The House brought before the Synod a motion to this effect as a starting point for debate.

28. After an intense five and a half hours of debate in July 2008 the Synod rejected all of the major amendments to the House of Bishops motion and passed it, with only minor modifications, by clear majorities in all Houses. The motion tasked the Legislative Drafting Group to complete its work in time for First Consideration of the draft legislation in February 2009. The Group's second report<sup>5</sup> was duly published at the end of December 2008. The draft legislation was given First Consideration and committed to the Committee for revision in February 2009.

### **Our task**

29. The Standing Orders of the Synod regulate every stage of the legislative process. The task of all Revision Committees is to "*consider the Measure committed to them, together with any proposals for amendments, clause by clause*". That was our mandate.
30. During the course of our work there have been suggestions from outside the Committee that we have in some way departed from the mandate given to us by the Synod. This is not so. The confusion has arisen because of a misunderstanding over the nature of the decision taken by the Synod in July 2008 at the pre-legislative stage.
31. The issue before the Synod then was which of the various options – or variants on them – set out in the Legislative Drafting Group's first report should be the basis for the legislation which that group was to prepare in the second phase of its work. The Synod opted for an approach based on delegation from the diocesan bishop and a statutory Code of Practice. The Synod also set a target date for the completion of that piece of work – which was met.
32. The draft Measure presented to the Synod (the text of which is available at <http://www.cofe.anglican.org/info/papers/womenbishopsdebate/furtherreport/gs1708.pdf>) consisted of eight clauses, as follows:
- Clause 1 made it lawful for provision to be made by canon for women to be bishops (as well as priests) and repealed the Priests (Ordination of Women Measure) 1993 ('the 1993 Measure').
  - Clause 2 enabled bishops to declare that they would not participate in the consecration of a woman as a bishop and/or in her ordination as a priest.
  - Clause 3 required each archbishop to nominate one or more suffragan sees to be occupied only by a man who had made the full form of declaration.
  - Clauses 4 and 5 required the House of Bishops to draw up a Code of Practice and all those exercising functions within the Church of England to have regard to the Code. The Code would be subject to approval by the Synod. It

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<sup>5</sup> GS 1707.

would contain arrangements for the exercise of episcopal functions by way of delegation from the diocesan bishop to a ‘complementary bishop’ (which would include, but not be confined to, the bishops holding one of the clause 3 sees) in relation to petitioning parishes.

- Clauses 6 to 8 and the two schedules consisted of technical provisions, including transitional arrangements.

33. A draft Amending Canon:

- made the necessary amendments to existing canons so that women could be consecrated as bishops;
- included a revised Canon A 4;
- made amendments to the relevant canons in relation to oaths; and
- included some other provisions not directly related to the legislation.

34. The Legislative Drafting Group also produced an illustrative draft Code of Practice (‘the illustrative draft Code’) to show what form a Code of Practice issued under the draft Measure might take, consistently with the terms of the draft Measure and the draft Amending Canon.

35. As the Chair of the Steering Committee explained clearly to Synod in February 2009, the beginning of the legislative process proper was the beginning of a new chapter. The issue before the Synod in February 2009 was whether to commit the draft Measure and the draft Amending Canon to revision in committee. Those who voted for the motion in February 2009 would have included many who disagreed with various parts of the draft legislation but wished the process to continue, not least so that they could seek to secure significant amendment in committee.

36. Under the Standing Orders members of Synod have five weeks after the beginning of the group of sessions at which draft legislation receives First Consideration to submit proposals for its amendment. We received 114 such submissions from individual Synod members and groups including Synod members and others. We had a further 183 submissions from non-Synod members. Very many submissions addressed several issues.

37. This avalanche of proposals meant that, from the outset, we knew that we were going to face real difficulty in concluding our work in time for Synod to consider our report and embark on the Revision Stage in February 2010. We decided to set that as our target date, conscious as we were of the likely complexity of the Revision Stage and the imminence of the end of the quinquennium in July 2010.

38. In the event, the task was simply too substantial and we had to conclude in November that there was too much work to be done to hit our initial target of the February group of sessions.

## **Membership**

39. The responsibility for selecting members for the Steering and Revision Committees rested with the Appointments Committee in the usual way. Details of their membership are at the beginning of this report. The Steering Committee and the Chair of the Revision Committee had been appointed before First Consideration in February 2009. Following the debate the Appointments Committee decided to select a further 10 members to serve on the Revision Committee, making 19 in all.
40. This has made us an unusually large Revision Committee. It was understandable that the Appointments Committee wanted to ensure, in an exercise of this importance, that the Committee was large enough to include people from many various shades of opinion. Nevertheless, discussion in large groups takes time and the size of the Committee was certainly one reason why, in total, we needed to meet on no fewer than 16 occasions (one of these a two-day meeting) to conclude our work.
41. That said, even a significantly smaller committee would have struggled to do its work in many fewer meetings. This is because, under the Standing Orders, all Synod members who have submitted proposals on time have the right to come and address the Committee on them and remain while they are considered. Since, as noted above, many of the submissions we received included several suggestions for modifying the legislation, there were many members who had the right to attend on several occasions.
42. The Steering Committee and the Revision Committee – of which Steering Committee members form part – have distinctive roles. The Standing Orders describe the Steering Committee as being ‘in charge of the Measure’. For that reason the convention is that Steering Committees are made up of people who are broadly supportive of the legislation. The other members of the Revision Committee are, by convention, drawn from a wider range of viewpoints including those who oppose or have serious reservations about the legislation.
43. What that meant in this case was that the Appointments Committee had selected the eight members of the Steering Committee from among those who had voted in favour of the motion at the end of the July 2008 debate. That did not mean that members of the Steering Committee were of a single view. Among the eight were some who had voted for amendments which had been unsuccessful – whether to go further than a statutory Code of Practice or to go for much simpler legislation. The 11 members of the Revision Committee, by contrast, included some who had voted in favour of the motion at the end of the July 2008 debate and some who had voted against.

## **Revision Committee procedure**

44. Before getting into our stride we needed some clarity over a number of procedural issues. Somewhat to our surprise, we discovered that much of what has come to be understood over the years as normal Revision Committee practice is, in fact, a matter of convention rather than something required by the Standing Orders.

45. In particular, at our first meeting we were invited by staff to consider what our attitude was towards the confidentiality of our proceedings. Custom and practice has been for Revision Committees not to sit in public and not to issue statements about their work until they produce their report. The requirement of confidentiality is, however, no more than a convention and there are no sanctions for breach. In addition, members of Synod have the right to be present while their own amendments are being considered so a good deal of the Committee's discussion could, in practice, be observed by non-Committee members.
46. We decided, by 15 votes to 3, not to hold our meetings in public. To have done so would have been to break new ground and would inevitably been seen as setting a new precedent for future committees. Many of us also believed that there would be a loss if Committee members did not have the opportunity to discuss and explore arguments away from the scrutiny of cameras and of media reporters and away from the immediate pressures created by the gaze of supporters, opponents and campaigners on various issues.
47. The nature of Revision Committee sessions would undoubtedly change if, like meetings of the full Synod, they occurred in the presence of the public and the media. But clearly an argument can be made that legislative proceedings should be conducted in public.
48. We offer no recommendations on the issue since it raises questions of general principle which are really for the Synod as a whole to ponder. We welcome the commitment given to the Synod by the Chair of the Standing Orders Committee to review this and a number of other issues in the light of our own experience. Ours has by its nature been a somewhat exceptional exercise, but an issue with any set of arrangements is how well they withstand their most severe testing; and a review of the kind proposed will now be timely.
49. All that we would say in relation to whether Revision Committees should sit in public is that we did not find it helpful to have to resolve the matter ourselves as one of our first decisions with nothing in the Standing Orders or by way of other steer from the Synod to guide us, save for past practice.
50. We also found it uncomfortable to discover that the Standing Orders did not regulate the question of who had access to papers. We welcome the fact that Standing Orders were changed in February 2010 so that, in future, all proposals for amendment made to Revision Committees will be published on the website so that others can inspect them at will.
51. Whether all other papers that are prepared for the Committee in the course of its work should also be shared more widely is to some extent bound up with the wider question of confidentiality and whether Committee hearings should take place in public. Given the complexity of our discussions it was certainly the case that Synod

members who came to address us, particularly in the later stages of our work, were at something of a disadvantage in not having before them updated versions of the revised draft legislation that took account of decisions we had already taken. Again, we welcome the fact that the Standing Orders Committee review will address that issue.

52. The scale of the task required us early in our deliberations to agree that we would normally meet from 11.00 a.m. until 5.00 p.m. (rather than 4.00 p.m. as originally planned), with the Steering Committee normally meeting beforehand at 10.00 a.m. We also had to plan for significantly more meetings than is usual for a Revision Committee. This was a heavy commitment for all concerned. Even so we have, throughout, managed to sustain a high level of attendance at each meeting.
53. What we would wish to record is our appreciation of the forbearance of Synod members who came to appear before us and, on occasions, had to wait for considerable periods until their item of business was reached. We did our best to give an indication of when particular items on the agenda were likely to be reached but the complexity of our task and the fact that meetings generally ran from 11.00 am to 5.00 p.m. with just a short break for lunch meant that it was impossible to predict timings with certainty.

## PART 2: HOW THE JOURNEY UNFOLDED

### **Phase One: May to July – Mapping out the route**

54. We held five meetings between 1 May and 20 July 2009. At our initial meeting, on 1 May, we faced the daunting task of having to decide how we were going to set about considering the very large number of submissions that we had received.
55. Staff had produced very helpful analyses of the issues raised in the submissions, together with some scene-setting material designed to help us understand the thinking behind the detailed provisions of the draft Measure, the draft Amending Canon and the illustrative draft Code that the Legislative Drafting Group had prepared.
56. While some, though not all, members of the Steering Committee had been members of the Legislative Drafting Group, most of us had to grapple with the complex material for the first time.
57. In the light of the proposals made in the submissions we had received it was immediately clear to all of us that it would not be sensible to start by simply trying to work through the draft legislation line by line. Before we could turn to the individual provisions of the draft Measure we needed to hear submissions which would help us to decide whether to stick with the underlying approach reflected in the drafts before us or whether to go in one of the other directions being commended to us.
58. Even if we decided to endorse delegation in a statutory Code of Practice we knew that we would need to examine closely various provisions in the draft Measure and the draft Amending Canon which had attracted considerable comment and opposition. But if we decided to go in a different direction we were conscious that more fundamental revisions would be needed to the shape of the draft Measure.
59. Although there were many variations on points of detail, the analysis of the submissions revealed that Synod members were essentially asking us to consider one or other of five fundamentally distinct approaches. These were:
- (a) to create **additional dioceses** for those unable on grounds of conviction to accept the episcopal ministry of women;
  - (b) to make provision by way of a new **society** or societies with statutory recognition;
  - (c) to make provision by way of the **transfer or vesting** of certain episcopal functions in bishops other than the diocesan bishops;
  - (d) to make arrangements by way of **delegation** from the diocesan bishop under a **statutory code of practice** (the approach taken in the draft Measure);
  - (e) to frame the **simplest possible legislation** needed to allow women to become bishops (often referred to as the ‘single clause’ approach).

60. We devoted much of our meetings on 1, 19 and 24 June and 20 July to considering each of these alternative proposals in turn. In addition, we devoted part of the meeting on 20 July to discussing submissions relating to the proposed new Canon A 4 since this provision had attracted a large number of submissions and was clearly highly relevant to the overall shape of the legislative package and the Church of England's underlying understanding of its ordained ministry and the diversity of views that it felt able to encompass.
61. The Committee was, from the outset, conscious of the pressure that it was under to reach decisions. Legislating involves precision. It requires clarity over the policy outcome to be achieved and accuracy in translating that intention into reliable legal effect.
62. This is, by its nature, a demanding process since it involves constant attention both to the big picture and the fine print. In this legislative exercise perhaps more than most it has been a constant challenge to keep the big picture in view while necessarily dealing with a large number of individual and interconnected points of detail.
63. In relation to the four main proposals put to us in substitution for legislation based on a statutory Code of Practice we decided to adopt a traffic light system for our initial discussions. We did not believe that it would be right to give any of these four proposals a clear green light until we had taken evidence on all of them. The immediate decisions before the summer break were, therefore, whether, having heard the arguments, we wished to give each of the four proposals a 'red light' or an 'amber light'.
64. A red light meant that a proposal would have been conclusively rejected by the Committee. An amber light meant that it would be kept on the table for further exploration and development before coming back for a final decision on it.
65. If all four alternative proposals received a red light the way would be clear to start clause by clause consideration of the statutory Code of Practice approach embodied in the draft Measure prepared by the Legislative Drafting Group. But if one of the other approaches received a green light a significantly different draft Measure would need to be the starting point for clause by clause consideration.
66. On 1, 19 and 24 June the Committee heard from a number of Synod members who had made submissions in respect of one of the three alternative approaches designed to strengthen provision for those unable to receive the ministry of women bishops.
67. The Bishop of Burnley, the Revd Paul Benfield, Mrs Joanna Monckton, the Revd Prebendary David Houlding, and Mrs Sarah Finch, as well as some members of the Revision Committee spoke of their proposals for **additional dioceses**. In addition, the Revd Canon Martin Warner spoke of his submission calling for a structural solution of some kind. The Revd Stephen Trott spoke to his proposal for pastoral

schemes which would allow parishes to become independent or to transfer to other denominations.

68. Then, on 19 June the Committee heard from the Bishop of London, Ms Jacqueline Humphreys and Prebendary Houlding about the proposal for the establishment of a **society** which would have statutory recognition and gather together those unable to receive the ministry of women as bishops and priests.
69. On 24 June the Committee heard submissions from a number of Synod members who had written in support of a **transfer or vesting** option of some kind – the Archbishop of York, the Bishop of Guildford, Mr John Davies, the Revd Dr Rob Munro, the Revd Rod Thomas, Mr Aiden Hargreaves-Smith and, from within the Committee, the Bishop of Willesden.
70. Finally, on 20 July, the Committee heard from Mrs Christina Rees and considered other written submissions advocating the **simplest possible legislation**.
71. By the summer break the Committee had, therefore, comprehensively spied out the land. We had concluded our preliminary consideration of each of the four alternative proposals and taken a vote on whether they should be given an amber light, the effect of which would be that further work should be done on them by staff before the Committee came to a final view.
72. The first such vote came on 19 June when the Committee decided by 14 votes to 1 to give an amber light to the Bishop of London's proposal in relation to **the society model**. The Committee decided by 9 votes to 7 not to keep a number of other society proposals on the table, including in particular, one from Mrs Humphreys, which would have enabled clergy and church buildings to be taken out of the territorial diocese into the oversight of the society but would have absorbed the relevant parish into a neighbouring parish.
73. **The Committee had considered the main submissions in relation to the creation of additional dioceses on 1 June but returned to the subject on 24 June and voted then by 10 votes to 6 for this option not to be pursued further. This was the first red light.**
74. Those who had advocated additional dioceses had argued that they would be the best way of maintaining the unity of the Church of England and of honouring and respecting the integrity of those with divergent views. They would allow the ministry of those who could not accept women bishops to flourish. They would enable women bishops to exercise full jurisdiction within historic dioceses, save for those parishes moved into the new jurisdiction. They would involve, so it was argued, less complexity than delegation or transfer.
75. It was stressed that additional dioceses could be administratively light touch. There would be no need for separate cathedrals, nor for a complete additional diocesan

infrastructure. Much sharing would be possible with the historic dioceses. New, non-contiguous dioceses could be regarded as a form of fresh expression.

76. The majority of the Committee, however, concluded that the disadvantages were too great. Whatever view was taken of the particular arrangements put in place in the early 1990s they had at least maintained the integrity of the existing diocesan and parochial system. The Church of England was a national Church seeking to provide a Christian presence in every community, not an accumulation of gathered communities. The creation of additional dioceses would damage the integrity of the historic dioceses. They would also, in the view of the majority of the Committee, tend to institutionalise separation between the various parts of the Church of England.
77. On 24 June the Committee went on to consider a number of different proposals which would **transfer (or vest)** some measure of jurisdiction to or in someone other than the diocesan bishop but not create additional dioceses.
78. **‘Transfer’** is the word that was used in the submissions and in substance means the same as **‘vest’**, the word that we came to use in our discussions for two reasons. First ‘transfer’ had already accumulated a certain amount of baggage as a result of the Guildford group’s proposal for TEA and the Legislative Drafting Group’s analysis of statutory transfer.
79. Secondly, ‘vest’ seemed to some of us to capture more accurately the formal and automatic nature of what would be involved if the legislation were to provide that, in certain defined circumstances, specified functions would be exercised as of right by someone other than the diocesan bishop. ‘Transfer’ could mislead some into thinking that the diocesan bishop voluntarily transferred the functions, whereas in fact the functions would be transferred to another bishop/vested in him *by operation of law*.
80. For the sake of simplicity we have in this report generally reverted to the term ‘transfer’, except where we are directly citing motions or proposals that were before the Committee. We could as well have used ‘vest’ throughout. The label is not the key issue. What matters is that both describe the same thing, namely statutory provisions which would mean that certain functions were no longer exercisable by the diocesan bishop but by another bishop appointed for the purpose.
81. It was put to us that an amendment exploring the possibility of transferring certain functions had narrowly commanded an overall majority of votes in the Synod in July 2008, though had been lost because it had failed to command majorities in all three Houses. It was also argued that in practice since 1994 many bishops had operated in practice with certain limitations on their own role in relation to parishes who had petitioned under the Act of Synod. Some division of functions would, it was argued, be a pragmatic development of that to cope with a new situation.
82. The Committee did not at this stage reach a view on those arguments but voted by 11 to 4 to explore further a proposal from the Archbishop of York for the transfer of

certain functions to a complementary bishop. It also voted by 8 votes to 5 to explore a proposal from the Bishop of Willesden which, while similar in many respects to the Archbishop of York's, envisaged a greater measure of variation between dioceses.

83. The form of statutory transfer recommended in the legislative Drafting Group's first report was rejected by 7 votes to 5; a proposal from the Bishop of Guildford for the transfer of jurisdiction with the diocesan bishop's consent was rejected by 9 votes to 4; and other variants of the transfer proposal from the Ven Donald Allister and from Dr Graham Campbell and Mrs Alison Ruoff were rejected by 13 votes to 1 and 15 votes to 0 respectively.
84. On 20 July having discussed submissions advocating the **simplest possible legislation** the Committee voted by 11 votes to 4 to keep that on the table too.
85. As a result of this series of decisions the Committee had reduced the number of possible options from five to four but was still left with difficult choices to be made as between those options. It asked staff to devote particular attention over the summer to analysing the society model which was the one which had been least explored by the Legislative Drafting Group and needed some greater precision before the Committee could come to a settled view.
86. In addition, at its meeting on 20 July the Committee heard submissions from the Rt Revd Tom Butler (then Bishop of Southwark), the Revd Thomas Seville, Ms Kathryn Champion-Spall (on behalf of the Revd Dr Miranda Threlfall-Holmes), the Revd John Plant (on behalf of the Ven Christine Allsopp), Mrs Christina Rees, the Revd Paul Benfield, the Revd Brian Chave, the Revd Hugh Lee, and some members of the Committee each arguing why **Canon A 4** should not be amended or, if it were, that it should be amended in a different way from the one proposed.
87. It was acknowledged that there might be a case for amending Canon A 4 so that it applied to all authorised Ordinals and not simply that of 1662. But that, as the Committee subsequently agreed, was not a matter that was consequential on the admission of women to the episcopate and could be left for consideration in some other forum.
88. The issue for the Committee was whether it was right to amend one of the 'A series' of Canons in order to accommodate a diversity of view in relation to the ordination of women to the priesthood and episcopate. It was put to us that, even if provision of some kind was to be made, whether by legislation or Code of Practice, it did not follow that the theological convictions of a particular group within the Church should be given specific canonical acknowledgement. Moreover, a number of those who made submissions had difficulty with the proposed distinction between 'lawfully' and 'truly'.
89. For those who wished wholeheartedly for the admission of women to the episcopate the notion of enshrining in the 'series A' Canons a right to conscientious dissent

would be an unwelcome canonical innovation. For those with theological difficulties over the ordination of women as priests or bishops the proposed wording was problematic.

90. By the end of the discussion on 20 July it was clear, therefore, that there was little support for the Legislative Drafting Group's attempt to draw a careful distinction in the canons between the position of the Church of England as a whole and of those members with particular theological convictions. The Committee agreed to return to the matter at a further meeting. When it did so (on 9 October), it decided to delete paragraphs 1 to 3 of the draft Amending Canon, thus leaving Canon A 4 unamended.

### **Phase Two: September to 8 October – Destination in sight?**

91. In preparation for the Committee's meeting on 25 September, staff prepared further material on the three alternative approaches still on the table and also reminded us of the main arguments for and against sticking with the statutory Code of Practice.
92. Staff also highlighted a number of the questions to which the Committee would need to give answers if Standing Counsel were to reshape the draft Measure to incorporate one or other of them.
93. It was suggested that the central question that we needed to consider was whether certain episcopal functions should be exercised by means of a limited ordinary jurisdiction conferred by statute rather than by means of delegation.
94. If that question were answered in the affirmative the choice was then whether to link the jurisdiction in some way to membership of a new religious society or societies for which recognition would be provided in the legislation or to provide jurisdiction by some means of transfer.
95. If the question were answered in the negative then the remaining question was whether to retain the statutory Code of Practice or go for the simplest possible legislation.
96. In the event, on the advice of the Steering Committee, we did not come to a conclusion on 25 September. The Steering Committee considered that there were still a number of important unresolved issues, particularly around what a society model would involve. These issues were discussed at length on 25 September and further work commissioned for the two-day meeting on 8/9 October.
97. On 8 October the Committee agreed a revised framework for decision-making. We agreed that up to three votes should be taken. The first was:

*Does the Committee wish the draft Measure to be amended to give effect to a society model along the lines set out in the papers from Standing Counsel and the Legal Adviser?*

98. It was understood that if this question was answered in the affirmative the transfer, statutory Code of Practice and simplest possible legislation options would all fall. Only if the question was answered in the negative then we would come onto the second question.

99. Question 2 would be:

*Does the Committee wish the draft Measure to be amended to provide for certain functions to be vested in bishops by virtue of the Measure (without creating a society that has statutory recognition) rather than by way of delegation from the diocesan bishop?*

100. Again it was understood that if this question was answered in the affirmative the statutory Code of Practice and simplest possible legislation options would fall. Only if it were answered in the negative would we proceed to the third question.

101. Question 3 would be:

*Does the Committee wish the draft Measure to be amended to remove provision for a statutory Code of Practice, thereby securing legislation in its simplest possible form?*

102. If we reached this question and answered it in the affirmative the statutory Code of Practice approach would fall. If we answered it in the negative then we resumed consideration of the draft Measure clause by clause.

103. The first issue before us, therefore, was whether we were persuaded by the arguments for legislation to give some statutory recognition to **a society or societies** for those unable to receive the episcopal ministry of women. Our first task had been to try and pin down exactly what such an approach might involve, since the submissions we had received had not been entirely clear on the point.

104. It was apparent from some of those who spoke to us that what they had in mind was essentially a variant on the proposal for additional dioceses. Parishes and clergy who were members of the society would not be under the jurisdiction of the diocesan bishop and would for many purposes be outside normal diocesan arrangements. Others seemed to envisage a more permeable arrangement between the society and the diocese with the diocesan bishop retaining the right to enter every church in the diocese.

105. A number of issues became clear to us in the light of helpful analysis from staff and an outline from Standing Counsel of what a possible draft Measure to deliver a society model might look like. Given that this was fresh material not considered in detail in earlier reports we have thought it right to include edited extracts from it in Appendix 4 so that it is available to members of the Synod more generally.

106. First, we were clear that, for those advocating it as a statutory solution, the society model needed to deal with the question of jurisdiction. It was, therefore, integral to the proposal as presented to us that it did not simply repackage the idea of delegation from the diocesan bishop. Jurisdiction would need to pass from the diocesan bishop in some way.
107. Secondly, there would have to be some statutory provisions for recognising the society or societies. Voluntary societies are part of the Church of England's heritage stretching back over several centuries. Many of them have had a form of recognition through having an archbishop or bishop as patrons and presidents. But they have sat alongside the formal structures of the Church of England and have not had any special status conferred by legislation. The Church of England has no tradition of societies that have some structural recognition under powers conferred by legislation.
108. By contrast, the proposals put to us envisaged that a new society or societies for those unable to receive the episcopal ministry of women would in some way be reflected in the legislation itself. Even if many issues concerning the internal governance of the society were left for it to determine, the legislation would, as a minimum, need to provide some mechanism and criteria by which the society or societies could be designated. There would also have to be a power to withdraw designation in certain circumstances.
109. Thirdly, it was clear that a difficult question would have to be resolved over whether the legislation provided for the recognition of a single society or left space for more than one society to be recognised. Within the Committee and indeed among those who spoke to us there was a good deal of caution over whether, in practice, it would prove sustainable for conservative evangelicals and traditional Catholics to remain part of a single society. But if more than one society were to be created some of us were concerned at the further fragmentation that that would involve.
110. Crucially, **the majority of us came to believe that there was some risk of creating a society that was an even weightier body than a diocese.** This was because some of the representations made to us seemed to envisage that jurisdiction would in some way be conferred on the society itself and through it to its bishops.
111. We concluded that this would be difficult to reconcile with the normal understanding that jurisdiction in the Church is exercised personally. The jurisdiction of diocesan bishops does not derive from the diocese or one of its legal emanations. It derives from the fact that a particular individual has been duly appointed to a particular see.
112. The logic of this was, therefore, that if we were to adopt a society model the legislation would need to provide not for jurisdiction to pass through the society to individuals but for certain functions to be conferred on members of a recognised society so that they acquired jurisdiction through being selected to perform those

functions under the Measure. Jurisdiction would be conferred by statute on individuals holding episcopal office who were members of a recognised society – not on the society itself.

113. On that analysis the majority of us were not persuaded that, in practice, a statutory society model could deliver something that could not be achieved by transfer. The latter would also confer a measure of jurisdiction but without creating a new type of institution that might be open to similar objections to those which had persuaded the majority of us to reject the idea of additional dioceses.
114. To put the matter more sharply, it seemed to the majority of us (applying Ockham's razor) that the statutory society model was arguably either unnecessary – because the jurisdictional issue could be met by means of transfer by operation of law without the creation of a society – or futile – because if authority was still to be exercised by way of delegation from the diocesan bishop the problems that those with conscientious difficulties had with a statutory Code of Practice remained as before.
115. **On 8 October we therefore voted by 11 votes to 7 that** we did not wish the draft Measure to be amended to give effect to a society model. This did not mean that those who wished to would in any way be prevented from establishing a voluntary society in the usual way. But it did mean that, by a majority, we had decided against building the legislation around the society model. **This was the second red light.**
116. Having rejected the society model the Committee proceeded to the second of the three potential questions before it, namely, whether it wished the draft Measure to be amended to provide for certain functions to be **vested** in bishops by virtue of the Measure rather than by way of delegation from the diocesan bishop.
117. The Committee had discussed the arguments around what had generally been called 'the transfer model' at a number of meetings and had the benefit of substantial, fresh analysis from the legal team. Again, for the benefit of Synod members we attach at Appendix 5 edited extracts from this. In these exchanges a number of us had made clear our opposition as a matter of principle to any attempt to divide up the jurisdiction of the diocesan bishop. Those of us who took this view believed that it would constitute a change in the nature of the Church of England's understanding of the episcopate and that such a development was too high a price to pay even for the admission of women to the episcopate.
118. Others of us, who had supported the additional dioceses proposal or the society model, saw the transfer model as a more complex and difficult solution. It would constitute an innovation and there were, as a result, uncertainties over how practically it would work. Nevertheless those who took this view were prepared to support transfer since it did mean that some measure of jurisdiction would be granted by law to those bishops exercising oversight of priests and parishes unable to receive the ministry of female bishops.

119. Yet others of us saw the matter somewhat differently. We had not supported the creation of additional dioceses or a society with statutory recognition. But we were, in principle, willing to approach the principle of jurisdiction more pragmatically than those who, as a matter of principle, saw any statutory splitting of functions as unacceptable.
120. Those who took this third view – who were each in favour of women becoming bishops – were prepared for certain functions to be transferred by operation of law to someone other than the diocesan bishop if that offered a way of enabling as many people as possible to remain within the Church of England.
121. **When the vote was taken the result was that 12 members of the Committee voted to amend the draft Measure to provide for certain functions to be vested in bishops by virtue of the Measure rather than by way of delegation from the diocesan bishop and 7 against.** Thus there were seven members who saw any form of transfer as unacceptable in principle. The 12 votes in favour reflected a coming together of those from the two other viewpoints.
122. **This meant that we had given a green light to a set of proposals.** Under the decision-making framework that we had adopted the effect of this vote was that the other two options which had still been on the table – statutory Code of Practice and the simplest possible legislation – fell away.
123. Having now decided to support one of the alternative approaches that had been put to the Committee in submissions – namely to transfer certain functions by law to bishops other than the diocesan bishop – the Committee now needed to work through in detail what that meant in terms of amendments to the draft Measure and the draft Amending Canon. Although there had already been some preliminary discussion of whether the list of functions that might be transferred should be longer or shorter no clarity had emerged on that key issue.
124. Since the votes taken on 8 October have subsequently been the subject of much controversy, we have thought it right to set out in some detail how they came about. They were, as subsequent events were to prove, not the end of the matter. But it is important to be clear that:
- (a) they were not taken lightly. The decisions to reject the society approach, support the transfer approach and, as a result, not pursue the statutory Code of Practice or simplest statutory approaches further followed nearly six months of listening, discussion and analysis;
  - (b) they were decisions that it was perfectly in order for us to take. As explained earlier in the report, the Synod’s mandate to the Legislative Drafting Group had been discharged once that group had completed its work. Whether we had come to the right view was, inevitably, a matter of sharply divided

opinion (including within the Committee). What was not in doubt was that we had applied ourselves conscientiously and come to a proper decision;

- (c) our decision to make a public statement on 8 October commanded support right across the Committee and reflected the professional advice that we received from Communications Office staff. It was clear to us that news of such a significant vote within the Committee would quickly become known and be the subject of much public speculation and argument. In such circumstances we concluded that it was far better to get a simple statement of the facts onto the public record rather than to proceed as if a simple ‘no comment’ line would hold. We were also deeply conscious that many members of Synod still had to appear before us to make representations on their various submissions and it would not be fair to them if they did not understand the changed context.

### **Phase Three: 9 October to 13 November – Checking our bearings**

- 125. The Committee resumed its two-day meeting on Friday, 9 October and spent much time discussing how, in practice, a transfer model would work. There were a large number of detailed points on which the lawyers needed policy instructions so that Standing Counsel could prepare amendments to the Measure to reflect the new direction that had been established. Although an earlier draft of a draft Measure giving effect to the transfer model had been attached to Annex 3 of the Legislative Drafting Group’s first report that was different in a number of respects from what was now envisaged and it was clear that that would need development in a number of areas.
- 126. From the discussion on 9 October it was already apparent that the differing reasons which had led 12 members to support transfer were going to prove problematic when it came to resolving precisely which functions – or categories of functions – might be vested in someone other than the diocesan bishop.
- 127. Some – including, but not limited to, those who had voted for additional dioceses and/or the society model – were keen on, or at least open to the possibility of transferring quite a long list of categories of functions. Others among the 12 wanted the list to be as short as possible, with other functions being conferred by delegation at the discretion of the diocesan bishop, in order to preserve as much as possible of the diocesan bishop’s jurisdiction over the whole diocese. And those who had opposed the motion remained unpersuaded of the case for any transfer of functions.
- 128. It was acknowledged that the Committee could not come to a final view at this stage until it had before it a more specific range of options drafted by the legal advisers. Some within the Committee thought that it would be unhelpful to take any view until that further material was available.

129. Nevertheless, in order to test the mind of the Committee, Canon Alan Hargrave moved *‘to instruct lawyers to draft the “certain functions” to be vested under the Measure as comprising the celebration of the Sacraments and other Divine Service and Ordination, with a view to the Committee determining on 3 November what the list of vested functions should be’*.
130. In other words, Canon Hargrave wished to establish that, to the extent that there was a majority in the Committee for transferring certain functions, it was a majority that still attached considerable importance to safeguarding as much as possible of the jurisdiction of the diocesan bishop and wished any qualification of that to be confined to what was manifestly the most sensitive issue for many of those with conscientious difficulties, namely sacramental assurance.
131. Some argued that Canon Hargrave’s motion was premature and that no decision should be taken until the further analytical work was available. The procedural motion from the Bishop of Willesden that Canon Hargrave’s motion should not be put was lost by 11 votes to 6. Canon Hargrave’s motion was then put to the vote and carried by 11 votes to 2.
132. So within 24 hours of the 8 October vote there was already some uncertainty as to how definitive it would prove. The apparent green light was already shining less brightly.
133. Before the Committee’s next meeting on 3 November the Vatican announced the intention to establish Personal Ordinariates for those former Anglicans who wished to join the Roman Catholic Church. When it met on 3 November the Committee noted this development. It did not, however, consider that it required discussion in detail or necessitated any new approach to the task before the Committee.
134. Separately a Parliamentary debate was held in Westminster Hall on 11 November on ‘sex discrimination on religious organisations’. During the debate a number of references were made to the Revision Committee’s work and its statement of 8 October. The Hansard transcript was subsequently circulated by staff to members of the Committee. At its meeting on 13 November the Committee noted this.
135. At the 3 November meeting the Committee had before it a revised draft Measure produced by Standing Counsel showing, so far as possible, the changes needed to the original draft Measure to deliver the policy direction set on 8 October. Inevitably there were a number of gaps and uncertainties since there remained a number of substantial issues for the Committee to resolve. Crucially, the Committee had still to determine precisely which functions were to be transferred.
136. The Committee discussed a large number of points raised by legal staff and gave various steers so that the draft Measure prepared by Standing Counsel could be developed further. In addition the Committee started the process of clause by clause consideration of that draft. Synod members, who had made submissions on

provisions which were still relevant to that draft Measure, albeit in a different context, came to speak to their proposals.

137. On 3 November the Committee rejected, after discussion, all the proposals for amendment to clause 1 of the draft Measure prepared by the Legislative Drafting Group.
138. The Committee then heard submissions on proposals on clauses 2 and 3 of the draft Measure which remained relevant. These were from the Revd Hugh Lee (speaking to his submission and that of Mrs Christina Rees as a signatory to the WATCH submission), Mrs Margaret Condick, the Revd Dr Miranda Threlfall-Holmes (also speaking to the submission from Professor Helen Leathard), Ms Kathryn Campion-Spall, Dr Brian Walker, the Revd Paul Benfield, the Ven Christine Allsopp, the Revd Canon Sue Booy, the Revd Hugh Lee speaking again on behalf of Mrs Shirley Ann Williams, and members of the Revision Committee itself who had made submissions or raised concerns of varying kinds about **clauses 2 and 3**.
139. For most of those who spoke, the two core issues were:
- (a) opposition to the provision in clause 2 for bishops to make declarations that they would not participate in the ordination of women as priests and/or bishops. It was not right, so it was argued, for bishops to be divided this way, on the face of the Measure into different categories. One Synod member said that there was a concern that the real purpose of the clause was to allow the lineage of a bishop to be traced;
  - (b) concerns that the proposal in clause 3 for special suffragan sees constituted a normalising of what was seen as the unacceptable features of the Act of Synod. One member argued that the formation of a class of bishops who would exist alongside diocesan bishops would create an unacceptable division within the episcopate.
140. The Chair invited the Committee to vote on the set of amendments calling for clause 2 to be deleted in its entirety. **The motion that the revised draft Measure be amended in that way was carried by 6 votes to 5.**
141. The meeting then adjourned without a vote being taken on clause 3. What was clear, however, was that clause 3 could not survive without something akin to clause 2 since that provided the mechanism by which bishops eligible for appointment to the special sees could be identified. The green light was now shining even more dimly.
142. When the Committee met again on 13 November it was faced with needing to grapple with two major issues rather than one. In addition to coming to a final view on which functions to transfer to bishops other than the diocesan bishops we had now to determine how the bishops concerned were to be identified given that we had deleted the declaration mechanism that was designed to make that possible.

143. It was now evident that the majority for vesting/transfer that had been secured on 8 October was far from secure. This became even clearer as we started to work systematically through the list of functions that might be transferred.
144. If a majority could be secured for a particular set of proposals, it would be possible to return to the question of how those bishops in whom the functions would be vested might be identified in a different way. But if there was no majority in the Committee for transferring any particular set of functions then the Committee would, notwithstanding the decision on 8 October, have voted not to transfer any functions in complementary bishops. The green light would, after all, have turned out to be a red.
145. We had already decided that the identification of transferred functions should be made on the face of the Measure rather than in regulations. We were also clear that it would be open to diocesan bishops, as a matter of discretion, to determine whether to invite complementary bishops to exercise additional functions by way of delegation. The heart of the matter, however, was whether the majority within the Committee which favoured transfer could be converted into a majority for what the list of functions should be.
146. Among the 11 members of the Committee who had supported Canon Hargrave's motion of 9 October were members of the Committee who had voted the previous day against any transfer and would continue to oppose any specific provisions of that kind. The question was, therefore, whether those who had voted for the motion on 8 October and had also voted for Canon Hargrave's motion because they favoured only a very limited list of transferred functions could find common ground with those who had also voted for the 8 October motion but who, whether from a traditional catholic or conservative evangelical perspective, favoured a long list of functions for transfer.
147. The Committee considered first an amendment from one of its number, Canon Killwick. He favoured the view that the complementary bishop should be seen as the 'principal minister' in the diocese in respect of petitioning parishes and, accordingly, proposed that, in addition to functions relating to the celebration of the sacraments and other divine service, complementary bishops should be vested with responsibility for pastoral care, disciplinary arrangements, ministerial review, appointments for ecclesiastical offices and the sponsorship of candidates for ordination training. After discussion Canon Killwick's amendment was defeated by 11 votes to 6.
148. The Committee then considered the Bishop of Willesden's proposal that, in addition to sacramental functions, complementary bishops should be vested with responsibility for the pastoral care of the parish, together with authority to institute and licence clergy. He also proposed that some requirement should be built into the draft Measure for clergy in petitioning parishes to take oaths both to the diocesan bishop and the complementary bishop. After discussion, the Bishop of Willesden's amendment was defeated by 11 votes to 7.

149. At this point a number of members of the Committee who had previously supported the additional dioceses proposal and/or the society model made it clear that simply transferring the responsibility for sacramental functions to the complementary bishop would not meet their concerns. They argued that it was theologically incoherent. If the complementary bishop could not even, as of right, provide pastoral care to clergy in petitioning parishes he could not, effectively, perform his role without accepting a substantial level of delegated authority from the diocesan bishop.
150. Notwithstanding these reservations the Steering Committee thought it right to test the mind of the Committee on the proposition that sacramental functions alone should be vested in the complementary bishop with all other responsibilities exercised by way of delegation from the diocesan bishop. The matter was too important not to be clearly resolved.
151. After discussion the Committee voted by 13 to 2 to reject the proposal to transfer sacramental functions only. **As a result the Committee had voted not to vest any functions in complementary bishops. The green light had turned red.**
152. After an adjournment the Chair informed the Committee that the effect of its decisions that afternoon had effectively been to vacate its decision at the meeting of 8 October to recast the draft Measure so as to give effect to the vesting option. It therefore needed to resume the process at the point which it had reached on 8 October as if it had rejected the vesting option at that point.
153. The next step, therefore, would be to vote on whether to proceed with legislation in the simplest statutory form or to retain the statutory Code of Practice approach. It was agreed that that was a decision that should be held over until 26 November.
154. For the same reasons as had led the Committee to issue a public statement on 8 October there was agreement that it would not be satisfactory to leave news of this further, pivotal decision of the Committee to become known indirectly. A ‘no comment’ stance would not be sustainable. Accordingly, after discussion with Communications Office colleagues, we authorised our Chair, with the Chair of the Steering Committee, to agree a factual statement, which was issued to the press on Saturday, 14 November.

#### **Phase 4: 26 November – Striking out in a new direction**

155. At its next meeting on 26 November the Committee was, therefore, due to begin by considering whether it wished the draft Measure to be amended to remove provision for a statutory Code of Practice thereby securing legislation in its simplest possible form. Between the 13 and 26 November meetings, however, a member of our Committee, the Archdeacon of Lewisham and Greenwich, submitted, as she was entitled to do, a substantial new package of proposals embodied in a further draft

Measure. These attempted to draw together a number of strands from earlier discussions in the Committee.

156. The Steering Committee considered the Archdeacon's proposals on 26 November, before the start of our meeting, and was unanimous that they offered a constructive way forward. Instead, therefore, of the Revision Committee proceeding to vote as between a statutory Code of Practice approach and the simplest possible legislation, the Steering Committee put a new proposal to us, namely:

*“That the Revision Committee wishes:*

- (a) the draft Measure to lift the statutory obstacles to the consecration of women to the episcopate and to make simple provision for those with conscientious difficulties; and*
- (b) for clause by clause consideration now to begin on the basis of the amendments contained in the revised draft Measure tabled by the Archdeacon of Lewisham and Greenwich.”*

157. The Archdeacon explained that in her view the Committee was now faced with a stark choice between either the simplest possible legislation or the draft Measure (and the statutory Code of Practice to be made under it), which now without clause 2 lacked coherence. The Archdeacon suggested to the Committee that the package of her amendments offered a middle way between those two options: while they rejected the notion of a single clause Measure (which would not achieve what was necessary), they offered simple legislation, together with a statutory Code of Practice, in accordance with Synod's instructions to the Legislative Drafting Group.

158. The Archdeacon also said that, ecclesologically, the proposals were grounded in the need for the highest possible degree of communion while avoiding the establishment of new separate structures. The Archdeacon believed that the position of the diocesan bishop as the ordinary with full jurisdiction over the diocese was safeguarded. In her view the catholic and reformed ecclesiology of the Church of England would be upheld.

159. The key differences between the Archdeacon's draft and the version committed to us by the General Synod for revision were that:

- (a) the Archdeacon's draft included no provision for statutory declarations by bishops, no special suffragan sees and no reference to 'complementary bishops'; and
- (b) it imposed a new statutory duty on each diocesan bishop to produce a scheme in his or her diocese for the arrangements under which a male bishop would act by way of delegation in relation to the celebration of the sacraments and the provision of pastoral care for parishes who had submitted a letter of

request in the light of conscientious difficulties concerning the episcopal ministry of women.

160. The Archdeacon's draft retained the requirement for the House of Bishops to draw up a national Code of Practice to which everyone, including diocesan bishops in drawing up their schemes, would have to have regard. As in the draft Measure, the Code would have to be approved by the General Synod, which would also have the power to make amendments to it.
161. After exploratory discussions in the Committee of the Archdeacon's proposals the Committee then considered the Steering Committee's recommendation. The Revd Dr Jonathan Baker moved an amendment to replace the word 'simple' in paragraph (a) of the motion with the word 'limited'. This amendment was lost by 13 votes to 4. The Steering Committee's motion was then carried unamended by 13 votes to 3.
162. **And so, finally, at around 2.00 p.m. on Thursday, 26 November we had reached the end of the first phase of our work.**
163. We had rejected proposals for additional dioceses or the exercise of jurisdiction by members of a society or societies with some statutory recognition.
164. We had, initially, voted to go beyond the draft Measure and vest certain functions by law in bishops other than the diocesan bishop. But that conclusion had proved incapable of implementation because all the votes on particular categories of functions that might be transferred had been lost.
165. We had also considered whether to abandon a statutory Code of Practice in favour of substituting the simplest possible legislation. But we had, in the end, voted clearly for an alternative approach, proposed by the Archdeacon of Lewisham and Greenwich which retained a statutory Code of Practice, removed some of the provisions of the original Measure but added a statutory duty on bishops, having regard to the national Code of Practice, to draw up diocesan schemes. In subsequent discussions we were to amend many elements of the Archdeacon's draft, but her revised framework provided the starting point for the second phase of our deliberations.
166. The rest of our work – and the rest of this report – is devoted to reporting the clause by clause consideration of the draft Measure and the draft Amending Canon in the light of these conclusions reached in our first ten meetings. It also records the conclusions we have reached on the submissions received in relation to the illustrative draft Code and offers some final reflections on the next steps.

### **PART 3: HOW THE JOURNEY WAS COMPLETED**

#### **The Committee's clause by clause consideration of the draft legislation**

##### **A. THE DRAFT BISHOPS AND PRIESTS (CONSECRATION AND ORDINATION OF WOMEN) MEASURE**

###### **Clause 1 – Provision for consecration of women as bishops and ordination of women as priests**

###### *Clause 1*

167. Brigadier Ian Dobbie proposed the deletion of clause 1 in its entirety, on the basis that the consecration of women to the episcopate is consonant with neither tradition nor scripture. The Committee noted that clause 1(2) was the foundation stone of the draft Measure, providing as it did for the making of the provision by canon to enable a woman to be consecrated to the episcopate. It accordingly considered that, if Brigadier Dobbie's position were accepted, the appropriate response would not be to leave out clause 1 but to vote against the draft Measure at Final Approval. The Committee agreed to reject Brigadier Dobbie's proposal by 12 votes to 0.

###### *Clause 1(1) and (2)*

168. The Reverend Dr Dagmar Winter proposed that the word "*otherwise*" be left out of sub-clauses (1) and (2) of clause 1, arguing that "*it could be seen to imply that being female, unlike being male, is not the 'normal' mode for being human*". The legal staff advised that if the word "*otherwise*" were left out, sub-clauses (1) and (2) would become otiose because their effect would then be that a woman could be a bishop provided that she satisfied the requirements of canon law as to the persons who may be ordained as priests/consecrated as bishops – which a woman does not. The Committee agreed to reject Dr Winter's proposal by 12 votes to 0.

###### *New clause 1(3)*

169. The Bishop of Guildford proposed the addition of a new clause 1(3) imposing a requirement that any canon made under clause 1(1) and (2) should contain material corresponding to that contained in paragraph 3 of the draft Amending Canon. However, that proposal fell away following the decision by the Committee to leave out paragraph 3 of the draft Amending Canon (see paragraphs 384 to 395 below).

###### *Clause 1(3)*

170. The Revd Paul Benfield, the Revd Dr Rob Munro, the Revd Dr Jonathan Baker, Mr J G Campbell and Mr Jim Cheeseman all proposed the deletion of clause 1(3) which, subject to the transitional provisions contained in Schedule 1, repeals the 1993

Measure. In support of their proposals, Mr Benfield, Dr Munro, Dr Baker and Mr Campbell all argued that the provisions of the 1993 Measure give statutory protection of a kind which should not be repealed unless replaced by provision equivalent to that provided by the current ability of parishes to pass Resolutions A and B for which provision is made under s.3 and Schedule 1 to the 1993 Measure ('Resolutions A and B') – Dr Baker suggesting that that provided stability and security for parishes of a kind that should not be weakened.

171. Mr Jim Cheeseman also saw a Code of Practice as an inadequate replacement for the statutory arrangements under the 1993 Measure, involving "*a measure of inequality of esteem to traditionalists*". Mr Benfield made the point in an oral submission that the 1993 Measure had been said to offer a permanent place to those opposed to women's ministry. Mr Campbell argued that "*it was promised at the time that these provisions [sc. s.3 of the 1993 Act] would continue as long as there is a need for them (which there clearly is ... )*".
172. The Bishop of Gibraltar in Europe and the Revd Stephen Trott proposed that clause 3 of the 1993 Measure should be retained, to allow parishes to continue to pass Resolutions A and B.
173. The Committee noted that the key issue in relation to clause 1(3) was whether it would be sensible to provide in one Measure for the totality of the statutory arrangements in relation to female priests and bishops, or whether it would prefer to leave in place the existing statutory provisions and to 'graft on' extra provisions in relation to female bishops.
174. The Committee noted that, whilst it was proposed that the 1993 Measure should be repealed in its entirety, it was also proposed that there should be transitional arrangements which would perpetuate, for a specified period of time, the effect of Resolutions A and B in parishes which had passed them before the date on which the Measure came into force. Thus parishes which had taken advantage of the ability to pass Resolutions A and/or B before that date would have a period of time in which to decide how to respond to the new situation brought about by the Measure, rather than being faced with an immediate decision. The point was also made that, under the package of proposals made by the Archdeacon of Lewisham and Greenwich, the facility for a parish to issue a Letter of Request during a Vacancy would allow it to bring about a situation which was in some respects similar to that brought about by the passing of Resolution B. The Committee agreed to reject the proposed amendments referred to in paragraphs 170 and 172 by 11 votes to 4.
175. The Revd Stephen Trott also proposed the amendment of clause 1(3) to preserve s.2 of the 1993 Measure, so as to allow bishops to continue to make declarations which prevent women being ordained, instituted, licensed or given permission to officiate in their diocese. To the same end, the Bishop of Gibraltar in Europe proposed that Parts II and III of the 1993 Measure be left in force.

176. The Committee noted, however, that s.2(1) no longer had legal effect, as no diocesan bishop who had held his see since before the date on which Canon C 4B was promulgated remained in office and no diocesan who was in office at that date had in fact made any of the declarations referred to in s.2(1) of the 1993 Measure. The Committee agreed to reject the proposals of the Bishop of Gibraltar in Europe and Mr Trott by 12 votes to 0.

*Clause 1(4)*

177. The Revd Dr Rob Munro and Mr J G Campbell proposed that clause 1(4) should also be left out if clause 1(3) were; but that proposal lapsed in view of the Committee's decision to retain clause 1(3).

178. Following the Committee's decision that the 1993 Measure should be repealed, the Committee agreed by 14 votes to 0 to retain clause 1(4) and thus to make some sort of provision for transitional arrangements. Its decisions on what the nature of those arrangements – to be specified in Schedule 1 of the draft Measure – should be is recorded in paragraph 322 onwards below.

**Clause 2 – Declaration of bishop relating to female bishops and priests**

179. A number of members proposed either that clause 2 be omitted or that it be amended significantly.

180. Submissions proposing that clause 2 be left out of the draft Measure in its entirety were received from 15 members who were opposed to the substance of the provision for a range of reasons. The Revd Canon Robert Cotton saw the provision as superfluous and as introducing the concept of 'ecclesiastical pedigrees' – which he described as "*incompatible with Catholic order*": it was sufficient, in his view, for those conscientiously opposed to be able to ask for episcopal ministry from a man.

181. The Revd Hugh Lee argued that clause 2 "*effectively suggests that some members of the Church of England will be allowed to regard those bishops that do not make such a declaration as 'tainted', which is not part of the theology of the Church of England*". In an oral submission he developed that argument, suggesting that (taken together with clause 3) the effect of the provision would be to create a 'second class' category of bishop.

182. Mrs Margaret Condick, in an oral submission, supported Mr Lee's concerns that the clause embodied the concept of 'taint' on the face of the draft Measure. The letter from ordinands at Ridley Hall and Westcott House to which Ms Kathryn Champion-Spall was a signatory argued that clause 2 "*entrenches a legal and constitutional division within the body of the Church*". In an oral submission Ms Champion-Spall also expressed her concern that the real purpose of clause 2 was to allow the lineage

of a bishop to be traced. The Revd Dr Miranda Threlfall-Holmes expressed concern that clauses 2 and 3 would cast doubt on the legitimacy of female bishops.

183. The Committee noted that the purpose of clause 2 of the draft Measure was to provide a mechanism to enable bishops to indicate, by making formal declarations, whether or not they would participate in the consecration of a woman as a bishop or ordain a woman as priest, thus facilitating the identification of bishops for selection by the diocesan to act as ‘complementary bishops’ in relation to parishes which had petitioning parishes.
184. In response to the criticisms of clause 2 that had been advanced, some members of the Committee considered that the distinctions inherent in that clause would have to be made more explicit if the provision it made was to provide the sacramental assurance required by those for whom the provision was intended. Thus the possibility was canvassed that clause 2 be amended to read: “*A male bishop who has not been consecrated by a woman may make one of the following declarations....*”.
185. In that connection the Bishop of Beverley said that traditional catholics would not be able to accept the ministry of a bishop who took part in the consecration of women because such participation indicated a departure from catholic order. But the participation of a single woman in the consecration of a male bishop did not necessarily mean that traditional catholics would consider his consecration to be invalid in terms of conferring holy orders.
186. Others noted that, if this were so, the precise eligibility requirements to be met by a bishop who could offer episcopal ministry to a petitioning parish might vary from place to place, notwithstanding his willingness to make a declaration about his behaviour in the future. Such uncertainty was an obstacle to enshrining simple eligibility requirements in primary legislation even if that were thought desirable.
187. In response to that suggestion the Revd Angus MacLeay pointed out that, although there were no conservative evangelical PEVs, conservative evangelicals had accepted the ministry of traditional catholic PEVs. The existing situation allowed there to be some reciprocity between conservative evangelicals and traditional catholics, but if the draft Measure were tightened further in the way being canvassed it would not permit that: it was possible that a conservative evangelical bishop could be consecrated by bishops who included a woman, with the result that he could not make a declaration in accordance with clause 2 if it were amended in the way being canvassed and his ministry would be unavailable to traditional catholics.
188. A number of members of the Committee expressed concerns about clause 2, sharing the views of those who proposed that it be left out on the grounds that, especially when taken together with clause 3, it would facilitate the tracing of the ‘lineage’ of bishops and clergy in a way that was divisive in relation to both the episcopate and the priesthood of the Church of England. Furthermore the fact that those consequences were not apparent on the face of the Measure – so that members

of the Synod and others might not appreciate the implications of the provision and consider that there was a greater degree of ‘permeability’ than in fact there was – made the position even less satisfactory. The Committee agreed by 6 votes to 5 to leave out clause 2.

189. As the Committee agreed to leave out clause 2, it did not need to consider the various proposals for its amendment.

### **New clause 2 – Duty of diocesan bishop to make arrangements**

*The package of amendments proposed by the Archdeacon of Lewisham and Greenwich*

190. The genesis of this provision was in the submission made by the Bishop of Willesden, which proposed (in the different context of proposals for transferred episcopal functions) that the detail of the arrangements to be made in a diocese for the exercise of episcopal functions should be contained in a scheme made by the diocesan bishop with the approval of the diocesan synod. However, in the form in which it appears as the new clause 2 in the revised draft Measure, it represents one aspect of the package of amendments to the draft Measure proposed by the Archdeacon of Lewisham and Greenwich.

191. In presenting her package of proposed amendments to the Committee, the Archdeacon argued that it offered a middle way between the simplest possible form of legislation and the draft Measure: while the amendments went further than the former option (which in her view would not achieve what was necessary), they offered simple legislation together with a statutory Code of Practice, which would be in accordance with the instructions the Synod had given to the Legislative Drafting Group in July 2008.

192. Her proposed amendments also sought to make effective provision for those with conscientious difficulties by requiring the diocesan bishop to make and publicise local arrangements for parishes that requested episcopal ministry from a male bishop. Those arrangements would be put in place after consultation with the diocesan synod and would be subject to regular review. The Archdeacon explained that her amendments also envisaged that those local arrangements would have to take account of national guidance, contained in a Code of Practice drawn up by the House of Bishops (as envisaged in the draft Measure).

193. The ‘trigger’ for the arrangements to be made for a particular parish was contained in a provision containing the substance of the new clause 3, requiring a parish to send a ‘Letter of Request’ asking for arrangements be put in place for it to receive oversight from a male bishop. The decision to send a Letter of Request would be made by the PCC in a similar way to that in which petitions would be made under the draft Measure.

194. The Archdeacon explained that her amendments did not replicate the powers to pass Resolutions A and B, which would be repealed. However, there would be the facility for parishes to request, when a vacancy arose, that only a male priest should be appointed as incumbent or priest in charge (see paragraph 229 onwards below). Finally, her proposals would contain an element of ‘reciprocity’ of provision for female clergy.
195. So far as the aspect of the Archdeacon’s package of proposals dealing with episcopal ministry was concerned, the majority of the Committee saw advantages in the new clause 2 she proposed, believing that the draft Measure would be improved if it provided for the striking of a balance between nationally prescribed norms (expressed in the form of the Code of Practice made by the House of Bishops) and the ability of a particular diocese to make arrangements reflecting its own particular needs and circumstances – which the Committee recognised could vary significantly from one diocese to another.
196. The majority of the Committee therefore welcomed the addition of a provision requiring each diocesan bishop, in consultation with the diocesan synod, to issue a formal statement (in the form of a ‘scheme’) which indicated precisely what arrangements would be made in his or her diocese for the provision of episcopal ministry to those parishes which, on grounds of theological conviction, wished to take advantage of such arrangements.
197. Having decided in principle to proceed on the basis of the Archdeacon’s proposal for a new requirement for diocesan schemes, the Committee went on to consider a number of issues in connection with its detailed content. The principal issues were as follows:

*New clause 2(1) – the bishops to whom episcopal ministry can be delegated*

198. The Committee spent some time considering the Archdeacon’s proposal that a diocesan scheme should provide for episcopal ministry to parishes whose PCC issued a Letter of Request to be provided by “*a male bishop*”.
199. Traditional catholic members of the Committee questioned what they believed to be the thinking underlying the Archdeacon’s proposal, which in their view failed to recognise their position. It was not adequate from their point of view for episcopal ministry *simply* to be provided by a man: there might be issues relating to a male bishop which meant that they could not conscientiously accept his episcopal ministry.
200. They argued that traditional catholics had never suggested that the fact that a bishop might have ordained a woman to the priesthood, or might be in full sacramental communion with women priests, rendered that man’s ministry null and void: they still regarded that bishop as a canonically appointed bishop and his acts as valid. But they saw themselves as being in a state of impaired communion with him.

201. An episcopal college containing both men and women would not therefore represent an expression of the episcopate as traditional catholics saw it in its fullest sense. They accordingly sought oversight not simply from a male bishop, but from a man whose authority did not derive from another bishop with whom they were in impaired communion, and who could form a distinct collegial relationship with other such traditional catholic bishops. The provision in the Archdeacon's proposal for a parish to request the ministry simply of "*a male bishop*" would not therefore address the theological needs of traditional catholics.
202. They went on to suggest that it was illogical – and, indeed, something of a pretence – to enact legislation that recognized the existence of doubt about women's priestly and episcopal ministry but then failed to make provision that properly reflected the nature of that doubt. Furthermore, legislation which allowed parishes, on grounds of theological conviction, to seek the episcopal ministry of a man rather than a woman, but in a way which did not properly reflect the nature of the those theological convictions, would in effect be simply to put in place an unjustifiable form of discrimination on grounds of gender. It would also be to act in a way which was completely inconsistent with any claim that there remained two acceptable views as to women's priestly and episcopal ministry in the Church of England.
203. Other members of the Committee questioned why a male bishop who ordained women would be in a state of impaired communion with traditional catholics and argued that to allow a parish in effect to choose their bishop on the grounds of his beliefs in relation to the ordination of women – as the position outlined by the traditional catholics seemed to require – would be a step too far.
204. In response traditional catholic members argued that they did not seek the ministry of a bishop who held the same theological opinion as themselves as such; but they could not ignore the theological implications of a bishop's actions – the effect of which could be to put himself into a different relationship with those who could not accept women's ministry from that which he had with those who could accept it.
205. Other members of the Committee expressed various concerns about the arguments put forward by traditional catholics. It was suggested that there was a risk that the position they described could in practice be seen as involving a theology of 'taint'. It was also questioned why the Church of England should be required to enshrine in its legislation any concept of 'doubt' when it had reached a principled decision that women should be ordained. In the light of these various objections, a majority of the Committee agreed that clause 2(1) should refer to arrangements for delegation "*to a male bishop*" without the addition of any further qualifications.
206. On a different point, the Committee considered it important that any bishop to whom episcopal ministry was delegated under a scheme made under clause 2 should be in active ministry (and not, for example, a retired bishop who no longer regularly carried out episcopal duties). To that end the Committee agreed *nem con* that any such bishop should have to be "*a member of the House of Bishops of the diocesan*

*synod of that or another diocese*” – the effect of which (by virtue of Rule 30(2) Church Representation Rules) would be to require any such bishop to be ‘working in’ a diocese (though he would not need to be receiving a stipend to qualify).

*New clause 2(1) – the scope of the arrangements to be comprised in the diocesan scheme*

207. The Committee agreed that a diocesan scheme made under clause 2(1) should only be required to relate to episcopal ministry for those conscientiously opposed, rather than the provision to them of episcopal and priestly ministry: within the context of the provision to be made by the Measure as a whole, the issue of priestly ministry for those conscientiously opposed was better addressed through guidance contained in the (national) Code of Practice, given that there was less scope for any element of diocesan variation or discretion in relation to priestly ministry.
208. The Committee went on to consider for precisely which particular aspects of episcopal ministry arrangements would have to be made in a scheme under clause 2. In doing so the Committee took into account the submissions made to it on the categories of episcopal functions identified in clause 4(1) of the draft Measure as ones which, in the context of the draft Measure in its original form, might be delegated in relation to ‘petitioning parishes’.
209. The majority of the submissions made proposed a much shorter list of categories than those identified in clause 4(1) of the draft Measure, the largest single group of submissions proposing that the categories in question should be limited to the celebration of the sacraments and other divine service and the provision of pastoral care. However, some submissions proposed the addition of further types of episcopal function.
210. The package of proposed amendments produced by the Archdeacon of Lewisham and Greenwich reflected some of the concerns expressed in members’ submissions, providing as it did for the categories of episcopal function for the exercise of which arrangements would have to be made in schemes under clause 2 to be restricted to (a) the celebration of the sacraments and other divine service and (b) pastoral care.
211. Clause 2(1) of the draft Measure prepared for the Committee to give effect to the Archdeacon’s package of proposals provided accordingly and the Committee agreed *nem con* that new clause 2(1) should take that form.
212. In reaching that decision, the Committee noted a number of implications of the provision as drafted, including the following:
- (a) the fact that powers had been delegated under a diocesan scheme would not mean that the diocesan bishop no longer had power to act in relation to the parish concerned – rather, his or her powers would remain exercisable in relation to the parish (even if he or she chose, out of respect for the parish’s conscientious difficulties, not to exercise them personally);

- (b) clause 2(1) was an enabling power, allowing the bishop to include such provision as he or she considered appropriate provided that (a) it fell within the scope of the power and (b) in making that provision he or she fulfilled his or her obligations under clause 2(9) and what is now clause 6 of the revised draft Measure (which include taking into account provision contained in the Code of Practice);
- (c) thus the bishop could choose to make provision in the scheme for the delegation of additional functions over and above those in the mandatory categories if he or she wished – a consideration which the Committee thought should be made apparent by including an express provision to that effect (as new clause 2(3)), on the understanding that it did not create any expectation that additional functions be delegated; and
- (d) the expression ‘pastoral care’ would have its ordinary meaning (and not, for example, extend to pastoral reorganisation).

*New clause 2(4) – Statement by the bishop that he will not ordain women to the priesthood*

213. The Committee considered how to give effect to the proposal in the package of amendments produced by the Archdeacon of Lewisham and Greenwich that if a diocesan bishop, on grounds of theological conviction, would not ordain women to the office of priest the diocesan scheme should make provision for the ordination of female candidates for the office of priest within the diocese and their continued episcopal care.
214. The Committee agreed that only a male bishop should be able to make a declaration of unwillingness to ordain: it would be inconsistent for a female bishop to do so whilst continuing to exercise her own orders. It went on to agree that, the Church of England having taken the decision to ordain women to the priesthood, the legislation should assume the normative position to be that individual bishops would be willing to do so and that, for the purposes of the proposed obligation under the diocesan scheme, the diocesan bishop would be assumed to be willing to do so unless he made a statement in the scheme that he was not.

*New clause 2(4) – ‘on grounds of theological conviction’*

215. The Committee agreed that any decision by a male bishop not to ordain women to the priesthood should have to be made on theological grounds and, to make the position in that respect absolutely clear, decided by 10 votes to 2 to include the words “*on grounds of theological conviction*” in new clause 2(4).
216. The Committee recognised the possibility that, whilst a male bishop might personally have no conscientious difficulty in relation to the priestly and episcopal ministry of women, he might consider it in the best interests of his diocese not to ordain women to the priesthood or participate in their consecration to the episcopate. It considered that in those circumstances the provisions of new clause 2(4) should

apply in just the same way as if the bishop had conscientious difficulties himself; and following advice that, if that was the case, it would be desirable to make the position in that respect clear in the draft Measure, the Committee decided by 12 votes to 1 to include in new clause 2(4) the words “*whether of himself or of other persons in his diocese*”.

*New clause 2(5) – the matters to be included in the diocesan scheme where the bishop has stated that he will not ordain women to the priesthood*

217. The Committee agreed that, in a similar way to that in which clause 4(4) of the draft Measure required the Code of Practice to make provision for arrangements for “*the support and promotion of the ministry of women*” in any diocese whose bishop had declared that he would not ordain women to the priesthood, a scheme made under new clause 2 should require that, where a diocesan scheme contained a provision to that effect, it should have to make provision both for the ordination of female candidates to the priesthood and “*the support of the ministry of clergy who are women and their pastoral care*”. (Reflecting a submission made by the Revd Paul Benfield on clause 4(4) of the draft Measure, that was a consciously different form of words from that used in that provision, avoiding any reference to “*the promotion of ... the ministry of clergy who are women*”.) The Committee agreed that new clause 2(5) be drafted accordingly.

218. The Committee considered whether, in the event that a bishop stated that he would not ordain women to the priesthood, the scheme should also have to contain a requirement for female clergy to be licensed, instituted etc. by a bishop who had not made such a statement. The Committee’s view was that was an unnecessary complication and could give rise to the misleading implication that a bishop who was unwilling to ordain women would also necessarily be unwilling to license them etc. The Committee voted against the proposal that new clause 2 contain such a requirement by 14 votes to 0.

219. The Revd Paul Benfield had proposed the addition to clause 4 of the draft Measure of a provision which required the Code of Practice to make provision, in dioceses where the diocesan had not declared that he would not ordain women to the priesthood, for the support of the ministry of clergy who cannot accept female bishops or priests. Noting that it would be possible for such provision to be made under new clause 2(3) and that the Code of Practice could provide guidance on this point, the Committee did not consider it necessary to require that diocesan schemes must contain provision of this kind and voted against the proposal by 13 votes to 2.

*New clause 2(6) and (7) – the duty to review a diocesan scheme*

220. The Committee considered it important that the diocesan bishop should be required to keep the scheme made under new clause 2 under review in the light of changing circumstances and that, to that end, new clause 2 should impose an obligation formally to review the scheme at regular intervals. Additionally, the Committee

considered it important that a new diocesan bishop should have to review the scheme within a specified period of his or her coming into office and considered that a period of twelve months would give him or her sufficiently long to do so effectively. The Committee agreed that new clause 2(6) and (7) be drafted accordingly.

*New clause 2(9) – the bishop’s duty to ‘take account of’ the Code of Practice*

221. The Committee recognised that the effect of what is now clause 6 of the revised draft Measure would be to impose a general obligation on the diocesan bishop to ‘have regard to’ any guidance given in the Code of Practice that was relevant to a function being exercised by the bishop and that that included the making of schemes under the new clause 2.
222. The Committee considered it desirable, however, to impose an express obligation on the bishop to ‘take account of’ the Code when making, amending or reviewing the scheme; and to that end it agreed to insert new clause 2(9) of the revised draft Measure. The Committee was advised that the effect of that provision was to impose a slightly stronger and more specific obligation on the diocesan than would arise under the general duty under what is now clause 6 of the revised draft Measure.
223. The Committee voted to include the new clause 2 in the draft Measure by 9 votes to 0.

**Clause 3 – Nomination of suffragan sees**

224. 19 submissions were received proposing that clause 3 of the draft Measure be left out in its entirety, generally for reasons similar to those on the basis of which members proposed that clause 2 of the draft Measure be left out: the concerns of those opposing clause 3 again included that it would move the Church in the direction of separate structures, be divisive to a greater extent than were the arrangements under the Act of Synod and endorse a concept of ‘taint’.
225. Thus, for example, in oral submissions the Revd Hugh Lee expressed his concern that clause 3 embodied a theology of ‘taint’, the Ven Christine Allsopp suggested that it involved in effect the creation of separate provinces and Ms Kathryn Campion-Spall that it amounted to the authorisation of schism. The Revd Dr Miranda Threlfall-Holmes expressed the view in an oral submission that a male bishop should suffice for those with conscientious difficulties, so that any procedure for the identification of additional characteristics on the part of those exercising episcopal ministry to them was unnecessary.
226. The Committee noted that, within the context of the draft Measure as a whole, the purpose of clause 3 was to ensure the availability of a number of male bishops who had made the declaration in the fuller form specified in clause 2(1)(b), so that there

was a sufficient pool of bishops who could be selected under clause 4(6) of the draft Measure to exercise complementary episcopal arrangements for petitioning parishes.

227. Whilst some members of the Committee considered that, for that reason, clause 3 was a necessary prerequisite if effective provision was to be made for those with conscientious difficulties, the majority of the Committee's members accepted the validity of the criticisms made of it in the submissions referred to above. Furthermore, in practice the provision made by clause 3 was dependent upon the provision made by clause 2: the expectation would be that those appointed to the nominated sees would be willing to make a declaration that they would not ordain or consecrate women. The Committee having agreed to leave out clause 2, the majority of its members were unwilling to reinstate any equivalent provision – especially given the Committee's other previous decision that the only requirement to be met by a bishop exercising episcopal ministry under a diocesan scheme was that he should be a man. The Committee voted by 9 votes to 3 to leave out clause 3.

228. As the Committee agreed to leave out clause 3, it did not need to consider the various proposals made by members for its amendment.

### **New clause 3 – Parish requests**

229. The substance of this clause formed part of the package of proposed amendments submitted by the Archdeacon of Lewisham and Greenwich.

230. Having decided in principle to proceed on the basis of the Archdeacon's proposals, the Committee went on to consider a number of issues in connection with their detailed form. Some of those issues reflected the substance of submissions on clauses of the draft Measure which were relevant to the new clause 3. The principal issues were as follows:

#### *Provision corresponding to the effect of Resolution A*

231. The Committee noted that the effect of the Archdeacon's proposals would be to allow a parish to issue a Letter of Request during a Vacancy, requesting that only a male priest should be appointed as incumbent or priest in charge of the benefice. The effect of that would be that any person exercising functions in connection with the appointment would have to have regard to the guidance given in the Code of Practice; and the expectation would be that the guidance would say that, where a Letter of Request during a Vacancy had been issued, effect should be given to it by the appointment of a male priest as incumbent or priest in charge.

232. Thus in so far as the facility to issue a Letter of Request during a Vacancy provided a mechanism for parishes to secure the appointment of an incumbent or priest in charge who was male, it would achieve a similar outcome to that achieved by the passing of Resolution B.

233. The Committee noted, however, that the Archdeacon's proposals did not make any provision for arrangements which would reproduce in any way the effect of Resolution A. The Archdeacon acknowledged that to be the case, arguing that a parish with conscientious difficulties would be sufficiently protected by the fact that the consent of the incumbent or priest in charge would be needed under Canon C 8 for a female priest or a priest ordained by a female bishop to be able to minister in the parish.
234. Some members of the Committee argued that this approach was not only unfair to the laity (because it reposed too much authority in the clergy) but was also likely to give rise to difficulties in practice. It was also suggested that it would be desirable to provide some sort of continuity for parishes which had passed Resolution A.
235. Noting, however, that the transitional provisions would preserve for some time the effect of Resolutions A passed before the Measure came into force, the Committee decided against including in the new clause 3 any provision akin to that made by Resolution A by 10 votes to 5.

*New clause 3(1) – the identity of the body responsible for deciding whether to issue a Letter of Request*

236. A number of submissions had proposed that, if clause 3 were not omitted (as a number of submissions suggested it should be), clause 3(2) should be amended so as to provide for the decision to petition to be taken not by the parochial church council of the parish ('PCC') but by the annual (or possibly a special or extraordinary) parochial church meeting.
237. One submission favoured the decision to petition being made by the 'vestry meeting' – i.e. a meeting of the parishioners (including those resident in the parish whose names are entered on the register of local government electors) which elects churchwardens under the Churchwardens Measure 2001. Another had proposed that there should be wide consultation, including with all those on the electoral roll and with the public, before a decision was taken. The package of proposals made by the Archdeacon of Lewisham and Greenwich involved the decision to issue a Letter of Request being taken by the PCC.
238. Although the proposals related to a provision which the Committee had agreed to leave out, it recognised that they remained relevant to the new clause 3 and should accordingly be considered in relation to that.
239. The Committee was advised that the various proposals needed to be considered against the background of the arrangements that existed for the governance of the Church of England at parish level generally, which were as follows:

- (a) In essence, the body entrusted with executive decision-making at parish level is the PCC, which (under s.1 Parochial Church Councils (Powers) Measure

1956) has the primary function of co-operating with the minister “*in promoting in the parish the whole mission of the Church*”. The role of the annual parochial church meeting is generally confined (under Rule 9 Church Representation Rules) to receiving and discussing reports from the PCC, electing representatives to the PCC and deanery synod and appointing the sidesmen and an independent examiner. It is true that under Rule 9(7):

*“Any person entitled to attend the annual meeting may ask any question about parochial church matters, or bring about a discussion of any matter of parochial or general church interest, by moving a general resolution or by moving to give any particular recommendation to the council in relation to its duties”.*

But even where that happens any resolution passed by the parochial church meeting cannot bind the PCC. The position in relation to any special or extraordinary parochial church meeting is the same.

- (b) Similarly, the functions of a meeting of the parishioners are limited, being confined to the election of churchwardens.
- (c) Against that background, to amend the draft Measure so as to provide for a decision of importance to be taken by an annual, special or extraordinary parochial church meeting could be seen as anomalous. That the decision to petition would be of great significance to the parish was self-evident; but there were many other decisions in the life of the parish – such as those in relation to appointments – which the Church of England had thought it proper to be taken by a PCC.

240. Whilst some members of the Committee were sympathetic to the proposal that a larger and more broadly based body than the PCC should take the decision (not least on account of the potentially small number of people required to constitute a quorum at a PCC meeting), in view of the general position as regards governance at parish level as described above the Committee decided by 12 votes to 1 in favour of the proposition that the decision to issue a Letter of Request should be taken by the PCC.

*New clause 3(1) – “on grounds of theological conviction”*

241. The Revd Paul Benfield had proposed the deletion of the words “*on grounds of theological conviction*” from clauses 3(1), 4(2) and 4(3) of the draft Measure on the basis that a PCC, as a body corporate, was not capable of holding any theological convictions and that the inclusion of that expression left the way open for a bishop to question why a parish had conscientious difficulties with the priestly and episcopal ministry of women. Again, although made in relation to different provisions the Committee recognised that that proposal was relevant to the new clause 3.

242. The Committee was advised that Mr Benfield’s point was misconceived because the use of the expression in question did not attribute the theological convictions to

the PCC or member of the clergy etc. concerned: it would, for example, be open to a PCC whose members favoured the ministry of women to issue a Letter of Request on the ground that the balance of opinion in the parish as a whole was opposed to it. The Committee agreed to reject Mr Benfield's proposal by 10 votes to 0.

243. The Committee went on to agree by 12 votes to 1 that, in the same way as new clause 2(4) made it explicit that the theological convictions on the basis of which the diocesan bishop reached his decision not to ordain women need not be his own, new clause 3(1) should provide that the theological convictions on the basis of which a PCC reached a decision on whether to issue a Letter of Request need not be those of its own members.

244. The Committee also decided by 14 votes to 0 that, in describing the other persons whose theological convictions could be taken into account by the PCC, the provision should refer to the convictions "*of other persons*" rather than to the convictions "*of other persons in the parish*". It went on to agree that the position should be the same under new clause 3(3).

*New clause 3(3) – appointment of 'a male priest'*

245. On new clause 3(3) a traditional catholic member of the Committee drew attention to the fact that the provision proposed by the Archdeacon of Lewisham and Greenwich would allow a parish to seek the ministry only of a male priest – which was insufficient to meet the needs of traditional catholics in relation to sacramental assurance. In view of that it made little sense to refer to a decision of a PCC being based "*on grounds of theological conviction*" since the provision that was available would not be consistent with the theological convictions of traditional catholics. A similar issue arose in relation to episcopal ministry under new clause 3(1).

246. In response the point was made that there was a difference between the provision made on the face of the Measure and the provision that might in fact be made by diocesan bishops – who might well be willing in practice to accommodate the views of traditional catholic parishes by providing them with ministry that was consistent with their theological convictions. It was also relevant that the Committee had already decided that the only requirement of a bishop exercising episcopal ministry under a scheme made under new clause 2 was that he should be male. The Committee agreed by 12 votes to 1 to leave the words "*only a male priest*" in clause 3(3) without any amplification.

*New clause 3(10) – procedural requirements*

247. The Committee noted that, under paragraph 6 of Appendix 2 to the Church Representation Rules, the quorum required for the transaction of business at a meeting of a PCC was only one-third of its members and that the membership of a PCC might include as few as six representatives of the laity (in addition to the clerical and lay *ex officio* members). In the light of concerns about the possibility of such an

important decision being taken by a relatively small number of persons, the Committee agreed, by 10 votes to 1, that a Letter of Request would have to be authorised by a resolution of the PCC passed at a meeting which was attended by at least two-thirds of its members (without distinction between elected and *ex officio* members).

248. The Committee did not consider it necessary, however, to require – as proposed in a number of submissions by members relating to clause 4 of the draft Measure – that the resolution be supported by a two-thirds majority of the PCC, voting by 9 votes to 3 against a proposition to that effect. In doing so it noted that the minority on a PCC was already in a strong position since the motion could not be debated in the first place if one third of the members plus one other chose to absent themselves from the meeting.

249. The Committee went on to decide by 10 votes to 1 against the proposal that the PCC should be required to “*consult widely, including all on the electoral roll and with a public consultation*”.

250. Finally, Mrs Shirley Ann Williams proposed – in the context of the decision to petition under clauses 3(1) and 4(2) of the draft Measure – that the decision should be taken by a secret ballot. In an oral submission made on her behalf, the Revd Hugh Lee explained that the proposal was made because of concerns that there was a danger that individuals would otherwise vote in accordance with the incumbent’s wishes rather than their own views. However, the Committee was not persuaded by that argument and considered that any decision required to be made by a PCC under the new clause 3 should be reached by it in such manner as it should determine that was consistent with the requirements of Appendix II to the Church Representation Rules.

*New clause 3(11) – decision in relation to vacancy to be taken at the ‘s.11 meeting’*

251. The Committee agreed that, even though it would mean the decision on whether to issue a Letter of Request during a Vacancy would have to be made within four weeks of notice being given of an impending vacancy, the logical point at which the decision should be taken where there was a vacancy in the benefice was (as in the case of resolutions under the 1993 Measure) at the meeting required to be held under s.11 Patronage (Benefices) Measure 1986 (‘the 1986 Measure’).

252. However, to avoid difficulties arising from the point of view of the quorum requirement in the light of the fact that some members of the PCC are excluded (by virtue of s.11(2) of the 1986 Measure) from attending the s.11 meeting, the Committee also agreed that the quorum provision in new clause 3(10)(b) should be two-thirds of those entitled to attend that meeting.

*Miscellaneous issues*

253. Mrs April Alexander had proposed that the Code of Practice should provide that a request for complementary arrangements should state the parish's theological convictions about the mission and ministry of the Church of England. She had also proposed that it should not be possible for a parish to seek arrangements in relation to episcopal ministry in a diocese once a woman had been appointed as its bishop. However, Mrs Alexander indicated to the Committee that she wished to withdraw both proposals in the light of decisions already taken by the Committee.
254. In considering how to enact the Archdeacon's proposals, the Committee came to a number of other decisions, as follows:
- (a) the Committee did not consider it right to restrict the freedom of a parish to issue a Letter of Request simply on the ground that the parish had a female incumbent or priest in charge;
  - (b) the possibility of issuing a Letter of Request during a Vacancy should be available to a parish when the appointment of a priest in charge arose, as well as in the case of the appointment of an incumbent; and
  - (c) an outgoing priest in charge, and his or her spouse or civil partner, should not be able to attend any meeting at which the PCC was to decide whether to issue a Letter of Request during a Vacancy, in the same way that an outgoing incumbent and his or her spouse or civil partner could not attend a meeting of the PCC convened under s.11 of the 1986 Measure.<sup>6</sup>
255. Having considered and decided these various issues the Committee voted by 13 votes to 3 to substitute the new clause 3 in place of clause 3 of the draft Measure in its original form.

**New clause 4 – Benefices in the patronage of the Crown etc.**

256. The package of proposals made by the Archdeacon of Lewisham and Greenwich included the addition of a provision which extended the effect of the Measure to 'Crown benefices' as defined in the 1986 Measure – i.e. benefices the patronage of which is vested in or exercisable by Her Majesty (whether in right of Her Crown or Her Duchy of Lancaster or otherwise) or is vested in the Duchy of Cornwall.
257. The Committee noted that, by virtue of s.7(1) of the 1993 Measure, ss.2 and 3 of that Measure applied to Crown benefices as so defined and agreed that the position under the draft Measure should be the same. The Committee therefore agreed to insert the new clause 4 by 13 votes to 3.

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<sup>6</sup> The restriction on the civil partner of an outgoing incumbent attending a s.11 meeting was inserted into s.11 of the 1986 Measure by the Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc Amendments) Order 2005 (SI 2005/3129).

#### **Clause 4 (renumbered as clause 5) – Code of Practice**

258. Following the Committee’s decision in principle to proceed on the basis of the package of proposals made by the Archdeacon of Lewisham and Greenwich, a number of submissions made on clause 4 of the draft Measure ceased to be relevant, and did not therefore need to be considered by the Committee. However, other submissions did remain relevant and were therefore considered by the Committee.

#### *Clause 4 (renumbered as clause 5) generally*

259. Mr Aiden Hargreaves-Smith proposed that, if provision was to be made in a Code of Practice, the Code should be set out in a schedule to the Measure.

260. The Committee noted that this proposal was different from the proposal that the terms of the Code should be legally binding: the inclusion of the Code in a schedule would not, of itself, have the effect of requiring compliance with it. However, the implications of the proposal included that the content of the Code would have to be agreed before the draft Measure completed its Synodical progress (which meant *inter alia* that the Committee would need to agree its detailed contents as part of the Revision Committee Stage) – which did not seem possible given the time available to the Committee.

261. The Committee also noted that including a Code of Practice within primary legislation rather than being made under powers conferred by that legislation risked introducing an element of confusion over the relative status of the Code and the legislation. That was perhaps why there were few precedents for Codes of Practice being included on the face of legislation. The Committee voted against the proposal by 12 votes to 1.

262. The Revd Paul Benfield proposed that the material intended to be contained in the Code should be contained in Regulations made under the Measure. The Committee was advised that it would be possible for the Code to be set out in Regulations made under the Measure but that there would seem to be no advantage in doing so since the status of the Code would not change as a result: again, the mere fact that the Code was contained in an instrument called ‘Regulations’ would not, of itself, make it legally binding: for that to be the case, more substantial amendments would need to be made to the draft Measure. The Committee voted to reject Mr Benfield’s proposal by 12 votes to 0.

#### *Clause 4(1) (renumbered as clause 5(1))*

263. A number of submissions were received relating to clause 4(1), the majority of them proposing that the specified matters on which the Code of Practice should give guidance should be much shorter than the range of matters provided for in that sub-clause. Of those submissions, the largest single group proposed that the categories of

function in question should be limited to (a) the celebration of the sacraments and other divine service and (b) pastoral care.

264. The Committee recognised that what would now be clause 5(1) needed to reflect the somewhat different structure the draft Measure would take if the package of amendments proposed by the Archdeacon of Lewisham and Greenwich were accepted. In particular, as the new clause 2 would specify the categories of episcopal ministry for the delegation of which a diocesan scheme had to make arrangements, it would be inappropriate for what would now be clause 5(1) to specify those categories.
265. The Committee noted, however, that the Code could give guidance on both the content and the procedure for making diocesan schemes under new clause 2 and considered it desirable that it should do so: a number of issues could arise, in particular, as to the content of a diocesan scheme (e.g. as to the extent to which arrangements could or should be included for the delegation of aspects of episcopal ministry other than those specified in new clause 2(1)(a) and (b)).
266. The Committee also considered it important that the Code should provide guidance in connection with the provision made by the new clause 3, especially in relation to the position of those exercising appointments functions where a PCC had issued a Letter of Request during a Vacancy.
267. More generally, the Committee considered that, if the Code was to be able to provide all the guidance that was needed for the purposes of the Measure it was important that the power authorising the making of the Code was drawn in wide terms.
268. The Committee therefore decided by 13 votes to 0 that the power conferred by what would now be clause 5(1) in the revised draft Measure should require the giving of guidance as to –
- (a) the making of schemes under new clause 2;
  - (b) the exercise of episcopal ministry in accordance with the arrangements contained in such schemes;
  - (c) the exercise of functions by those involved in making appointments of incumbents and priests in charge where a Letter of Request during a Vacancy had been issued;
  - (d) the provision to be made under new clause 2(5); and
  - (e) “*such other matters as the House of Bishops considers to be appropriate to give effect to this Measure*”.
269. On a much more specific point, the Revd Paul Benfield had questioned the effect of the words “*shall draw up*” in clause 4(1) of the draft Measure, on the basis that they were otiose. However, Mr Benfield indicated to the Committee that he wished to withdraw that submission.

*Clause 4(5) (renumbered as clause 5(2))*

270. The Revd Paul Benfield proposed the deletion of clause 4(5) of the draft Measure on the basis that it made provision which was “*far too wide*” for a statute. The Archdeacon of Lewisham and Greenwich also proposed that it be left out. Those proposals remained relevant to what would now be clause 5(2) of the revised draft Measure. The Committee was advised that this provision was an enabling one, included for technical reasons to ensure that the Code could make all the provision that is necessary or desirable in the full range of circumstances which it needs to address. It was not therefore drawn inappropriately widely, as Mr Benfield suggested. The Committee rejected Mr Benfield’s and the Archdeacon’s proposals by 11 votes to 0.

*Clause 4(6), (7) and (8)*

271. The Committee agreed that, given its decision in connection with the new clause 2 that the only requirement for a bishop exercising episcopal ministry by way of delegation under a scheme made under that clause should be that he was a man, clause 4(6) should be left out – as should clause 4(7) and (8), which were consequential upon clause 4(6).

*Clause 4(11) (renumbered as the new clause 5(4))*

272. Mr Joseph Brookfield proposed that the Code of Practice should require approval by a two-thirds majority in both the House of Bishops and the General Synod. The Revd Paul Benfield also argued that if, as he contended, the material intended to be contained in the Code should be contained in Regulations, the approval of those Regulations should require such a majority. Those proposals remained relevant to what would now be clause 5(4) of the revised draft Measure.

273. The Committee noted that decision-making in the House of Bishops was generally by simple majority. And even if the Measure were to be amended to include a requirement that it could not itself be amended without special majorities it did not necessarily follow that the Code should require special procedures, given the ability of 25 members to require a Division by Houses. The Committee voted against the proposal by 11 votes to 4.

*Clause 4(11) and (12) (renumbered as clause 5(4) and (5))*

274. The Revd Dr Rob Munro proposed that clause 4(11) be amended, and clause 4(12) left out, so as to apply the Article 7 procedure to any Code of Practice. That proposal remained relevant to what is now renumbered as clause 5(4) and (5).

275. The Committee was advised that the Article 7 procedure existed for a particular purpose – namely to give the different component parts of the Synod an appropriate voice in the consideration of issues relating to doctrine or worship. It seemed

questionable in principle to apply procedures devised for that purpose to instruments which did not touch on such matters – as not all amendments to the Code would.

276. Furthermore, the elaborate nature of the Article 7 procedures and the delay to which they can give rise could be quite disproportionate to the nature of the exercise which could be in question under clause 5 (such as the making of a necessary, and uncontentious, amendment to the Code). The Committee agreed by 14 votes to 1 to reject the proposal.

*Further new sub-clause*

277. Mrs April Alexander had proposed the addition of a further new sub-clause after clause 4(4) which would have required that, in a diocese where the male diocesan bishop and one or more of the suffragan bishops would not ordain women, on a vacancy in a suffragan see of the diocese the diocesan bishop should seek the nomination of a bishop who would ordain women. However, Mrs Alexander indicated to the Committee that she wished to withdraw her amendment in the light of decisions already taken by the Committee.

*New sub-clause*

278. Mrs Christina Rees proposed the addition of a new sub-clause after clause 4(9) of the draft Measure in the following form:

*“In order to draw up a Code of Practice, the House of Bishops shall establish a working party comprising of 5 bishops, 5 clergy and 5 laity appointed by the Appointments Committee, with equal representation of men and women. The working party shall report to the House with its recommendations for the Code. The House shall pay due regard to the recommendations of the working party. When the House reports on their draft Code to the General Synod, they shall indicate which of the recommendations of the working party they have accepted and those which they have rejected with their reasons for doing so.”*

279. In a similar vein, Mrs April Alexander proposed the insertion of a new sub-clause after clause 4(10) as follows:

*“In order to draw up a Code of Practice, the House of Bishops shall establish a working party comprising of [3 bishops, 8 clergy and 8 laity], with equal representation of men and women. The working party shall report to the House with its recommendations for the Code. The House shall pay due regard to the recommendations of the working party. When the House reports on their draft Code to the General Synod, they shall indicate which of the recommendations of the working party they have accepted and which they have not.”*

280. The Committee noted that the Measure, and the enabling power it contained, would only come into effect once the Measure had received the Royal Assent. Thus any

provision of the kind proposed would only take effect after that point. But the Synod would want to see a developed draft of the Code of Practice before that time.

281. Both proposals were therefore to some extent beside the point: in practice the much more significant issue was how any draft that was to be available at the time that Final Approval was sought would be produced. The Committee considered that to be an important issue, on which it would wish to offer its view to the House of Bishops: that view is contained in paragraph 427 onwards below.

282. The Committee did not accordingly believe that it would be appropriate to build additional requirements into the Measure of the kind proposed and Mrs Alexander confirmed that she would herself be content for such a recommendation to be made in the Committee's report rather than being contained in the Measure. The Committee therefore voted against both proposed amendments by 14 votes to 0.

*New sub-clause*

283. Mrs Christina Rees proposed the addition of a new sub-clause after clause 4(13) of the draft Measure in the following form:

*“At any discussion of the House of Bishops to consider drafts of the Code of Practice, the House shall invite the attendance and participation of at least fifteen women priests being [Proctors] in Convocation, until such a time when there are fifteen members of the House who are women.”*

284. The Committee agreed that, as a matter of principle, it would support the involvement of women in the production of the Code of Practice. But, for reasons corresponding to those underlying its decisions on the previous two proposals, it did not consider it sensible to include in the Measure a requirement to that effect, preferring to address the question by way of recommendation to the House of Bishops about the next stage of drawing up the Code of Practice.

285. In any event, the Committee was advised that there were also legal objections to the proposal, the suggestion that persons who are not members of the House of Bishops should participate in its decision-making being problematic given that the Measure would confer the function of making the Code on the House. The Committee accordingly voted against the proposed amendment by 15 votes to 0.

286. The Committee voted to leave out clause 4 of the draft Measure and to replace it with clause 5 of the revised draft Measure by 13 votes to 1.

**Clause 5 (renumbered as clause 6) – Duty to have regard to Code of Practice**

287. The Committee considered the application of clause 5 of the draft Measure, which imposes a duty on all those exercising ‘functions’ (whether episcopal or other

functions) to ‘have regard to’ any Code of Practice issued by the House of Bishops under the Measure, in relation to diocesan arrangements under a scheme made under the new clause 2 and took the view that compliance with such arrangements would be adequately secured by the new clause 3(16), which prohibits those discharging functions from acting in contravention of such arrangements.

288. More generally, a number of submissions were received which argued that, rather than the Code of Practice made under the Measure merely representing guidance to which bishops and others had to ‘have regard’, it should have binding legal effect – either directly or (by allowing non-compliance with it to be the subject of a disciplinary procedures) indirectly.
289. The Revd Dr Rob Munro proposed that clause 5 be amended so as to require compliance “*with the provisions of the Measure*”. Mr Jim Cheeseman proposed the imposition of an obligation “*to comply with*” the Code of Practice.
290. The Revd Paul Benfield and Mr J G Campbell proposed that non-compliance with the Code of Practice should involve an ecclesiastical offence in relation to which a complaint could be brought under the Clergy Discipline Measure 2003 (‘the CDM’).
291. In an oral submission, Mr Benfield explained that he was doubtful whether the Code of Practice would always be adhered to. As the draft Measure stood, if a bishop failed to have regard to it the only remedy was by way of proceedings for judicial review in the civil courts. In his view, that created an imbalance between the parties, since bishops would have access to the necessary resources to defend a claim, while a parish would be unlikely to have sufficient resources even to initiate proceedings. Mr Benfield therefore argued that the Code should be directly enforceable under the CDM.
292. In contrast, the Rt Worshipful Timothy Briden (Vicar General of the Province of Canterbury) argued – by reference to a decision of a bishop’s disciplinary tribunal in 2008 – that what Mr Benfield sought was already the case: he suggested that “*non-compliance with the proposed Code of Practice would be capable of giving rise to a valid complaint under the CDM*” and invited the Committee to consider whether it regarded that as desirable and, if it did not, to consider other possibilities such as conciliation or a review procedure.
293. The Committee began its consideration of these submissions by reminding itself that, where there was more than one way to proceed, a bishop could only act in a way that was inconsistent with the guidance contained in the Code of Practice if he or she had ‘cogent’ reasons for doing so<sup>7</sup>. As matters stood, it would be open to a parish that believed its diocesan bishop to have failed to ‘have regard’ to the Code to challenge his or her decision by way of judicial review.

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<sup>7</sup> The legal position in connection with statutory Codes of Practice was considered in more detail in the ‘Note from the Legal Adviser on Codes of Practice’ (GS Misc 899) circulated to members of the Synod for the purposes of the debate at the July 2008 group of sessions.

294. Notwithstanding the concerns that had been expressed about the involvement of secular courts, the Administrative Court was in principle the correct forum for such a challenge: the question of the propriety of a decision of this kind would fall to be determined by public law principles, which were best applied by a civil court accustomed to doing so rather than by an ecclesiastical tribunal or court established for general disciplinary purposes. However, if judicial review was the only form of recourse for a parish which disagreed with the actions of its bishop, it was important that that should be understood by parishes since otherwise parishes might attempt to bring complaints under the CDM.
295. As to the cost of proceedings for judicial review, Mr Geoffrey Tattersall observed that the commencement of proceedings by way of judicial review need not itself involve substantial expense, the real obstacle normally being the obtaining of permission from the court for the application to proceed in the first place: most cases did not pass that stage. If permission were given, costs could escalate.
296. As to the position under the CDM, the analysis advanced by the Vicar General of Canterbury seemed to the Committee to raise difficult questions as to just what the effect of ‘non-compliance with the Code of Practice’ would be if the draft Measure continued to take the form in which it received First Consideration.
297. The Committee was advised that ‘non-compliance’ with the Code would involve misconduct for the purposes of the CDM only if it fell within one of the categories of misconduct specified in s.8(1) CDM, namely acting in contravention of the laws ecclesiastical, failing to do any act required by the laws ecclesiastical, neglect or inefficiency in the performance of the duties of the cleric’s office or ‘conduct unbecoming or inappropriate’.
298. The circumstances of the case to which the Vicar General referred had involved non-compliance with the House of Bishops’ Child Protection Policy. The Vicar General seemed to suggest that the position would be similar in the case of non-compliance with the Code, but the Committee respectfully questioned whether that would be the case: it found it hard to see how failure to comply with the Code would be inconsistent with the duties inherent in any office in the Church of England.
299. If that was the case, the question would be whether ‘non-compliance’ with the Code would involve the neglect of any express duty – which could only be the duty to be imposed by what would now be clause 5 of the draft Measure. So far as that was concerned, ‘non-compliance’ with the Code in the sense of simply acting in a way inconsistent with it would plainly not, of itself, involve any of the forms of misconduct specified in s.8 of the CDM, for the simple reason that the Measure would not impose any obligation to comply with the Code.
300. The more difficult question was whether failure to do what clause 5 would require (i.e. to have regard to the Code of Practice) would amount to misconduct for the

purposes of the CDM. Breach of that duty could involve the cleric either (a) failing to have regard to the Code at all (a situation which the Committee found it difficult to conceive arising) or (b) having regard to the Code, but departing from it for reasons that were not cogent. Situation (b) could arise for a number of reasons, including because the cleric reached his or her decision on ‘irrational’ grounds or after taking irrelevant considerations into account.

301. The substance of a complaint brought under the CDM in situation (b) above would not be that there had been a breach or neglect of duty in a meaningful sense – because the cleric had ‘had regard’ to the Code in the sense of taking it into account – but that, having done so, he or she had made a wrong decision. That being so, the substance of the complaint would not fall within the scope of any of the forms of misconduct specified in s.8 CDM.
302. The Committee considered that that should not, in a sense, be a surprising conclusion: those making decisions in a public context frequently have their decisions set aside by reference to public law principles, without any suggestion that they should in consequence be subjected to disciplinary proceedings. The Committee believed that it would, rather, be more surprising for it to be possible for the merits or quality of a decision to be attacked through a disciplinary process rather than through proceedings for judicial review.
303. Having worked through this analysis, whilst some members of the Committee believed that the normative effect of the Code under the draft Measure should be strengthened (a) because of the difficulty of bringing proceedings by way of judicial review and (b) in recognition of the fact that some members of the Church would be reluctant to resort to the courts anyway (not least for theological reasons), the majority of its members did not favour any such change, for various reasons.
304. They included the fact that, by virtue of the requirement that a diocesan scheme would only be put in place after consultation with the diocesan synod, there would in practice be considerable local ownership of the diocesan arrangements in relation to episcopal ministry, which would in practice promote greater local accountability in relation to bishops’ behaviour (including through the diocesan synod).
305. Turning to the particular proposals for amendment, those of Mr Benfield and Mr Campbell both appeared to the Committee to envisage that the mere fact of non-compliance with the Code should involve an ecclesiastical offence. If so, the effect of their proposals was in substance to require compliance with the Code.
306. Wishing as the majority of its members did to maintain the policy that, whilst the Code should be normative, it should not be legally binding and should be capable of being departed from if the person concerned could point to cogent reasons for doing so, the Committee voted against the proposals of Mr Benfield and Mr Campbell by 13 votes to 0.

307. So far as the proposals by the Revd Dr Rob Munro and Mr Jim Cheeseman were concerned, the Committee was advised that, if the contents of the Code were to be legally binding – rather than matters to which regard must be had – the proper course would for them to be contained in primary or secondary legislation rather than to be presented as a ‘Code of Practice’.
308. Furthermore, a legally binding Code of Practice would have to be embodied in a statutory instrument, laid before Parliament for its approval<sup>8</sup> (albeit that, if the ‘negative resolution procedure’ were applied to it, the Code would be subject to the possibility of annulment on the motion of a member rather than actually requiring positive approval). On the ground that it wished to retain the approach taken in the draft Measure the Committee voted against the proposals of the Revd Dr Rob Munro and Mr Jim Cheeseman by 13 votes to 1.
309. Mrs Shirley-Ann Williams proposed that clause 5 of the draft Measure be amended so as to include a reference to the Code being “*a solemn, responsible and binding*” document. The Committee was advised that it was unnecessary and undesirable to apply the first two proposed epithets to the Code issued under the Measure: unnecessary given its statutory origin, the status it would enjoy by virtue of clause 5 and the significant formal processes that would have to be completed before it was made; and undesirable because the first two words would not, in any event, have any legal meaning. It would be wrong to apply the third epithet to the Code when in fact it would not be legally binding. The Committee voted against the proposal by 12 votes to 0.
310. Ms Jacqueline Humphreys (59) proposed that clause 5 of the draft Measure should refer to “*the Code of Practice currently in force under this Measure*”. The Committee was advised that Ms Humphrey’s proposed amendment was unnecessary since the reference to “*any Code of Practice issued under this Measure*” would not include a reference to any Code that had been superseded: it would only include any Code(s) for the time being in force under the Measure. The Committee voted against the submission of Ms Humphreys by 14 votes to 0.
311. The Committee voted to replace clause 5 of the draft Measure with clause 6 of the revised draft Measure by 13 votes to 1.

### **New clause 7 – Equality Act exceptions**

312. The Steering Committee proposed the inclusion of a new clause 7, in the light of advice given to it on the implications of the Equality Act 2010. The position in that respect is described more fully in paragraphs 370 to 378 below.

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<sup>8</sup> Under Standing Order 46(a) of the Standing Orders of the General Synod, a provision in a Measure empowering an authority to make a “*subordinate instrument having the force of law of general, as distinct from local, application*” must provide for the instrument to be approved by the Synod and, “*if it affects the legal rights of any person*” to be laid before both Houses of Parliament.

313. The Committee voted to include the new clause 7 in the revised draft Measure by 12 votes to 0.

**Clause 6 (renumbered as clause 8) – Interpretation**

314. No submissions were received from members of the Synod proposing amendments to this clause.

315. However, the Steering Committee proposed a number of clarificatory amendments, as follows:

- (a) a definition of ‘episcopal ministry’ should be added to make it plain that that expression included ministry (such as the celebration of the Holy Communion) which was also a ministry of a priest;
- (b) a definition of ‘parish’ should be added to make it plain that expression included a conventional district but excluded the parish of a cathedral church (thus excluding parish church cathedrals from the operation of the Measure);
- (c) a definition of ‘parishioner’ should be added to make it clear that, when used in the Measure, that expression referred not only to those resident in the parish but also to those on the electoral roll: doing so would limit both the scope for misunderstanding in that respect and for any legal challenge based on arguments that decisions had been taken by reference to a wider class of persons than was authorised by the Measure; and
- (d) clause 6(2) should be developed to make fuller provision for the way in which the Measure would apply, with appropriate modifications, to guild churches in the City of London (including in the light of the fact that the 1986 Measure has no application to such churches).

316. The Committee accepted all these proposals and voted by 14 votes to 1 to replace clause 6 of the draft Measure with clause 8 of the revised draft Measure.

**Clause 7 (divided and renumbered as clauses 9 and 10) – Amendments and repeals**

317. The only submission received on clause 7 of the draft Measure from members of the Synod was one from Ms Susan Cooper, which rightly pointed out that if clause 3 of the draft Measure were left out there would be a need for a consequential amendment to clause 7 to remove the amendment referring to clause 3(1). That consequential amendment has been made in clause 9 of the revised draft Measure.

318. Additionally, the Steering Committee proposed that clause 9 and Schedule 3 should be amended so that the consequential amendments it made to other enactments

properly reflected the revised draft Measure. The effect of the amendments it proposed is as follows:

- (a) The effect of paragraph 1 of Schedule 3 is that the current provisions in the Church Representation Rules preventing the delegation to district, joint, team and group councils of decisions relating to resolutions under the 1993 Measure will be amended so that similar restrictions apply to the taking of decisions relating to Letters of Request under the revised draft Measure.
- (b) The effect of paragraph 2(a) is to substitute in s.11 of the 1986 Measure (which specifies the matters that are to be dealt with at a 's.11 meeting') in place of the reference to deciding whether or not to pass a resolution under s.3(1) or (2) of the 1993 Measure a reference to deciding whether to issue a Letter of Request during a Vacancy.
- (c) The effect of paragraph 2(b) is to ensure that, in the same way as at present where there is a vacancy in a Crown benefice the Crown is sent the statement of needs and the terms of any resolution under the 1993 Measure, the Crown will be sent a copy of any Letter of Request during a Vacancy.
- (d) The effect of paragraph 3(a) is that, in the same way that at present a diocesan bishop may not exercise his powers of delegation under s.13 Dioceses, Pastoral and Mission Measure 2007 to delegate the functions conferred on him under section 2 of the 1993 Measure, he or she will not be able to exercise that power so as to delegate functions conferred on him or her under new clause 2 of the revised draft Measure in relation to the making of diocesan schemes. The effect of paragraph 3(b) will be to run forward in a similar way the current restriction on the provision made in s.14 of the 2007 Measure in cases where a bishop has resigned or is unable to discharge his or her functions.

319. The Committee accepted all the Steering Committee's proposals and voted by 14 votes to 1 to replace clause 7 of the draft Measure with what now appears as clauses 9 and 10 of the revised draft Measure.

### **Clause 8 (renumbered as clause 11) – Citation, commencement and extent**

320. Ms Jacqueline Humphreys proposed that the short title of the draft Measure should be "*the Women Clergy Measure*". However, Standing Counsel advised the Committee that that form of short title would not adequately describe the purpose and effect of the Measure. The Committee voted against Ms Humphreys' proposed amendment by 14 votes to 0.

321. The Committee then voted by 14 votes to 1 to replace clause 8 of the draft Measure with what appears as clause 11 in the revised draft Measure.

## **Schedule 1 – Transitional provisions**

### *Paragraph 1*

322. Mr Jim Cheeseman proposed that all the words after “*continue in force*” in paragraph 1(1) should be deleted, so that any resolutions under s.3 of the 1993 Measure would continue in force indefinitely unless rescinded.
323. The Revd Dr Rob Munro argued that, if the 1993 Measure were repealed, the transitional period during which Resolutions A and B was preserved should be longer than that provided for in Schedule 1.
324. However, the Archdeacon of Lewisham and Greenwich proposed as part of her package of proposed amendments that paragraphs 1 and 2 of Schedule 1 to the draft Measure should be amended so that the effect of Resolutions A and B passed under the 1993 Measure before the new legislation came into force should last for 3 years rather than 5 (as provided for in paragraph 1). The Archdeacon suggested that the period proposed by her would give a parish sufficient time to consider whether to move to the new regime, whilst being sufficiently short to focus the minds of the parish on how to do so.
325. The Revd Angus MacLeay suggested that, since it was envisaged that there should be a 5-year review period in the Measure, it would be logical to include a 5-year transitional period, for the sake of consistency. However, the Committee was not persuaded by that argument and voted in favour of the amendment proposed by the Archdeacon of Lewisham and Greenwich (and by implication against those proposed by Mr Cheeseman and Dr Munro) by 12 votes to 2.

### *Paragraph 2*

326. No proposals for amendment of this provision were received, other than a proposal from the Archdeacon of Lewisham and Greenwich that it be amended consequentially upon the Committee’s decision to amend paragraph 1 so as to refer to a transitional period of 3 rather than 5 years. The Committee agreed to accept that proposal by 12 votes to 0.

### *New paragraph 3*

327. The Committee considered that the continued effect of Resolution B during the transitional period (by virtue of paragraph 2 of the Schedule) should come to an end on the occurrence of an event giving rise to the right to issue a Letter of Request during a Vacancy, so that a parish would have to decide at that point whether it wished to issue a Letter of Request to make use of the provisions of new clause 3 of the revised draft Measure. The Committee agreed by 13 votes to 1 to insert new paragraph 3 into the draft Measure to bring that result about.

#### *New paragraph 4*

328. The Committee accepted a proposal from the Steering Committee for the insertion of this new paragraph, the effect of which is that the consequential amendments and repeals made by clause 9 and Schedule 3 and clause 10 and Schedule 4 respectively will not apply to a parish so long as a Resolution under the 1993 Measure continues in force by virtue of the transitional provisions of paragraph 1 of Schedule 1.
329. The Committee agreed by 13 votes to 1 to replace Schedule 1 of the Measure with Schedule 1 to the revised draft Measure.

#### **New Schedule 2 – Letter of request**

330. The Committee accepted a proposal from the Archdeacon of Lewisham and Greenwich to insert a new Schedule 2, which sets out the forms of Letter of Request and Letters of Request during a Vacancy for the purposes of the new clause 3 of the revised draft Measure.

#### **New Schedule 3 – Consequential amendments**

331. Paragraphs 318 to 319 above explain the Committee's decisions in relation to this Schedule.

#### **Schedule 2 (renumbered as Schedule 4) – Repeals**

332. No submissions were received from members of the Synod proposing amendments to this provision. However, the Committee agreed to make a number of amendments consequential upon its other decisions and to include the new Schedule 2 in the form in which it appears in the revised draft Measure.

#### **Proposals for the inclusion of additional provisions in the draft Measure**

##### *A 'sunset' clause*

333. The Revd Canon Robert Cotton, the Revd Maureen Allchin, Dr Anna Thomas-Betts, Mr Robert Key MP, the Revd Dr Miranda Threlfall-Holmes and Mrs Christina Rees all proposed the addition of some kind of 'sunset' clause.
334. Canon Cotton proposed the addition of a new provision providing for all the provisions of the Measure after clause 1 to cease to have effect after 10 years – not because he believed that the provision made by the Measure should definitely cease at

that point, but *“as a significant prompt for all parties to keep the working of the legislation ‘under review’”*.

335. The same proposal was made by Mrs Rees, on the ground that *“ten years should be sufficient for what we believe can only be provisional arrangements to be operative”*. Mr Key proposed a 10-year term for the provisions other than clause 1 *“[t]o ensure the integrity of the Church of England and to minimise uncertainty”*.

336. Dr Thomas-Betts was concerned about the provision made by the Measure being available ‘in perpetuity’ and favoured it lasting for only 20 years – being reviewed at that point and only renewed if there is a continuing need for it. Dr Threlfall-Holmes also advocated a 20-year period, on the basis that *“it is important that the legislation reflects an aspiration that these be transitional arrangements”*.

337. The Committee noted some of the practical implications of providing for the provision made by the Measure automatically to come to an end at a certain date. They included:

- (a) the impact that the limited duration of the arrangements could have on the perceptions of those for whom they were intended – and indeed on the life of the Church of England as a whole – on account of the uncertainty that would exist during the intervening period as to what would happen when the arrangements came to an end;
- (b) the practical difficulties that could arise if the arrangements came to an end without the Church having been able to agree alternative arrangements to take their place; and
- (c) the substantial commitment implicit in any process of review potentially leading to further legislation, not least given the long lead times between the launching of a review and the point at which any legislation received the Royal Assent.

338. The Committee did not consider that a provision of the kind proposed would benefit the Church. Several members of the Committee were concerned that the inclusion of a sunset clause would mean that within a specified period of time there would no longer be a place within the Church of England for those with conscientious difficulties over women’s ministry, or that there would be no special provision for them. Concerns were also expressed that a sunset clause implied that certain views were non-authentic and would eventually die out, and that a sunset clause would be perceived as a threat by some and would therefore do little to foster trust.

339. The Committee voted against the inclusion of a provision of the kind proposed by 15 votes to 0.

*A requirement for a review of the provision made by the Measure*

340. A number of members proposed the inclusion of a requirement that that the provision made by the Measure should have to be reviewed at some point, or points, in the future. The Revd Canon Celia Thomson, the Revd Hugh Lee, Mrs Mary Johnston, Mr Nigel Greenwood and Mrs Christina Rees proposed that the House of Bishops should have to review the operation of the Measure, and report the outcome to the Synod, every 5 years. Five yearly reviews were also proposed by Mrs Wendy Kidson.
341. The Revd Dr Miranda Threlfall-Holmes proposed a review after 10 years. Dr Anna Thomas-Betts proposed regular reviews (without specifying the interval at which they should occur). The Revd Canon Kathryn Fitzsimons preferred provision allowing the House of Bishops to ask every 5 years for a review if it so wished.
342. In assessing these proposals, the Committee noted that the absence of any requirement in the Measure for a review did not mean that a process to that end could be initiated (for example) by the House of Bishops or by a successful private member's motion or diocesan synod motion in the General Synod.
343. It also noted that there was a significant difference between the implications of an obligation to conduct a 'one-off' review at a certain point and an obligation to conduct regular reviews, including from the point of view of the resource requirements and the potential for generating uncertainty.
344. A further implication of mandatory regular reviews was that they would have to carry on being held unless and until primary legislation were passed to remove or qualify the obligation, even if those conducting the reviews came to the conclusion that they served little purpose or should be held at some different interval.
345. The Bishop of Beverley reminded the Committee of Resolution III.2 of the 1998 Lambeth Conference 1998, which called upon the *"provinces of the Communion to affirm that those who dissent from, as well as those who assent to, the ordination of women to the priesthood and episcopate are both loyal Anglicans' and 'to make such provision, including appropriate episcopal ministry, as will enable them to live in the highest possible degree of Communion possible, recognising that there is and should be no compulsion on any bishop in matters concerning ordination and licensing."*
346. The Committee voted against the inclusion in the Measure of a provision for any form of review of the Measure by 14 votes to 0.
347. The Revd Dr Miranda Threlfall-Holmes proposed that, whether or not the provision made by the Measure generally was subject to a review, the draft Measure should be amended so that any Code made under it must be reviewed regularly – possibly every 5 years. The Committee voted against that proposal by 13 votes to 0.

*Additional provision in relation to the sees of Canterbury and York*

348. Submissions were made on this point by the Archdeacon of Lewisham and Greenwich, Mrs Joanna Monckton and Mr Tom Sutcliffe. (The Archdeacon of Lewisham and Greenwich also made a submission on this issue but indicated to the Committee that she wished to withdraw it.)
349. Mrs Monckton argued that the Archbishop of Canterbury should always have to be male “*so that both male and female bishops are able to swear allegiance [sic] to him, and that the whole Anglican Communion can be in communion with him.*” Mr Sutcliffe proposed that the Archbishop of Canterbury should have to be a man, any other position being “*inconceivable, until the rest of the Anglican Communion has accepted the ordination and consecration of women*”.
350. The Committee noted that the position of the Archbishop of Canterbury had been considered at some length in the report of the working group chaired by the Bishop of Guildford (GS 1605). Amongst the possible ways of proceeding it considered was that apparently proposed by Mrs Monckton and Mr Sutcliffe, namely that the Measure should expressly provide that, uniquely, the see of Canterbury should be reserved to a man.
351. The Committee noted that the group’s conclusion on that point (expressed in paragraph 68 of GS 1605) was as follows:
- “There are strong arguments against [this option]. Enshrining such a stark limitation in legislation would cut across the general objective of ensuring that, subject to making adequate arrangements for those who cannot in conscience accept women bishops or priests, all posts should be open to men and women. If such arrangements were not possible if the Primate of All England were a woman, that would be a powerful argument for [this option]. But there are ways in which transferred episcopal arrangements could be made to work even if one or both Archbishops were women. It seems undesirable, therefore, to create by legislation what would be seen as a new, glass ceiling, requiring yet further legislation (with a two thirds majority in each House) if it were to be removed at some later date.”*
352. The Committee went on to note that those arguments, whilst advanced in the context of proposals for TEA, were considered by the Legislative Drafting Group to be equally relevant to the context of a Measure providing for episcopal functions to be undertaken by way of delegation. The group accordingly considered it inappropriate to make any special provision in the draft Measure for the see of Canterbury.
353. The Committee shared the view of the Guildford group and the Legislative Drafting Group and saw no need for special provision to be made. It therefore voted against

the proposal of Mrs Monckton by 13 votes to 2 and against the proposal of Mr Sutcliffe by 13 votes to 3.

*A requirement for a special majority for future amendments to the legislation*

354. The draft Measure annexed to the submission by the Revd Canon Simon Killwick, the Revd Dr Jonathan Baker and other members of the Catholic Group in the General Synod contained a provision reproducing s.11 Priests (Ordination of Women) Measure 1993 and the effect of s.12 Priests (Ordination of Women) (Financial Provisions) Measure 1993 ('the financial provisions Measure'), under which the repeal or amendment of the Measure or any Canon made under it would require a two-thirds majority in each House of the Synod.

355. However, Canon Killwick informed the Committee that he and his fellow members of the Catholic Group wished to withdraw their submission to that effect: the Measure made no provision for traditional catholics and accordingly a requirement for a special majority for future amendments to it would be of no assistance to those of that conviction.

*Financial provision for those unable to remain in the Church of England following the consecration of women to the episcopate*

356. The Revd Paul Benfield, the Revd Stephen Trott, Mr Ian O'Hara, Mrs Joanna Monckton and Mr Jim Cheeseman argued that the draft legislation should make financial provision for those who in conscience judged that they needed to leave the Church of England once it admitted women to the episcopate.

357. The 1993 Measure had only provided for the admission of women as priests and had also provided statutory arrangements, through Resolutions A and B, for those parishes who decided that they could not receive the ministry of women priests. Even so, the 1993 Measure had in addition included a barrier clause precluding the Archbishops bringing it into force "*unless a Measure ... making provision as to the relief of hardship incurred by persons resigning from ecclesiastical service by reason of opposition to the promulgation of a Canon under section 1 above has been enacted.*"

358. Admitting women to the episcopate was, it was argued, no less significant a development than admission to the priesthood. It was not logical to have provided financial provision in 1993 and not to do so now.

359. Moreover, it was argued, the arrangements now proposed, fell short of what many of those who opposed the admission of women to the episcopate needed. Members of the Catholic Group in the General Synod had consistently refrained from arguing for financial provision because their priority had been to secure adequate arrangements – whether by means of additional dioceses or a statutory society – so that they could stay within the Church of England. The Committee had rejected their proposals.

Indeed, it had gone further by removing from the draft Measure clauses 2 and 3, which had been an attempt to meet the need for sacramental assurance.

360. In discussion, the Committee noted that although the long title of the financial provisions Measure described it as being “... *to make provision as to the relief of hardship*” it had in fact created a series of entitlements, including resettlement grants, periodic payments, personal contributions and subsidy for housing. The Church Commissioners had been given the duty (and thus the power) to fund the arrangements, which were available to all who resigned over a ten year period from 1994 to 2004. The cost had been £27.5m, plus a further £2.4m call on the unfunded pension scheme.
361. Of the 441 clergy who had resigned, 232 had left in 1994 and 209 over the following ten years. It was clear that many of the clergy concerned had timed their departures to benefit from the more favourable terms that applied as soon as they reached their fiftieth or sixtieth birthdays. Of those who resigned, 11 subsequently returned. The legislation contained no repayment obligations.
362. The Committee also noted that the financial situation of the Church of England in general and the Church Commissioners in particular had changed significantly since the package of financial arrangements had been put together following a recommendation in 1986 from the then Standing Committee of the Synod, which had been composed roughly equally of supporters and opponents of women’s ordination to the priesthood. While this did not go to the issue of principle it did mean that what had happened before could not necessarily be seen as a template for what should happen now.
363. The Committee was advised that there was no legal obligation on the Church of England to provide compensation for those who decided to leave its ministry on grounds of conscience. Claims based on arguments about constructive dismissal or legitimate expectation would be unfounded. The question whether to make financial arrangements was therefore one of policy rather than law.
364. In discussion the Committee recognised that it would necessarily have to be for others to consider what the shape of any package of financial provision should be and how it should be financed. It did not itself have access to the expertise or authority to do so.
365. The issue that it had to resolve was, rather, whether it wished the draft Measure to be amended so that it could not be brought into force until a separate Measure was enacted making provision as to the relief of hardship for those who resigned from ecclesiastical service by reason of opposition to women becoming bishops.
366. On 4 March the Committee voted by 10 votes to 4 against amending the draft Measure to provide a ‘barrier clause’ of this kind. The majority of the Committee was not persuaded that financial provisions should be an integral and necessary part

of the overall legislative package. In their view the Church of England would already be going a considerable way by passing legislation that made provision by means of a statutory code of practice for those with conscientious difficulties.

367. It was a matter of great regret that some regarded this provision as insufficient. But it would be going too far to provide that the legislation could not come into force unless and until there had been a separate Measure providing for a package of financial arrangements for those who decided to leave the Church of England's ministry. What had been done legislatively in 1993 had been an exceptional departure from the normal principle that organisations do not have a responsibility for providing financial support for those who, for their own reasons, decide to leave them.
368. The Committee recognised, however, that there was an issue here that others would now need to consider further in the light of its decision. The legal and financial arguments are important but they are not the whole story. There are pastoral issues to be considered in relation to those who decide that they cannot remain in office within the Church of England. In some cases genuine issues of hardship may arise.
369. The Committee recommends, therefore, that the House of Bishops and the Archbishops' Council, together with the dioceses, should consider in good time before the legislation comes into force whether there are ways in which genuine need could be met.

### *The Equality Act 2010*

370. While the Committee was carrying out its work of revising the draft Measure, the Equality Bill was progressing through its various Parliamentary stages. Owing to the dissolution of Parliament and a general election being imminent it was not at all clear, until towards the end of the Committee's work, that the Bill would proceed through its stages in time to be enacted. In the event, the Bill received the Royal Assent on 8 April, the day that Parliament was prorogued.
371. At an early stage of its work the Committee had received advice on the effect of the Sex Discrimination Act 1975 and the bearing that the provisions of that Act had on the legislation – and the proposals for its amendment – that were before the Committee. The Committee was advised that, owing to the existence of an express exemption relating to ministers of religion contained in s.19 of the 1975 Act (as amended in 2005), none of the range of proposals that Committee was considering would be in conflict with current sex discrimination legislation. The Committee was also advised that staff were monitoring the progress of the Equality Bill – which includes provision relating to sex discrimination that will replace that contained in the 1975 Act – and would advise the Committee further in due course.
372. As a result of the Equality Bill completing its Parliamentary progress so close to the dissolution – and also right at the very end of the Committee's own work on the draft

Measure – the Committee has had very little time to determine what change might be needed to the drafting of the Measure to take account of the new Act. At its final meeting the Committee was advised that, while the Equality Act provided an exception of a broadly similar nature to that contained in the amended s.19 of the 1975 Act (Ministers of religion, etc.), the exception contained in the Equality Act (at Schedule 9, paragraph 2) was drafted in narrower terms as a result of the Government’s policy of producing a ‘harmonised’ list of exceptions for religious requirements relating to sex, marriage etc. and sexual orientation.

373. An unintended consequence of that was that, essentially, the Equality Act provides an exception only so that a person can be excluded from consideration for appointment to a public office *altogether* on the grounds of sex (under the Equality Act a bishop comes within the definition of a ‘public office’). Unlike the 1975 Act, the exception in the Equality Act does not extend to anything that might be discriminatory in relation to a person who has actually been appointed to a public office.
374. The Equality Act – unlike the Sex Discrimination Act 1975 – would not, for example, provide an exception that would allow a woman to be appointed a diocesan bishop but on the basis that, in relation to certain parishes, she would refrain from carrying out certain functions herself (because of her sex). Nor, for example, would the exception in the 2010 Act cover the position whereby a woman was appointed an ‘area’ bishop but on the basis that, because she was a woman, she would not exercise certain functions in relation to some parishes in the area because those functions were to be carried out by another suffragan bishop who was a man. Again, this represents a change from the current legal position as provided for by the 1975 Act.
375. Both the draft Measure as committed to the Committee and the Measure as revised by it involve precisely this type of arrangement. The Committee was accordingly advised that, in order to facilitate arrangements of that kind, additional legislative provision would need to be made to avoid any potential conflict with the material provisions of the Equality Act 2010. The Committee was further advised that the need for such a provision was not dependent on the precise form of the Measure. Any ‘mixed economy arrangements’ – even by virtue of a non-statutory Code of Practice made under the simplest possible legislation of the kind that some have advocated – would still fall foul of the Equality Act in the absence of some special legislative provision. This could potentially be both in relation to discrimination on grounds of sex and of religion or belief.
376. With that eventuality in mind, staff had been in contact with officials in the Government Equality Office who suggested that such legislative provision could be included in the Measure. They confirmed that they could not see any obstacle in the form of European law to the provision of an exception from the provisions of the Equality Act. They noted that *“it would be possible for any Measure to amend relevant provisions of discrimination law as necessary ... . We have no doubt that Parliament will consider very carefully, and with good will, any measure that the*

*Church of England as a whole ultimately feels it necessary to achieve this objective [ i.e. of making arrangements for those with theological difficulties over women as bishops]”.*

377. The Committee was advised that there would be a precedent for making such provision within the Measure as that is precisely what had been done in the 1993 Measure. Section 6 of the 1993 Measure provided an express exception from certain provisions of the Sex Discrimination Act 1975.
378. The Committee agreed in the light of advice from the Legal Office to insert a new, tightly drawn, clause which is now clause 7 of the revised draft Measure. The Committee concluded that it would be more helpful to the Synod to include a provision now, rather than seeking to add something from scratch at the Revision or Final Drafting stages. Given the limited time available since 8 April it may, however, be necessary to bring forward technical drafting amendments at a later stage following further discussions with the Government Equality Office.

## **B. DRAFT AMENDING CANON No. 30**

*The draft Amending Canon as introduced to the Synod*

379. Draft Amending Canon No. 30, in the form in which it was introduced into the Synod for First Consideration (GS 1709), made provision for the amendment of a number of existing provisions contained in the canons as well as for the insertion of some wholly new provision.
380. Paragraphs 1 to 3 contained provision amending Canon A 4 (Of the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons). Paragraphs 5 and 6 contained amendments to Canon C 1 (Of holy orders in the Church of England). Paragraph 7 amended Canon C 2 (Of the consecration of bishops). Paragraph 8 inserted a new Canon C 2A entitled “*Of the consecration of women as bishops*”. Paragraphs 9 and 10 made amendments, respectively, to Canons C8 (Of ministers exercising their ministry) and C 10 (Of admission and institution).
381. Paragraphs 11 to 16 and 20 to 31 made amendments to Canons C 14 (Of the Oaths of Obedience), D 2 (Of admission to the order of deaconesses), E 5 (Of the nomination and admission of readers), E 6 (Of the licensing of readers) and E8 (Of the admission and licensing of lay workers).
382. Paragraphs 17 to 19 contained amendments to Canon C 15 (Of the Declaration of Assent) which had no bearing on the consecration of women to the episcopate but which had been included in the draft Amending Canon on the basis that it provided a convenient vehicle for making minor corrections to the Canons. (The first amendment contained in Paragraph 16 was included for a similar purpose.)

383. Paragraph 32 made provision for the commencement of the provisions contained in the draft Amending Canon.

*Paragraphs 1 to 3: Amendment of Canon A 4*

384. At its meeting on 20 July 2009 the Committee considered members' written submissions on paragraphs 1 to 3 (see paragraph 86 to 90 above) and heard representations from a number of members of the Synod who had given notice that they intended to exercise their right to speak to their proposals in respect of those paragraphs.

385. The Committee returned to paragraphs 1 to 3 and the submissions made in relation to those paragraphs at its meeting on 8 October 2009. The Committee noted that the provisions contained in paragraphs 1 to 3 of the draft Amending Canon were the subject of substantial criticism both by those in favour and those against the admission of women to the episcopate. Some themes had emerged from the submissions that had been made as follows:

- There was no need to amend Canon A 4 at all.
- New paragraph 4 should be deleted because its effect would be to enshrine division in the formal documents of the Church which expressed its self-understanding and might cast doubt on the orders of the Church of England generally.
- For that and other reasons, it was undesirable to draw the distinction between 'lawful' ordination and 'true' ordination. Thus Canon A 4 should continue to describe orders as both 'lawfully' and 'truly' conferred.
- There was a lack of clarity as to just what is meant by the use of the word 'lawful' in this context.

386. The Committee was advised that the drafting of the amendments to Canon A 4 distinguished between (i) 'lawful' consecration/ordination and appointment to office (i.e. consecration/ordination and appointment to office according to the law of the Church of England) which all must account; and (ii) 'true' ordination which the Church of England accounts, while acknowledging that some of its members are, on grounds of conviction, unable to receive the ministry of female bishops/priests. New paragraphs 2 and 3 of Canon A 4 referred to the former and new paragraph 4 to the latter.

387. The Committee was further advised that Canon A 4 in its current form was solely concerned to resist criticisms (particularly historical criticisms) of the ordination rites contained in the Ordinal annexed to *the Book of Common Prayer* and did not make a general statement about the validity of the orders of those ordained in the Church of England or even about the validity of the orders of those ordained in accordance with

that Ordinal. Rather, it provides that no objection is to be taken to the orders of those ordained in accordance with that Ordinal simply by virtue of the fact that they are so ordained.

388. Secondly, Canon A 4 in its current form asserted a view for all purposes, which all – including other Churches as well as the clergy and laity of the Church of England – were expected to accept.
389. Thirdly, Canon A 4 in its current form did not draw the distinction drawn in the proposed new Canon A 4 between (a) ‘lawful’ consecration / ordination and appointment to office (i.e. consecration/ordination and appointment to office according to the law of the Church of England) and (b) ‘true’ ordination. Although the words ‘lawfully’ and ‘truly’ appeared separately in Canon A 4, in the light of the history of the Canon it was apparent that the latter followed from the former.
390. In the light of the submissions it had heard and the advice it received the Committee did not consider that amendment of Canon A 4 as provided for in paragraphs 1 to 3 of the draft Amending Canon was in fact required and further considered that it would be undesirable to amend it in that way.
391. The Committee then considered whether Canon A 4 should be amended in a much less substantial manner simply so as to extend it to post-1662 ordinals. The view was expressed that such an amendment was not required in order to admit women to the episcopate and that it was not, therefore, a matter with which the Committee was directly concerned. The Committee decided that it did not wish to make provision for the amendment of Canon A 4 in relation to post-1662 ordinals.
392. The Committee went on to consider whether it wished to make canonical provision outside Canon A 4 which addressed the relationship between what the Church of England as a whole said about (a) the orders and position in the Church of those – including women – who were ordained or consecrated and (b) the position of those who were, on grounds of theological conviction, unable to receive the episcopal and priestly ministry of women.
393. It was suggested, for example, that provision might be inserted into Canon C 1 (Of holy orders in the Church of England) which would make certain positive statements about the orders of all those who were ordained or consecrated in the Church of England and then make a further positive statement about the position of those who had a conscientious difficulty with receiving women’s priestly and episcopal ministry.
394. Views were expressed to the effect that there was no need to make such provision in the Canons, as was a concern that it would have the effect of enshrining within them ‘dissent’ from the view taken by the Church of England as a whole. The Committee decided that such provision should not be included in the Canons.

395. In the light of the decisions it had reached on the specific questions set out above, the Committee decided to leave out paragraphs 1 to 3 of the draft Amending Canon.

*Paragraphs 4-6, 11-16, 20-31: amendments to the canons to provide for a dual duty of obedience and dual oaths where ‘complementary bishops’ exercise functions*

396. Paragraphs 4 to 6 of the draft Amending Canon inserted new provisions into Canon C 1 to provide that clergy holding office in a place where episcopal functions were exercised by a ‘complementary bishop’ would owe canonical obedience to the complementary bishop in addition to the diocesan bishop. The other paragraphs identified above (11 to 16 and 20 to 31) were either consequential upon that amendment – in particular, providing for the taking of oaths of obedience to both the bishop of the diocese and the complementary bishop – or made equivalent provision in the case of deaconesses, readers and licensed lay workers.

397. By the time the Committee came to consider these paragraphs (on 22 January 2010) and the submissions made in relation to them it had decided to replace the provision contained in clause 4 of the draft Measure with provision for diocesan arrangements and parish requests (contained in new clauses 2 and 3 of the revised draft Measure). The revised draft Measure no longer made provision for bishops who were to be known as ‘complementary bishops’. The Committee therefore recognised that paragraphs 4-6, 11-16 and 20-31 of the draft Amending Canon could not remain as they stood.

398. The Committee had therefore to decide whether – in the light of the substantially different scheme of arrangements made in package of amendments proposed by the Archdeacon of Lewisham and Greenwich – it still considered that new provision should be made in the Canons for dual duties, and oaths, of canonical obedience.

399. The Committee considered the submissions that had been made to it in relation to the question of dual duties, and dual oaths, of obedience. The Committee noted that the list of those who had made submissions arguing against the imposition of dual duties, and oaths, of obedience suggested that both the proponents of, and those opposed to, the consecration of women to the episcopate considered such provision to be unsatisfactory.

400. Moreover, the Committee recognised that such provision was no longer suitable in the context of the amendments that it had made to the draft Measure given that it now left most of the initiative in the making of arrangements for those with conscientious difficulties in the hands of the diocesan bishop. Any such arrangements were to be made by way of the diocesan’s ordinary powers of delegation (contained in section 13 of the Dioceses, Pastoral and Mission Measure 2007), rather than under the special provisions for delegation that had been included in the draft Measure in its original form, and there was no longer any class of bishops who would function as ‘complementary bishops’.

401. Subject to the dissension of one member, there was a consensus in the Committee that the concept of dual duties, and dual oaths of obedience, should be dropped given the form of provision now made by the amended draft Measure. The Committee accordingly decided by 13 votes to 1 to amend the draft Amending Canon so as to leave out paragraphs 4-6, 11-16<sup>9</sup> and 20-31 (i.e. the paragraphs which provided for duties of obedience to be owed, and oaths of obedience to be taken, to a bishop other than the diocesan).
402. In view of earlier decisions taken by the Committee, the Revd Canon Simon Killwick withdrew an amendment he had proposed which would have provided for duties to be owed, and oaths to be taken, to the complementary bishop instead of (rather than in addition to) the diocesan bishop.
403. The Committee considered a proposal from the Revd Paul Benfield that the requirement for the taking of oaths should be removed altogether on the basis that the *duty* of canonical obedience arose automatically as a matter of law and was not dependent upon the taking of any oath. The taking of an oath, by contrast, was a positive acknowledgement of authority which a priest who on conscientious grounds was unable to accept the episcopal ministry of a woman would not in good conscience be able to make. Mr Benfield's submission was rejected by the Committee by 14 votes to 0.
404. The Committee went on to consider two submissions from Mr Mike Burbeck. The first related to the title of the draft Amending Canon and proposed the replacement of the words "*Of the consecration of bishops, Of the consecration of women as bishops*" contained in the title with the words "*Of the consecration of bishops*" or "*Of the consecration of men as bishops, Of the consecration of women as bishops*".
405. Mr Burbeck's submission explained that he wished "*to delete the implied distinction between bishops and women bishops*". Standing Counsel explained that the title of the draft Amending Canon was simply in the usual form (simply listing the titles of all the Canons that were either amended or inserted by the draft Amending Canon) and that it ought not, therefore, to be altered. The Committee voted to reject Mr Burbeck's amendment by 14 votes to 0.
406. Mr Burbeck had further proposed that paragraph 8 of the draft Amending Canon should be left out. The reason he gave was, again, "*to delete the implied distinction between bishops and women bishops*". The Committee was advised that it was the new Canon C 2 A (that would be inserted into the Canons by paragraph 8) that would make it lawful for women to be consecrated to the episcopate. If – as Mr Burbeck proposed – paragraph 8 were to be left out then it would remain unlawful for a woman to be consecrated. The Committee voted to reject Mr Burbeck's amendment by 13 votes to 1.

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<sup>9</sup> Save for the new paragraph 5 inserted into Canon C 14 by paragraph 16 of the draft Amending Canon. See further below.

407. The Committee considered an amendment from the Revd Paul Benfield to insert provision that would amend Canon C 1.1 so that it read “... *and no man or woman shall be accounted or taken to be a lawful bishop, priest, or deacon in the Church of England, or suffered to execute any of the said offices, except he be called, tried, examined, and admitted thereunto according to the Ordinal ...*”.
408. The Committee was advised that if that amendment were accepted it would suggest that other amendments were required both to Canon C 1 and elsewhere throughout the canons so as to employ gender-neutral drafting. It was suggested that embarking on such a task would not be the best use of the time available to the Committee, given that such amendment was not necessary to give effect to the provisions in the Measure that would allow women to be consecrated. The Committee voted to reject Mr Benfield’s amendment by 13 votes to 0.
409. Mr Benfield further proposed that the draft Amending Canon should be amended so that, rather than simply omitting from Canon C 8.2 references to Resolution A having been passed under the 1993 Measure, paragraph 9 of the draft Amending Canon should instead substitute new provision that reflected the provision made by the draft Measure. The Committee noted, however, that the draft Measure did not make provision equivalent to that made by Resolution A and voted to reject Mr Benfield’s proposal by 13 votes to 0.
410. Mr Benfield further proposed – in relation to paragraph 10 of the draft Amending Canon – that rather than simply being omitted, Canon C 10.2A should be replaced with a cross-reference to provision made under the draft Measure. (Canon C 10 is concerned with the admission and institution of incumbents to benefices. Paragraph 2A currently reflects the position that where a parish has passed Resolution A or B under the 1993 Measure, a woman priest cannot be admitted or instituted as incumbent of the benefice containing that parish.) The Committee considered that such a cross-reference was not necessary and voted against Mr Benfield’s proposal by 12 votes to 0.
411. At its meeting on 4 March 2010 the Committee considered a proposal from Mr Clive Scowen to the effect that such provision as was to be made for those who were unable to accept the priestly and episcopal ministry of women “*should be securely enshrined in law and not merely contained in a Code of Practice.*” He went on to propose that, if it was not considered satisfactory to include such provision in a Measure, it should be included in the Canons.
412. Mr Scowen spoke to his proposal. He drew attention to what he saw as the shortcomings of provision by way of a Code of Practice and warned that litigation over compliance with the duty to have regard to the Code would undermine the credibility of the Church. Mr Scowen submitted that the most important aspects of the provision that was to be made by way of the Code should be enshrined in the Canons – most probably in a new ‘C’ Canon. In Mr Scowen’s view, the advantage of that approach would be that compliance with those aspects of the provision that were

contained in the Canons would be enforceable in the ecclesiastical courts, and not only by judicial review. More importantly, provision for those opposed would have the force of law.

413. The Committee noted that it had previously considered and rejected proposals from Mr Hargreaves-Smith and the Revd Paul Benfield that involved embodying the contents of the Code of Practice in a schedule to, or in Regulations made under, the Measure. (See paragraphs 259 to 262 above.) In rejecting those proposals the Committee recognised that if it had accepted them it would have needed to agree the detailed contents of the Code of Practice, which did not seem possible in the time available to it.

414. Furthermore, amendments could not easily be made to a schedule to the Measure if any practical difficulties arose once the Measure came into force. The same arguments were applicable to Mr Scowen's submission: in particular, in order to amend the Canon, an Amending Canon would be required which would need to follow the usual, full Synodical process. The Committee voted to reject Mr Scowen's proposal by 10 votes to 3.

*Paragraph 16: amendment of Canon C 14.5*

415. A submission from the Revd Paul Benfield raised a number of questions about the substitute paragraph 5 that would be inserted into Canon C 14 by paragraph 16 of the draft Amending Canon.

416. As Canon C 14.5 currently stands it requires *“Every bishop, priest or deacon” who is appointed to a new post to “reaffirm the Oath of Canonical Obedience ... taken at his ordination or consecration ...”*. There is a problem with that provision as it currently stands because, unlike priests and deacons, bishops do not owe, or take an oath of, canonical obedience. Bishops take an oath of ‘due obedience’ to the Archbishop and metropolitanical church of the province where they are to exercise episcopal office (Canon C 14.1).

417. ‘Due obedience’ is undefined but it is considered to represent a lesser duty than that of ‘canonical obedience’. In any event, it is undoubtedly different from ‘canonical obedience’. The new paragraph 5 inserted into Canon C 14 by paragraph 16 of the draft Amending Canon sought to address that issue. It was not connected with making provision for the consecration of women to the episcopate.

418. Having considered the points made by Mr Benfield the legal staff advised the Committee that further consideration ought to be given to Canon C 14.5 and that that would be better achieved in the context of a future Amending Canon rather than the present one – which was essentially concerned with making provision for the consecration of women to the episcopate and related matters. It was therefore suggested that the Committee should simply leave out the amendment to paragraph 5 contained in paragraph 16 of the draft Amending Canon. The Committee agreed that

the remainder of paragraph 16 (not already left out by its decision of 22 January) should be left out.

*Paragraphs 17 to 19*

419. The Committee noted that no submissions had been received in respect of paragraphs 17 to 19 of the draft Amending Canon and it made no amendments to those paragraphs. (Those paragraphs are now paragraphs 5 to 7 of the revised draft Amending Canon.)

*Paragraph 32*

420. The Committee noted that paragraph 32(b), which provided for the coming into force of paragraphs 9 and 10 of the draft Amending Canon, required amendment in the light of its decision, in relation to the draft Measure, to give transitional effect to resolutions passed under the 1993 Measure. The Committee agreed to amend the draft Amending Canon to make transitional provision in relation to paragraphs 9 and 10 consistent with the transitional provision for resolutions under the 1993 Measure made in the draft Measure. (This is now contained in paragraph 8 of the revised draft Amending Canon.)

#### **PART 4: SIGNPOSTS FOR WHAT LIES AHEAD**

421. We have necessarily had to set out at some length the record of our journey. What comes next? We have been conscious all along that, important though our task has been, it is but one part of a much longer process. We have built on the work of earlier groups and it will now be for others to take decisions in the succeeding stages of the legislative process.

##### *The legislative process*

422. First, if the Synod is content to take note of this report, comes the Revision Stage. That is the one moment in the whole process when it is open to members to propose amendments in full Synod. Each amendment is debated if the Steering Committee indicates that it supports it or, if the Steering Committee does not support it, provided 40 members stand to indicate that they wish the amendment to be debated.

423. Those who dislike elements of the draft Measure in the form in which it will now be before the Synod will have their opportunity at the Revision Stage, in the usual way, to propose further amendments for the full Synod to debate and determine. Arguments put to us and not accepted can be run again in full Synod for decision by 470 people rather than 19.

424. If the Synod makes significant amendments at that stage it may conclude that the legislation should be considered again in Revision Committee so that consequential changes can be made and the drafting attended to further. Otherwise, the way is clear after Revision Stage for the revised draft Measure and revised draft Amending Canon to be referred to dioceses under Article 8. The legislation cannot proceed further without the approval of the majority of diocesan synods (who may, if they wish, consult deanery synods).

425. If the requisite approvals are given, the General Synod then proceeds to the Final Drafting Stage, and Article 7 references may be claimed by the House of Laity and the Convocations. The legislation can then only be brought to the Synod for Final Approval in a form agreed by the House of Bishops. Final approval requires a two-thirds majority of those present and voting in each of the three Houses.

426. If the Measure receives Final Approval it has to go to Parliament for approval by both Houses before it can be presented for the Royal Assent. The Archbishops would then need to bring the relevant provisions of the Measure into force so that the Amending Canon could be promulgated and the House of Bishops bring to the Synod a Code of Practice for approval. It is only after the Code had been made that the way would be clear for the Archbishops to bring into force the remaining provisions of the Measure, thereby enabling women to become bishops.

### *The Code of Practice*

427. The Legislative Drafting Group prepared an illustrative draft of the statutory Code of Practice under the Measure ('the illustrative draft Code of Practice') (GS 1710). Unlike the draft Measure and the draft Amending Canon the illustrative draft Code of Practice cannot be the subject of formal legislative scrutiny and we have not in the time available attempted to produce a fresh version.
428. We did, however, receive a number of comments on the illustrative draft Code of Practice in submissions from Synod members. We summarise these below and also list those matters which, in our view, will need to be reflected in the Code in the light of the revised shape that we have given to the legislation.
429. While it would, in principle, be possible for work on the Code to go into abeyance now until the legislative process is at an end we believe that that would be a mistake. **The majority of us, therefore, strongly recommend that the House of Bishops agrees now to establish a working group to develop a fresh draft of the Code in the light of this report and the changes we have made to the draft legislation.** A decision in May by the House would enable the group to start its work this autumn, assuming the Revision Stage has been completed in July.
430. **The majority of us also believe that it will be important for the group to consist not only of members of the House but also of others who can bring different insights to bear. We would in particular recommend that it draws on the expertise available from within this Committee. We also recommend that the group should include women and men.**
431. Part A of Appendix 6 summarises the main points made in members' submissions on the illustrative draft Code of Practice.
432. Part B of Appendix 6 sets out the Committee's views on the content of the Code of Practice to be made under the Measure.

### *Some final reflections*

433. **The first thing we would wish to underline is that we have not found our task at all easy.** This is not, we suspect, because of our own failings, real though they be, but because the issues that we have had to wrestle with are genuinely difficult and we have exhaustively explored all the possible solutions that have been put to us as well as coming up with further ideas of our own.
434. While there are some who, from a variety of viewpoints, see the choices in clear and simple terms, there are many others who, though they may share the same underlying convictions, struggle to discern the right way forward. The *status quo*, with women able to minister as priests but not as bishops, no longer accords with the

wish of the majority of the Synod. But the journey to a new destination remains contested and challenging.

435. We are aware that the various decisions that we have taken have been the subject of criticism. Some have suggested that at times we have lost our way. Others have been critical of the overall management of the exercise. These criticisms are, in our view, wide of the mark. This process has been difficult because important issues are at stake on which deeply felt and divergent views are held.
436. For some, the ordination of women to the episcopate is a theological imperative and must be secured in a way that neither changes the Church of England's understanding of the episcopate nor puts any limitation on the episcopal ministry of women that do not apply similarly to men.
437. For others the episcopal ministry of women is deeply problematic for a variety of theological reasons to which those from a traditional catholic position and those from within conservative evangelicalism would give differing emphases.
438. For yet others there is great perplexity over how best to secure the ordination of women as bishops – which they support – while at the same time going as far as possible, even beyond the limits of what would normally be acceptable, in order to put in place arrangements that have a good chance of holding as many people as possible within the Church of England.
439. In the course of our work people from a wide variety of viewpoints have been willing to work together and explore provisions that are not their own. The fact that the proposals that we are putting back to the Synod differ in a number of material respects from what emerged from the Legislative Drafting Group reflects the fact that we have worked hard together and listened to all that has been said to us.
440. The fact remains, however, that we have not been able to come up with a set of proposals that everyone now says that they can live with. Indeed, a number of members of the Committee have made it clear that they, like others, will seriously have to consider whether they can continue to hold office within the Church of England, or continue as members of it, if legislation of this kind comes into force.
441. The judgement over how far the Church of England can stretch by way of special arrangements without compromising basic principles is an extremely important and difficult one – one which the Synod and the House of Bishops will have to ponder further as this report, the draft legislation and in due course a Code of Practice are considered at the succeeding stages of the process.
442. We say this not to express doubt about our proposals. The conclusions that we have reached reflect what the majority of us believe to be both principled and pragmatic. We have come to them only after considering at great length possible alternatives – whether for simpler legislation (as a number of those who made

submissions to us would prefer) or more extensive provision, with the creation of limited ordinary jurisdictions (as others still favour). The majority of us were unable to endorse them.

443. Clearly a significant minority of the Committee has not been able to support key features of the final outcome. Nevertheless those in that minority have consistently and substantially contributed to our discussions throughout.
444. **Secondly, we have endeavoured to produce arrangements which strike a reasonable balance between a clear national framework and a sensible measure of local discretion.** We have consciously changed the balance somewhat from what was in the original draft.
445. Some of the criticisms of the draft Measure in its original form were that leaving everything to a statutory Code of Practice to which bishops would have to have regard provided insufficient assurance of consistency across the country. So, it might be thought that adding a new requirement on each diocesan bishop to draw up a diocesan scheme, after consulting the diocesan synod, would be a recipe for even greater local variation than before. The majority of us believe, however, that that is too simple an analysis.
446. The requirement for diocesan schemes does indeed reflect the fact that situations vary enormously as between dioceses, as we have frequently been reminded in contributions from Committee members. It is perfectly sensible that specific arrangements are devised in each place. Nevertheless, the majority of us see the new statutory duty as a welcome strengthening of what was there before.
447. A bishop who did not draw up a scheme would be in breach of a statutory duty. Moreover in making the scheme, as well as in his or her subsequent actions, the bishop will have to have regard to the national Code of Practice.
448. Much, therefore, turns on what the Code of Practice says and the extent to which bishops, collectively, are prepared to commit themselves to a broadly consistent approach across the country, once all allowance has been made for local variations.
449. **Thirdly, we need to report the view put to us in the latter stages of our work that we have come up with a solution that may possibly work for some, though by no means all, conservative evangelicals but will simply not do for traditional catholics.** While the issue of jurisdiction as against delegation is important for both, there is also for traditional catholics the further issue of sacramental assurance. (See paragraphs 179 to 189 above.) It is argued that the revised draft Measure fails to safeguard that.
450. This argument flows from the fact that, for those conservative evangelicals for whom headship arguments are significant, the crucial requirement is to have episcopal oversight from a man. By contrast, by virtue of their theology and

ecclesiology, for traditional catholics the requirement is that the bishop (and indeed the priest) must not only be a man but a man who has himself been ordained by a man.

451. Indeed, some traditional catholics would go further and say that it must be a man who has been ordained by a man who does not ordain women. This, it is argued, is not because of any theology of ‘taint’ but because, by being part of an episcopal or presbyteral college with women, a bishop is necessarily in impaired communion with those of traditional catholic convictions.
452. We have wrestled hard with this issue given its manifest importance to a valued part of our Church. We take seriously the words of the 1998 Lambeth Conference resolution that both those who support and those who cannot accept the priestly and episcopal ministry of women are ‘loyal Anglicans.’
453. Legislation to institutionalise arrangements which would involve treating ordained ministers of the Church of England differently according to their ordination pedigree or to whether they took part in ordaining women to the priesthood or episcopate would be objectionable for the majority of the Committee’s membership. In consequence clauses 2 and 3 of the draft Measure, relating to declarations and special suffragan sees, are no longer part of the revised draft Measure.
454. This does, however, leave open the question of what diocesan bishops should in practice do if a traditional catholic parish issues a Letter of Request for another bishop to exercise oversight and, in the subsequent discussions, makes it clear that it is looking for oversight not simply from a man but from a man ordained by another man.
455. If, for example, traditional catholics decide to form a voluntary society in which episcopal and priestly membership is confined to men who have been ordained by men – or indeed by men who do not ordain women – could parishes expect that the diocesan bishop would meet their declared need for those ministering to them as priests and bishops, albeit by way of delegated authority from the diocesan bishop, to be members of the society?
456. This is not something that we have thought it right either to encourage or preclude in the legislation. There would be differing views among us as to how we would wish a diocesan bishop to act in this situation and what if anything the Code of Practice should say on the subject.
457. What is, however, clear to us is that if the legislation that emerges from the Revision Stage is still based on delegation from the diocesan bishop the issue of sacramental assurance is still one on which the Synod will expect to hear more from the House of Bishops before the legislation comes for Final Approval. Would the House think it right for there to be a diversity of approach across dioceses – perhaps depending on the views of individual diocesan bishops – where parishes ask for a

priest or bishop who can meet their need for sacramental assurance? Or would the House see this as a matter on which a consistent approach was indicated?

**458. Finally, we need to record the clear conviction of the majority of us that the revised draft legislation that is now before the Synod provides a way forward that deserves to command a wide measure of support.**

459. It will, for the first time, enable women to be admitted to all orders of ministry. By preserving intact the authority of the diocesan bishop it will avoid any changes in the historic understanding of that office and of the episcopate more generally. And by making statutory arrangements for those with theological difficulties it will endeavour to preserve that broad and comprehensive character of the Church of England that is one of its defining and most attractive features.

460. There will be those, including a number of us in the Committee, who would instinctively have wanted much simpler legislation. And some in the Church of England remain uncomfortable about arrangements which are other than explicitly transitional. For those who believe that what the majority of us have proposed falls well short of what they need, it may be of little encouragement to be reminded that, in their scope and open-endedness, the arrangements in the revised draft Measure go a long way beyond what many would have preferred. The majority of the Committee believes that they reflect a genuine attempt to respect convictions and consciences while respecting fundamental principles.

461. Legislation is important. Indeed, if women are soon to become bishops, as the majority of us earnestly hope that they will, it is essential. But Measures, Canons and Codes of Practice can achieve only so much. They provide the structure, the boundary posts, within which relationships need to be nurtured.

462. It is our prayer that, as the Synod considers this report, it will reflect carefully and creatively over what arrangements will be most conducive to the sustaining and nurturing of those relationships which are needed to strengthen the Church of England to fulfil its particular calling within the greater Body of Christ and to foster the outworking of the Kingdom of God amidst our contemporary society.

*“ ... lead a life worthy of the calling to which you have been called, with all humility and gentleness, with patience, bearing with one another in love, making every effort to maintain the unity of the Spirit in the bond of peace. There is one body and one Spirit, just as you were called to the one hope of your calling, one Lord, one faith, one baptism, one God and Father of all, who is above all and through all and in all.” (Ephesians 4.1-6.)*

**On behalf of the Committee  
The Venerable Clive Mansell (Chair)**

**30 April 2010**

## APPENDIX 1

### Proposals for amendment and submissions

#### **Part A: Synod members who made proposals for amendment or submissions in time**

- \* Attended a meeting, or meetings, of the Committee and spoke to their proposals for amendment or arranged for another member to speak on their behalf in accordance with Standing Order 53(b).

<i>Name</i>	<i>Constituency</i>	<i>Synod No.</i>
* Most Revd Dr John Sentamu	Archbishop of York	2
* Rt Revd Dr Richard Chartres	Bishop of London	3
Rt Revd Michael Scott-Joynt	Bishop of Winchester	5
Rt Revd Nicholas Reade	Bishop of Blackburn	8
Rt Revd Dr Peter Forster	Bishop of Chester	13
Rt Revd Dr Christopher Cocksworth	Bishop of Coventry	15
Rt Revd Dr Geoffrey Rowell	Bishop of Gibraltar in Europe	18
* Rt Revd Christopher Hill	Bishop of Guildford	21
Rt Revd Graham James	Bishop of Norwich	29
Rt Revd John Pritchard	Bishop of Oxford	30
Rt Revd John Packer	Bishop of Ripon & Leeds	33
Rt Revd Dr David Stancliffe	Bishop of Salisbury	37
* Rt Revd Dr Tom Butler	Bishop of Southwark	40
Rt Revd Dr John Inge	Bishop of Worcester	44
* Rt Revd Pete Broadbent	Southern Suffragans	49
* Rt Revd John Goddard	Northern Suffragans	53
Very Revd Colin Slee	Deans	55
* Revd Paul Benfield	Blackburn	72
Revd Dr John Hartley	Bradford	76
Revd Canon Colin Randall	Carlisle	87
Ven Annette Cooper	Chelmsford	88
Revd John Dunnett	Chelmsford	89
Revd Brian Lewis	Chelmsford	90
Ven Donald Allister	Chester	94
* Revd Dr Rob Munro	Chester	97
* Revd Canon Dr Alan Hargrave	Ely	116
Revd Rhiannon Jones	Ely	117
* Revd Rod Thomas	Exeter	122
* Revd Canon Celia Thomson	Gloucester	127
Revd Canon Robert Cotton	Guildford	129
* Revd Prebendary Brian Chave	Hereford	134
Revd Maureen Hobbs	Lichfield	141
Revd Prebendary Philippa Boardman	London	151

<i>Name</i>	<i>Constituency</i>	<i>Synod No.</i>
* Revd Prebendary David Houlding	London	157
Revd Rose Hudson-Wilkin	London	158
* Revd Canon Martin Warner	London	159
* Revd Canon Simon Killwick	Manchester	165
Revd Dr Dagmar Winter	Newcastle	170
* Revd Dr Jonathan Baker	Oxford	176
* Revd Canon Sue Booy	Oxford	178
* Revd Hugh Lee	Oxford	181
Revd Canon Chris Sugden	Oxford	183
* Ven Christine Allsopp	Peterborough	184
* Revd Stephen Trott	Peterborough	186
Revd Canon Kathryn Fitzsimons	Ripon & Leeds	191
Revd Mark Sowerby	Ripon & Leeds	192
* Revd Angus MacLeay	Rochester	194
Revd Peter Ackroyd	St Albans	197
* Revd Maureen Allchin	Salisbury	206
Revd Canon Mark Bonney	Salisbury	207
* Ven Christine Hardman	Southwark	219
Revd Canon Andrew Nunn	Southwark	220
Revd Canon Clive Hawkins	Winchester	236
Very Revd Paul Mellor	Channel Islands	237
Ven Richard Seed	York	244
Mr Joseph Brookfield	Blackburn	260
Mr Gerald Burrows	Blackburn	261
* Professor Helen Leathard	Blackburn	264
* Ms Jacqueline Humphreys	Bristol	271
Canon Dr Susan Atkin	Chelmsford	279
Mr David Morgan	Chelmsford	283
Professor Anthony Berry	Chester	286
Mr David Blackmore	Chester	287
* Dr Graham Campbell	Chester	288
Mr John Freeman	Chester	290
Mr Ian O'Hara	Coventry	303
Mrs Christine McMullen	Derby	306
* Mrs Shirley-Ann Williams	Exeter	321
Canon Nigel Chetwood	Gloucester	322
Mr Graham Smith	Gloucester	324
Ms Helen Morgan	Guildford	328
Mr John Freeman	Leicester	333
Mr John Clark	Lichfield	336
Mrs Wendy Kinson	Lichfield	337
* Mrs Joanna Monckton	Lichfield	338
* Ms Susan Cooper	London	351
* Mrs Sarah Finch	London	352

<i>Name</i>	<i>Constituency</i>	<i>Synod No.</i>
Mrs Mary Johnston	London	355
Mrs Elnora Mann	London	356
Mrs Alison Ruoff	London	357
* Mr Clive Scowen	London	358
Mrs Christine Sandiford	Manchester	360
* Dr Anna Thomas-Betts	Oxford	379
Mr Andrew Presland	Peterborough	381
Mrs Anne Toms	Peterborough	382
Mrs Debbie Sutton	Portsmouth	385
Mr Nigel Greenwood	Ripon & Leeds	387
Mrs Ruth Whitworth	Ripon & Leeds	388
* Mr Jim Cheeseman	Rochester	389
Mr Gerry O'Brien	Rochester	391
* Brigadier Ian Dobbie	Rochester	392
* Mrs Margaret Condict	St Edmundsbury & Ipswich	400
Canon Peter Smith	St Edmundsbury & Ipswich	401
Mr Michael Burbeck	Salisbury	403
Mr Paul Boyd-Lee	Salisbury	404
Mr Robert Key	Salisbury	407
* Mrs April Alexander	Southwark	413
Mr Tom Sutcliffe	Southwark	419
Mr Terence Musson	Truro	423
* Mr John Davies	Winchester	430
* Dr Brian Walker	Winchester	434
Revd Professor Marilyn McCord Adams	Universities	446
* Revd Dr Miranda Threlfall-Holmes	Universities	450
Brother Desmond Alban SSF	Religious Communities	453
* Revd Thomas Seville CR	Religious Communities	455

**Part B: In-time submissions from groups of members**

* Rt Revd Pete Broadbent, Dr Philip Giddings, Ven Julian Henderson	Members of CEEC	49, 375, 130
* Revd Dr Jonathan Baker, Revd Paul Benfield, Revd Prebendary David Houlding, Revd Canon Simon Killwick	Catholic Group	176, 72, 157, 165

**Part C: Out-of-time submissions from members**

* Mr Aiden Hargreaves-Smith	London	354
Rt Worshipful Timothy Briden	<i>Ex officio</i>	457

**Part D: Submissions from groups consisting of both Synod members and non-members**

* DARC (Women Deans, Archdeacons and Residentiary Canons)	From Revd Canon Celia Thomson (127) and others
* NADAWM (Diocesan and Area Advisers in Women's Ministry)	from Revd Canon Sue Booy (178), Revd Canon Cynthia Dowdle (148), Revd Maureen Hobbs (141), Revd Canon Anne Stevens (222), Revd Canon Ruth Worsley (226) and others
* Ordinands from Ridley Hall and Westcott House, Cambridge	from Ms Kathryn Campion-Spall (418)
Worshippers at Pusey House, Oxford	from Miss Emma Forward (319)
* WATCH National Executive Committee	from Mrs Christina Rees (397), Revd Charles Read and Revd Sarah Lamming

**Part E: Submissions from non-Synod members and bodies**

Revd Will Adam	
Affirming Catholicism	
Janet Aidin	
Anglican Association	from Anthony Kilmister (President)
Anonymous (a parishioner of Scilly)	
Dr W.W. Apedaile	
Revd Nikki Arthy	
Revd Lionel Atherton	
Attorney General of the Isle of Man	from W. Howard Connell
Revd Sue Ayling	
Mr Richard Baker	
Revd David Banting	
Revd Donald Barnes & Mrs Sally Barnes	
Revd G.J. Barrett	
Revd Robert Bashford	
Ven Caroline Baston	
Dr Leslie Bather	
Revd Dr Roger T. Beckwith	
Revd Mark Bennet	
Revd Lesley Bentley	
Revd Sister Sue Berry CSF	
Janette Bickwith	
Mrs Elaine Bishop	
Revd Canon Ian Black	
Lt-Col. G.P. Blaker	
J.B. Bracewell-Milnes	

Mrs Katherine M. Brettell	
Revd Canon Gordon Bridger & Mrs Elizabeth Bridger	
Revd Bernice Broggio	
Mrs Daphne Brotherton	
Revd Canon Rosalind Brown	
Revd R.L. Brown	
Stephanie Bullock	
Tim Bunting	
Rt Revd Andrew Burnham	
Revd Canon Edward Bryant	
John Capel	
Margaret Capel	
Revd Canon Derek Carpenter	
Martin Carr	
Revd Timothy van Carrapiett SSC	
Mrs E.A. Clarke	
Mrs Janet Clarke	
Elsbeth Chowdharay-Best	
Church Society Council	from Revd David Phillips (Secretary)
Church Society Trust	from Revd David Phillips (Secretary)
Revd A.A. Collins	
Mrs J.M. Cooper	
Sir Patrick Cormack MP	
Hilary Cotton	
Ann Cryer MP	
Mike Dark	
Revd Margaret Davis	
Deanery Synod of Battle and Bexhill	from Arthur Gillmann (Secretary)
Revd Joe Dent	
Mrs Doris de Pear	
Lord Dholakia of Waltham Brooks	
Revd Phyllis Eaton	
Alan & Margaret Edwards	
Mr Nicholas Elphinstone	
English Clergy Association	from Revd John Masding
Revd Allison Fenton	
Valerie Ferguson	
Mrs A. Fielden	
Shelagh M. Fitzarthur	
Revd Jonathan Fletcher	
Anne Foreman	
Mary Foster	
Norman & Beryl Fridd	
Revd Adam Gaunt	

A.E. Gibb	
Mrs A.E. Gobey	
Revd Lesley Goldsmith	
Ven Karen Gorham	
Mrs Hazel M. Gowland	
Paul Griffin	
Revd Canon Martyn Griffiths	
Revd Canon Terence Grigg	
Revd Philip H. Hacking	
Mrs Anne Hadow	
Revd Canon Christopher Hall	
Joyce M. Hall	
Mrs Gerda Hall	
Revd Sue Hammersley	
Revd David A.G. Hampton-Davies	
Mrs Faith Hanson	
Revd Canon J.N.K. Harris	
Mrs Pauline Hartman	
Rt Revd David Hawtin	
Revd Anne Hoad	
Revd Canon David Hodgson	
Michael Hordern and another	
Miss Penelope J. Howell	
Lillalou Hughes	
N.J. Inkley	
Mr Geoffrey Ireland	
Mr Alan James	
Revd Colin James	
Revd Jonathan Jennings	
Stephen H. Johnston	
Mike Keulemans	
Mrs Patricia King	
Caroline Kitcatt	
Margaret Laird	
Mrs Muriel H. Landon	
Jo Lawrence	
Revd Anne Le Bas	
Rosalind Lund	
Revd Canon John Lungley	
Miss Anne Lywood	
Ian Macpherson	
Geoff Madeley	
Canon T.L.F and Mrs A.P. Mander	
Mrs Ruth Marsden	
Mary Marston	

Revd Charles May	
Revd Jean M. Mayland	
Ruth McCurry	
Revd A.H. and Judith Mead	
Mrs Hilary Megone	
Revd Barbara Messham	
John Mitchell	
Mrs Muriel A. Mitchell	
Revd Richard Mitchell	
Rachel Moriarty	
Revd His Honour Judge Morrell	
David Morton	
Revd Jennifer Morton	
Margaret Newman	
Miss Priscilla A. Newman	
Rt Revd Keith Newton	
Revd Philip O'Reilly	
Very Revd June Osborne	
Lady Angela Oswald	
Revd Harry Owen	
Parish of Chadwell St Mary	from Revd Nic Deane and others
Parish of St Michael & All Angels, Brighton	from Revd Robert Fayers and others
Revd G. Michael Pearson	
Revd Diana E. Penny	
Baroness Perry of Southwark	
O.T. Phillipson	
Mrs Pauline Pinnington	
Revd John Pitchford	
Revd Caroline Plant	
Revd John E. Potter	
Revd David Prescott	
Mrs Janet M. Reeve	
Tony Robbins	
Revd Judith Roberts	
Mr R.D.I. Robertshaw	
Mrs Barbara Rowe	
Professor Christopher Rowland	
K.S. Sharpe	
Revd Audrey Shilling	
J.C. Siddons	
Mrs Marion Simpson	
Julian J. Smith	
Revd Mike Smith	
Revd Lindsay Southern	

Nigel Speller	
Jenny Standage	
Mr A.B. Stevens	
Trevor Stevenson	
David Stimpson	
Revd Canon Rachel Stowe	
John Symons	
Revd Dr Sister Teresa	
Third Province Movement	from Margaret Brown (Chairman)
Dr & Mrs Alan Thurlow	
Revd Jennifer Tomlinson	
Revd Dr H.J.M. Turner	
Miss Trueman	
M. Wairing	
Revd Mike Warren	
Revd Canon Diane Webster	
Revd Rachel Weir	
Revd Barrie Williams	
Brian R. Wilson	
Sir Nicholas Winterton MP	
Dr M.J. World	
Revd Dr G.M. Yould	
Donald Young	
Revd Jonathan Young	

**APPENDIX 2**

**Summary of proposals and submissions received which raised points of substance  
and of the Committee’s consideration thereof**

**Part 1**                      **Draft Bishops and Priests (Consecration and Ordination of  
Women) Measure**

<b>Clause of the draft Measure (GS 1708)</b>	<b>Summary of submission</b>	<b>Submitted by</b>	<b>Committee’s decision</b>
	Replace bishops with a “college of oversight” in each diocese.	Revd Dr John Hartley	Out of order.
	Vest episcopal authority in the House of Bishops as a corporate body.	Mr John Freeman	Ditto.
Long title	No substantive amendments proposed.		
1	Leave out.	Brigadier Ian Dobbie	Not accepted.
1(1) and (2)	Delete the word “otherwise”.	Revd Dr Dagmar Winter	Not accepted.
	Leave out.	Revd Paul Benfield Revd Dr Rob Munro Revd Dr Jonathan Baker Mr Jim Cheeseman Mr J G Campbell	Not accepted.
1(3)	Leave out.	Revd Paul Benfield Revd Dr Rob Munro Revd Dr Jonathan Baker Mr J G Campbell Mr Jim Cheeseman	Not accepted.
	Amend so as to retain the ability of parishes to pass Resolutions A and B under the 1993 Measure.	The Bishop of Gibraltar in Europe Revd Stephen Trott	Not accepted.
	Amend so as to preserve s.2 of the 1993 Measure.	Revd Stephen Trott	Not accepted.
New clause 1(3)	Insert a new clause 1(3) which requires the canon made under clause 1(1) and (2) to make provision for those who are conscientiously opposed corresponding to that to be made by the new Canon A	The Bishop of Guildford	Did not need to be considered, as a result of the

	4(4).		Committee's decision to leave out paragraph 3 of the draft Amending Canon.
1(4)	Leave out if clause 1(3) is left out.	Revd Dr Rob Munro Mr J G Campbell	Did not need to be considered, as a result of the Committee's decision to retain clause 1(3).
2	Leave out.	Revd Canon Robert Cotton Revd Preb Brian Chave Revd Rose Hudson-Wilkin Revd Hugh Lee Canon Dr Susan Atkin Mr John Freeman Mrs Wendy Kinson Ms Susan Cooper Mrs Margaret Condick Mr Robert Key MP Mrs April Alexander Revd Dr Miranda Threlfall-Holmes	Accepted.
	Leave out and put the substance of clause 2 into the Code of Practice.	Prof Helen Leathard Ms Jacqueline Humphreys Ms Kathryn Campion-Small	Not accepted.
2(1)	Leave out sub-clause 2(1)(b).	Mrs Shirley-Ann Williams	Did not need to be considered, as a result of the Committee's decision to leave out clause 2.

	Amend to read: “a male bishop of a diocese may, <i>on grounds of theological conviction</i> , make one of the following declarations...”.	Dr Brian Walker	Ditto.
	Amend so as to refer to “A male diocesan bishop” rather than “A male bishop of a diocese”.	Ven Christine Hardman	Ditto.
	Amend so as to exclude female priests (to retain elements of the 1993 Measure) and include an alternative declaration for those bishops who are willing to participate in the consecration and ordination of women, etc.	Mr Michael Burbeck	Ditto.
	Amend so as to impose a requirement that the male bishop will respect the provisions of the new Canon A 4(2) and (3).	Revd Dr Miranda Threlfall-Holmes Mrs Christina Rees	Ditto.
2(2)	Leave out.	Revd Dr Jonathan Baker	Ditto.
	Amend so as to remove the one month deadline.	Revd Paul Benfield Mr Aiden Hargreaves-Smith	Ditto.
	Amend so as to require a new diocesan bishop to make a declaration on the same day that his appointment is announced.	Ven Christine Hardman	Ditto.
2(4)	Amend so as to impose a one month deadline.	Mrs Mary Johnston Ven Christine Hardman	Ditto.
2(7)	Amend so as to include the bishop of the diocese.	Revd Canon Celia Thomson Ven Christine Hardman	Ditto.
	Amend so as to include the diocesan synod.	Mrs Mary Johnston	Ditto.
	Insert a new sub-clause which requires declarations to be published on the diocesan or Church of England website.	Mrs April Alexander Mrs Mary Johnston Mrs Christina Rees	Ditto.

	Insert a new sub-clause which prevents either Archbishop from making a declaration under clause 2.	Ven Christine Hardman	Withdrawn.
New clause 2	Insert a new clause making provision for every diocesan bishop to make and review, after consultation with the diocesan synod, a scheme making arrangements for the exercise by delegation to a male bishop of episcopal ministry relating to the celebration of the sacraments etc. and pastoral care for parishes which request it on grounds of theological conviction.	Ven Christine Hardman	Accepted.
3	Leave out.	<p>Revd Canon Celia Thomson  Revd Preb Brian Chave  Revd Rose Hudson-Wilkin  Revd Hugh Lee  Ven Christine Allsopp  Revd Maureen Allchin  Ven Christine Hardman  Ms Jacqueline Humphreys  Canon Dr Susan Atkin  Mrs Shirley-Ann Williams  Mr John Freeman  Mrs Wendy Kinson  Mrs Margaret Condick  Mr Robert Key MP  Revd Dr Miranda Threlfall-Holmes  Revd Canon Sue Booy and other members of NADAWM  Ms Kathryn Campion-Spall  Mrs Christina Rees</p>	Accepted.
	Leave out and include a revised version of clause 3 in the Code of Practice.	Prof Helen Leathard	Did not need to be considered, as a result of the Committee's decision to leave out clause 3.

3(1)	Leave out.	Revd Canon Rob Cotton Ms Susan Cooper Mrs Mary Johnston Mr Nigel Greenwood Mrs April Alexander	Accepted (by virtue of the Committee's decision to leave out clause 3 in its entirety).
	Replace "shall" in the first line with "may".	Ven Annette Cooper Revd Canon Celia Thomson Revd Canon Rob Cotton Revd Canon Sue Booy Revd Canon Kathryn Fitzsimons Revd Maureen Allchin Ven Christine Hardman Mr Joseph Brookfield Prof Helen Leathard Ms Susan Cooper Mrs Mary Johnston Mrs Christine Sandiford Mrs Christina Rees	Did not need to be considered, as a result of the Committee's decision to leave out clause 3.
	Delete "on grounds of theological conviction" from clause 3(1) (and also clauses 4(2) and (3)).	Revd Paul Benfield	Ditto; but considered and not accepted in relation to new clause 2(4) and new clause 3(1).
	Amend so as to specify that the bishops of the sees nominated should be of diocesan status, or at least more than suffragans.	Mr Gerald O'Brien Brigadier Ian Dobbie	Did not need to be considered, as a result of the Committee's decision to leave out clause 3.
	Amend so as to ensure that appointments are in fact made to the nominated sees.	The Bishop of Guildford Revd Paul Benfield Revd Dr Jonathan Baker Mr Aiden Hargreaves-Smith	Ditto.

	Delete “from time to time”.	Mr Michael Burbeck	Ditto.
	Amend so that the diocesan bishop is under a legal obligation to make provision.	Revd Dr Rob Munro	Ditto.
3(2)	Amend so that (a) the decision to petition has to be made at an annual (or possibly a special or extraordinary) parochial church meeting and (b) a two thirds majority of those present and voting is required.	Revd Canon Celia Thomson Revd Maureen Hobbs Revd Canon Sue Booy Prof Helen Leathard Revd Maureen Allchin Canon Dr Susan Atkin Mrs Shirley-Ann Williams Mrs April Alexander Mrs Christina Rees	Ditto; but the substance of both proposals was considered and not accepted in connection with the new clause 3.
	Amend so that the decision to petition has to be made at an annual (or possibly a special or extraordinary) parochial church meeting.	Revd Canon Kathryn Fitzsimons Ven Christine Allsopp Mrs Christine Sandiford Mr Nigel Greenwood	Ditto.
	Amend so that the decision to petition is taken by way of a confidential paper vote, not a show of hands.	Mrs Shirley-Ann Williams	Ditto.
	Amend so as to impose a requirement for the PCC to consult widely outside its own membership when it takes the decision on whether or not to petition.	Ven Annette Cooper	Ditto.
	Amend so that the decision to petition is taken by the ‘vestry meeting’ (i.e. the meeting of the parishioners responsible under the Churchwardens Measure 2003 for electing churchwardens).	Revd Dr Dagmar Winter	Ditto.
	Amend so as to impose a requirement for the PCC to state the grounds of its theological conviction when it requests arrangements under clause 3(2).	Mrs April Alexander	Withdrawn.
	Replace “petitioning parish” with “exclusively male priest parish” (and carry that amendment through the	Prof Helen Leathard	Did not need to be considered,

	whole Measure and Code of Practice).		as a result of the Committee's decision to leave out clause 3.
	Replace "petitioning parish" with "resolving parish" (and carry that amendment through the whole Measure and Code of Practice).	Mr Michael Burbeck	Ditto.
	Amend so that parish representatives can choose their complementary bishop.	Mr Rod Thomas	Ditto.
New clause 3	Insert a new clause making provision for a PCC to issue, on grounds of theological conviction, a Letter of Request seeking arrangements under the diocesan scheme made under clause 2 and a Letter of Request during a Vacancy asking that only a male priest be appointed as incumbent or priest in charge.	Ven Christine Hardman	Accepted.
New clause 4	Insert a new clause applying the Measure to Crown benefices.	Ven Christine Hardman	Accepted.
4 (renumbered 5)	Insert the contents of the Code of Practice in a schedule to the Measure.	Mr Aiden Hargreaves-Smith	Not accepted.
4(1) to (8)	Leave out clauses 4(1) to (8) and provide for functions to be regulated by a Code of Practice.	Ms Kathryn Campion-Spall	Did not need to be considered, as a result of the Committee's decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).

4(1)	Amend so as to read: “The House of Bishops shall cause to be drawn up, and promulgate, guidance in a Code of Practice concerning arrangements for the exercise by delegation from the diocesan bishop of certain specified episcopal functions in relation to petitioning parishes, in particular celebration of the sacraments.”.	Mrs Mary Johnston	Ditto.
	Leave out everything after “petitioning parishes”.	Revd Canon Celia Thomson Ms Susan Cooper	Ditto.
	Amend clause 4(1) so that it also includes “other functions of the diocesan bishop under the Ecclesiastical Offices (Terms of Service) Measure such as time off for public duty” and “functions of the bishop in connection with the residence of the clergy in their benefices or parishes”.	Revd Paul Benfield	Did not need to be considered, as a result of the Committee’s decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9); but considered and not accepted in connection with new clause 2.
	Insert a new paragraph (j) in clause 4(1) so that schemes for pastoral reorganisation cannot proceed without the consent of the complementary bishop.	Revd Dr Jonathan Baker	Ditto.
	Insert a new clause 4(1)(c) in the form: “the internal ordering of the House of Bishops and the expectation of the way the House will function especially in regard to conduct of business,	Ven Christine Hardman	Withdrawn.

	consecration of new bishops and maintenance of unity”.		
	Leave out clause 4(1)(b) to (f).	Mrs Mary Johnston	Did not need to be considered, as a result of the Committee’s decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).
	Leave out clauses 4(1)(b) to (g).	Revd Dr Miranda Threlfall-Holmes	Ditto.
	Leave out clauses 4(1)(c) to (f).	Revd Maureen Hobbs Ven Christine Hardman Revd Hugh Lee Mrs Shirley-Ann Williams Revd Canon Kathryn Fitzsimons Canon Dr Susan Atkin Mrs Christine Sandiford Mr Nigel Greenwood Mr Robert Key Revd Canon Sue Booy Revd Canon Sue Booy and other members of NADAWM Mrs Christina Rees	Ditto.
	Leave out clauses 4(1)(b) to (i).	Revd Canon Rob Cotton	Ditto.
	Leave out clauses 4(1)(c) to (g).	Ven Christine Allsopp Mrs April Alexander	Ditto.
	Leave out clauses 4(1)(c) and (e).	Ven Annette Cooper	Ditto.
	Amend clause 4(1) so as to provide for a formal process, involving the diocesan	Revd Canon Sue Booy	Ditto.

	bishop, complementary bishop and archbishop, for discussing and agreeing how the matters referred to in clauses 4(1)(c) to (f) are to be dealt with during the diocesan's term of office.		
	Amend so as to require all requests for arrangements to be made through the diocesan bishop and be subject to review every five years.	Ven Annette Cooper	Ditto; but the proposal concerning review was considered and substantially accepted in relation to new clause 3(12).
	Amend so as to refer to all parishes rather than merely petitioning parishes.	Mr Mike Burbeck	Did not need to be considered, as a result of the Committee's decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).
4(2)	Amend so that clause 4(2) requires the Code to make arrangements for parishes unable to accept men or women who have been ordained by a woman bishop.	Revd Paul Benfield Revd Dr Jonathan Baker Mr Aiden Hargreaves-Smith	Ditto. But the substance of the proposal was considered and not accepted in connection with new clause 3.
	Leave out clauses 4(2)(a) and (b).	Mrs April Alexander	Did not need to be

			considered, as a result of the Committee's decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).
	Leave out clauses 4(2)(a) and (b) and replace with "women's priestly ministry".	Prof Helen Leathard	Ditto.
	Add a new paragraph (c) to clause 4(2) referring to a woman as the diocesan bishop.	Mr Michael Burbeck	Ditto.
	Insert a requirement that all parishes have to state every 5 years whether or not they are willing to accept the priestly and episcopal ministry of women.	Mr Gerald O'Brien	Ditto; but the proposal concerning the duration of a decision not to accept the episcopal ministry of women was considered and substantially accepted in relation to new clause 3(12).
	Insert a requirement to the effect that no Cathedral Chapter or Council should be able to petition.	Ven Christine Hardman Mrs Christina Rees	Did not need to be considered, as a result of the Committee's decision to substitute

			clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).
4(3)	Leave out.	Revd Canon Celia Thomson Mr Nigel Greenwood Mrs April Alexander Revd Dr Miranda Threlfall- Holmes Ven Christine Hardman	Ditto.
	Amend so as to refer to churchwardens.	Mr Jim Cheeseman	Ditto.
	Insert a new sub-clause after clause 4(3) in the form: "No request mentioned in subsection (2) shall be made after a woman has been appointed as Diocesan Bishop in the Diocese in which the requesting parish is situated."	Mrs April Alexander	Withdrawn.
4(4)	Amend so as to make provision for the ministry of clergy in a diocese (where the diocesan has not made a declaration) who cannot accept women priests or bishops.	Revd Paul Benfield	Did not need to be considered, as a result of the Committee's decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9); but considered and not accepted in connection with new clause 2.

	Insert the words “and of parishes affirming the ministry of women” at the end.	Mr Nigel Greenwood. Mrs April Alexander	Did not need to be considered, as a result of the Committee’s decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).
	Delete the words “promotion and”.	Revd Paul Benfield	Ditto; but considered and accepted in relation to new clause 2(5)(b).
	Insert a new sub-clause after clause 4(4) as follows: “Where a male Diocesan bishop is a declaring bishop [or one who otherwise identifies himself as disagreeing with section 1 of the Measure], the annual parochial church meeting may request arrangements to be made for episcopal functions specified in section 4 or in a Code of Practice issued under section 4 to be carried out by a bishop who is not a declaring bishop [and has not otherwise so identified himself]. Such a request will be made pursuant to a resolution passed by two thirds of those present and voting at the annual parochial church meeting and shall be accompanied by a memorandum, explaining the theological reasons for the decision of the meeting.”.	Mrs April Alexander	Withdrawn.
	Insert a further new sub-clause after clause 4(4) as follows: “The Code of Practice shall specify that, in a diocese	Mrs April Alexander	Withdrawn.

	where the male diocesan bishop is a declaring bishop [or has otherwise identified himself as disagreeing with section 1 of the Measure] and one or more of the suffragan bishops are declaring bishops [or have otherwise so identified themselves] and there is a vacancy for a suffragan bishop, the diocesan bishop shall seek the nomination by the Crown of a bishop who has not made a declaration, [or has not otherwise identified himself as disagreeing with section 1 of the Measure] and does not intend [to do] so.”.		
	Amend (if clause 2 is deleted) to read “... in dioceses where the diocesan bishop does not consecrate a woman to the office of bishop or ordain [a] woman to the office of priest ...”.	Ms Susan Cooper	Did not need to be considered, as a result of the Committee’s decision to substitute clause 5(1) (as renumbered) for clause 4(1) to (4) and (6) to (9).
4(5) (renumbered 5(2))	Leave out.	Revd Paul Benfield Ven Christine Hardman	Not accepted.
4(6)	Leave out.	Mr Nigel Greenwood	Accepted.
	Delete the words “by way of delegation”.	Revd Paul Benfield	Did not need to be considered, as a result of the Committee’s decision to leave out clause 4(6).

	Leave out.	Mrs April Alexander Revd Dr Miranda Threlfall-Holmes	Accepted by virtue of the Committee's decision to leave out clause 4(6) as a whole.
	Leave out clauses 4(6)(a), (b) and (d).	Mrs Shirley-Ann Williams	Ditto.
	Leave out clauses 4(6)(a) to (d) and replace with "a male stipendiary bishop".	Ms Susan Cooper	Ditto.
	Delete the word "stipendiary" from clause 4(6)(c).	Revd Hugh Lee	Ditto.
	Insert at the end of clause 4(6)(d) the words "of the Church of England."	Revd Canon Celia Thomson	Ditto.
4(7)	Leave out.	The Bishop of Willesden	Accepted.
	Replace with a provision in the form: "The Diocesan Bishop shall decide who to invite to exercise episcopal ministry in relation to petitioning parishes."	Ven Christine Hardman	Did not need to be considered, as a result of the Committee's decision to leave out clause 4(7).
	Amend so that a PCC can insist that it receives ministry from the holder of a particular see nominated under clause 3.	Revd Paul Benfield	Ditto.
	Amend so that a petitioning parish can require the selection of a bishop who has made the declaration in its fuller form.	Mr Aiden Hargreaves-Smith	Ditto.
	Amend so that it is for the parish and the bishop whom it would wish to minister to it to agree on whether he will do so and what functions he will	Mr Gerald O'Brien	Ditto.

	undertake.		
	Amend so that the choice of complementary bishop rests with the parish.	Revd Dr Rod Thomas	Ditto.
	Insert provision, possibly by way of arbitration, to address the possibility that the bishop and PCC might not agree.	Mr Mike Burbeck	Ditto.
	Amend so as to include a time limit within which provision must be made by the bishop.	Revd Paul Benfield	Ditto.
4(8)	Replace “complementary bishop” with “assisting bishop”, “visiting bishop”, “additional bishop”, or some other expression.	Ven Christine Hardman Ven Richard Seed Ms Jacqueline Humphreys Mrs Wendy Kinson Mr Nigel Greenwood Mrs April Alexander Revd Canon Celia Thomson Mrs Christina Rees	Did not need to be considered, as a result of the Committee’s decision to leave out clause 4(8).
4(9)	Insert a new sub-clause after clause 4(9) as follows: “In order to draw up a Code of Practice, the House of Bishops shall establish a working party comprising of 5 bishops, 5 clergy and 5 laity appointed by the Appointments Committee, with equal representation of men and women. The working party shall report to the House with its recommendations for the Code. The House shall pay due regard to the recommendations of the working party. When the House reports on their draft Code to the General Synod, they shall indicate which of the recommendations of the working party they have accepted and those which they have rejected with their reasons for doing so.”.	Mrs Christina Rees	Not accepted.
4(10) (renumbered as clause	Insert a new sub-clause after clause 4(10) as follows: “In order to draw up a Code of Practice, the House of Bishops	Mrs April Alexander	Not accepted.

5(3))	shall establish a working party comprising of [3 bishops, 8 clergy and 8 laity], with equal representation of men and women. The working party shall report to the House with its recommendations for the Code. The House shall pay due regard to the recommendations of the working party. When the House reports on their draft Code to the General Synod, they shall indicate which of the recommendations of the working party they have accepted and which they have not.”.		
4(11), 4(12) and 4(15) (renumbered 5(4), (5) and (6))	Amend clause 4(11) and leave out clause 4(12) so that the Article 7 procedure applies to any Code of Practice, and consequently delete clause 4(15).	Revd Dr Rob Munro	Not accepted.
4(11) to 4(15) (renumbered 5(4) to (8))	Amend so that the material intended to be contained in the Code of Practice is contained in Regulations made under the Measure and that both require a two-thirds majority in both the House of Bishops and the General Synod.	Revd Paul Benfield	Not accepted.
	Amend so that the Code of Practice requires approval by a two-thirds majority in both the House of Bishops and General Synod.	Mr Joseph Brookfield	Not accepted.
4(13) (renumbered 5(6))	Insert new sub-clause after clause 4(13) to read: “At any discussion of the House of Bishops to consider drafts of the Code of Practice, the House shall invite the attendance and participation of at least fifteen women priests being [Proctors] in Convocation, until such a time when there are fifteen members of the House who are women.”.	Mrs Christina Rees	Not accepted.
5 (renumbered 6)	Make compliance with the Measure mandatory.	Revd Dr Rob Munro	Not accepted.

	Make compliance with the Code of Practice mandatory.	Mr Jim Cheeseman	Not accepted.
	Make non-compliance with the Code of Practice an ecclesiastical offence.	Revd Paul Benfield Mr J G Campbell	Not accepted.
	Amend so as to refer to the Code of Practice being “a solemn, responsible and binding” document.	Mrs Shirley-Ann Williams	Not accepted.
	Amend so as to refer to “the Code of Practice currently in force under this Measure”.	Mrs Jacqueline Humphreys	Not accepted.
New clause 7	Insert new provision for exceptions in relation to the application of s.50 Equality Act 2010.	Steering Committee	Accepted.
6 (renumbered 8)	Insert additional definitions of ‘episcopal ministry’, ‘parish’ and ‘parishioner’ and develop the provisions of clause 6(2) in relation to guild churches.	Steering Committee	Accepted.
7 (divided and renumbered 9 and 10)	If clause 3 is left out, remove the amendment referring to clause 3(1).	Ms Susan Cooper	Accepted.
	Divide clause 7 into two clauses dealing with repeals and consequential amendments respectively.	Steering Committee	Accepted.
8 (renumbered 11)	Amend the short title of the Measure to “Women Clergy Measure” or “Women Bishops Measure”.	Mrs Jacqueline Humphreys	Not accepted.

### **Schedule 1 – Transitional Provisions**

Paragraph 1	Delete all the words after the phrase “continue in force” in paragraph 1(1).	Mr Jim Cheeseman	Not accepted.
	Extend the length of the transitional period during which Resolutions A and B passed under the 1993 Measure	Revd Dr Rob Munro	Not accepted.

	before the commencement date continued to have effect.		
	Reduce the length of the transitional period during which Resolutions A and B passed under the 1993 Measure before the commencement date continued to have effect from 5 years to 3 years.	Ven Christine Hardman	Accepted.
	Amend paragraph 1 to permit existing PEVs to continue in office until retirement.	Mrs April Alexander	Withdrawn.
Paragraph 2	If the length of the transitional period during which Resolutions A and B passed under the 1993 Measure before the commencement date continued to have effect is reduced from 5 years to 3 years, amend paragraph 2 consequentially.	Ven Christine Hardman	Accepted.
New paragraph 3	Insert a new paragraph ending the continued effect of Resolutions A and B on the occurrence of an event giving rise to the right to issue a Letter of Request during a Vacancy.	Steering Committee	Accepted.
New paragraph 4	Preserve the effect in a parish of the current law applicable where Resolution A or B has been passed for as long as the effect of Resolution A or B is continued in that parish by virtue of the transitional provisions of the Schedule.	Steering Committee	Accepted.

### **New Schedule 2 – Letters of Request**

New Schedule 2	Insert a new Schedule making provision for the form of Letters of Request and Letters of Request during a Vacancy.	Ven Christine Hardman	Accepted.
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### New Schedule 3 – Consequential amendments

New Schedule 3	Amend the provisions amended consequentially upon the effect of the Measure.	Steering Committee	Accepted.
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### Schedule 2 (renumbered 4) – Repeals

(Renumbered as Schedule 4)	Amend the provisions repealed consequentially upon the effect of the Measure.	Steering Committee	Accepted.
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### Proposals for the inclusion of additional provisions in the draft Measure

Insert a new clause providing for all the clauses of the draft Measure after clause 1 to cease to have effect after 5 or 10 years (a ‘sunset clause’).	Revd Canon Rob Cotton Mr Robert Key Revd Maureen Allchin Dr Anna Thomas-Betts Mrs Christina Rees	Not accepted.
Insert a requirement for the provision made by the Measure to be reviewed after a specified period of years.	Revd Hugh Lee Revd Canon Celia Thomson Revd Canon Kathryn Fitzsimons Mrs Wendy Kinson Mrs Mary Johnston Mr Nigel Greenwood Revd Maureen Allchin Dr Anna Thomas-Betts Revd Dr Miranda Threlfall-Holmes Mrs Christina Rees	Not accepted.
Insert a new provision requiring the Code of Practice to be reviewed after a specified period of years.	Revd Dr Miranda Threlfall-Holmes	Not accepted.
Insert a new provision requiring the see of Canterbury to be held by a man.	Mrs Joanna Monckton	Not accepted.
Insert a new provision requiring the see of Canterbury to be held by a man	Mr Tom Sutcliffe	Not accepted.

until the rest of the Anglican Communion has accepted the ordination and consecration of women.		
Insert a new clause making financial provision for those with conscientious difficulties who are unable to remain in the Church of England.	Mr James Cheeseman Revd Paul Benfield Mrs Joanna Monckton Revd Stephen Trott	Not accepted.

**Proposals for a different approach from that embodied in the draft Measure**

Use pastoral schemes to allow parishes to become independent or to transfer to other denominations.	Revd Stephen Trott	Not accepted.
An unspecified 'structural solution'.	Revd Peter Ackroyd Revd John Dunnett Revd Canon Chris Sugden Revd Canon Martin Warner Worshippers at Pusey House, Oxford	Not accepted.
Create <b>additional dioceses</b> for those who are unable, on grounds of theological conviction, to accept the episcopal ministry of women.	The Bishop of Blackburn The Bishop of Burnley The Bishop of Gibraltar in Europe The Bishop of Winchester Brother Desmond Alban Revd Paul Benfield Mrs Sarah Finch Revd Canon Clive Hawkins Revd Preb David Houlding Mrs Joanna Monckton Revd Canon Martin Warner Mr Ian O'Hara Mr Clive Scowen Ven Richard Seed Dr Anne Toms Catholic Group	Not accepted.
Make provision for those who are unable, on grounds of theological conviction, to accept the	The Bishop of London The Bishop of Coventry Mr Gerald Burrows Ven Annette Cooper	Not accepted.

<p>episcopal ministry of women by way of a new <b>society</b> or societies with statutory recognition.</p>	<p>Revd Preb David Houlding Mrs Jacqueline Humphreys. Mr Clive Scowen Mr Peter Smith Revd Mark Sowerby Mr Tom Sutcliffe</p>	
<p>Make provision for those who are unable, on grounds of theological conviction, to accept the episcopal ministry of women by way of the <b>transfer or vesting</b> of certain episcopal functions in bishops other than the diocesan bishop.</p>	<p><i>Transferred episcopal arrangements, as proposed in GS 1605 ( the Guildford Group Report) and GS Misc 826 (the Guildford and Gloucester Report)</i></p> <p>Dr Graham Campbell Mrs Alison Ruoff</p> <p><i>Transfer of jurisdiction – diocesan’s consent not required (‘statutory transfer’)</i></p> <p>The Archbishop of York The Bishop of Gibraltar in Europe The Bishop of Ripon and Leeds The Bishop of Willesden The Bishop of Worcester Revd Dr Jonathan Baker Mr John Davies Brigadier Ian Dobbie Mr Aiden Hargreaves-Smith Revd Angus MacLeay Revd Dr Rob Munro Mr Gerald O’Brien Mr Andrew Presland Revd Canon Colin Randall Revd Rod Thomas Members of CEEC</p> <p><i>Transfer of jurisdiction – diocesan’s consent required (‘consensual transfer’)</i></p> <p>The Bishop of Guildford</p> <p><i>Transfer of jurisdiction – unclear whether diocesan’s consent required</i></p> <p>The Bishop of Oxford Mr Nigel Chetwood Mr John Clark</p>	<p>Not accepted.</p>

	<p>Mr Terrence Musson Mr Andrew Presland Mrs Ruth Whitworth</p> <p><i>Transfer of jurisdiction by automatic transfer from the House of Bishops</i></p> <p>Ven Donald Allister</p>	
<p>Confine the legislation to the <b>simplest possible provisions</b> needed to allow women to become bishops, by removing the current prohibition. (Commonly referred to as ‘a single clause Measure’.)</p>	<p>The Bishop of Salisbury Revd Rose Hudson-Wilkin Very Revd Colin Slee Mrs Christina Rees</p>	<p>Not accepted.</p>

**Part 2**

**Draft Amending Canon No. 30**

<b>Paragraph of draft Amending Canon (GS 1709)</b>	<b>Summary of submission</b>	<b>Submitted by</b>	<b>Committee's decision</b>
Title	For "Of the consecration of bishops, Of the consecration of women as bishops" substitute "Of the consecration of bishops" or "Of the consecration of men as bishops, Of the consecration of women as bishops" or "Of the consecration of men and women as bishops".	Mr Mike Burbeck	Not accepted.
3	Leave out.	The Bishop of Southwark The Bishop of Salisbury Revd Paul Benfield Revd Canon Celia Thomson Ven Christine Allsopp Ms Susan Cooper Mrs Sarah Finch Mrs Mary Johnston Mrs Alison Ruoff Mrs Jacqueline Humphreys	Accepted.
	Leave out new paragraph 4 proposed to be inserted into Canon A 4.	Revd Preb Brian Chave Revd Rose Hudson-Wilkin Revd Hugh Lee Mr Robert Key Canon Dr Susan Atkin Mrs Mary Johnston Revd Rod Thomas Revd Canon Nigel Chetwood Mrs April Alexander Mr Nigel Greenwood Mrs Christina Rees Revd Canon Rob Cotton Revd Dr Miranda Threlfall-Holmes	Accepted, by virtue of the Committee's decision to leave out paragraph 3 in its entirety.
	Leave out new paragraph 4 proposed to be inserted into Canon A 4; alternatively insert "priestly" or "sacramental" before "ministry".	Mrs Mary Johnston	Ditto.

	Replace new paragraph 4 proposed to be inserted in Canon A 4 with alternative provision.	Ms Kathryn Campion-Spall (with ordinands at Westcott House and Ridley Hall)	Did not need to be considered as a result of the Committee's decision to leave out paragraph 3.
	Insert "truly" after each use of the word "lawfully".	Revd Preb Philippa Boardman Revd Dr Miranda Threlfall-Holmes	Ditto.
	Clarify the meaning of "lawful" throughout.	Revd Canon Simon Killwick Revd Canon Andrew Nunn Mr Clive Scowen Mrs Shirley-Ann Williams Mr Andrew Presland	Ditto.
	Remove the distinction between the words "lawfully" and "truly".	Ven Christine Allsopp WATCH Revd Dr Dagmar Winter Revd Canon Andrew Nunn Revd Canon Celia Thomson	Ditto.
	Limit the effect of new paragraphs 2 and 3 proposed to be inserted into Canon A 4 to members of the Church of England.	Mr Michael Burbeck	Ditto.
	Expand new paragraph 4 proposed to be inserted into Canon A 4.	Revd Dr Jonathan Baker	Ditto.
	Substitute "lawfully" for "truly" in new paragraph 4 proposed to be inserted into Canon A 4.	Mr Michael Burbeck	Ditto.
	Extend references to female bishops and priests in new paragraph 4 proposed to be inserted into Canon A 4 to include all those ordained by a woman.	Mr Aiden Hargreaves-Smith	Ditto.
4 to 6, 11 to 16, and 20 to	Leave out.	The Bishop of Southwark Very Revd Colin Slee	Accepted.

31		Revd Paul Benfield Revd Canon Celia Thomson Revd Canon Martin Warner Revd Hugh Lee Ven Christine Allsopp Revd Canon Andrew Nunn Ven Richard Seed Mr Nigel Greenwood Mr Robert Key Mrs April Alexander Revd Thomas Seville CR Mr Aiden Hargreaves-Smith DARC Mrs Christina Rees	
4 to 6, 11 to 16, and 20 to 31	Amend so that duties are owed, and oaths taken, to the complementary bishop alone.	Revd Canon Simon Killwick	Withdrawn.
After paragraph 4	Insert new provision after paragraph 4 so as to amend Canon C1.1 to read: “and no man <u>or woman</u> shall be accounted or taken to be a lawful bishop, priest, or deacon in the Church of England ...”.	Revd Paul Benfield	Not accepted.
8	Leave out.	Mr Mike Burbeck	Not accepted.
9	Amend so that provision in Canon C 8.2(a) referring to Resolution A is substituted with a new provision that reflects the new provision under the draft Measure rather than simply omitted.	Revd Paul Benfield	Not accepted.
10	Amend so that provision in Canon C 10.2A referring to resolutions under the 1993 Measure is substituted with a cross-reference that reflects the new provision under the draft Measure rather than simply omitted.	Revd Paul Benfield	Not accepted.
12 to 16 and 20 to 31	Amend to remove the use of “[his][her]” and use inclusive language instead to preclude the need	Mr Mike Burbeck	Did not need to be considered, by

	for another oath to be taken to a bishop's successor.		virtue of the Committee's decision to leave out these paragraphs.
16	Leave out proposed new paragraphs 5 to 7 as proposed to be substituted/inserted in Canon C 14; alternatively amend by expressing differently the duty to take oaths/make solemn affirmations.	Revd Paul Benfield	Did not need to be considered, by virtue of the Committee's decision to leave out paragraph 16.
After paragraph 22	Insert provision to make amendments to Canon E 1 (Of churchwardens) in relation to parishes where a 'complementary bishop' exercises functions.	Revd Paul Benfield	Did not need to be considered, by virtue of the Committee's decision to leave out paragraphs 4 to 6, 11 to 16 and 20 to 31.
New paragraph	Include provision for those opposed in the Canons and not merely in the Code of Practice.	Mr Clive Scowen	Not accepted.

**Destination tables****The draft Bishops and Priests (Consecration and Ordination of Women) Measure**

	<b>GS 1708 (as at First Consideration)</b>	<b>GS 1708A (as amended by the Revision Committee)</b>
Provision for consecration of women as bishops and ordination of women as priests.	1 (1) – (4)	1 (1) – (4)
Declaration of bishop relating to female bishops and priests.	2 (1) – (8)	–
Duty of diocesan bishop to make arrangements.	–	2 (1) – (9)
Nomination of suffragan sees.	3 (1) – (2)	–
Parish requests.	–	3 (1) – (17)
Benefices in the patronage of the Crown etc.	–	4 (1) – (2)
Code of Practice – contents.	4 (1) – (4)	–
Code of Practice – contents.	–	5 (1)
Code of Practice may make different provision for different circumstances.	4 (5)	5 (2)
Exercise of episcopal functions under the Code of Practice.	4 (6) – (9)	–
Approval and amendment of the Code of Practice.	4 (10) – (15)	5 (3) – (8)
Duty to have regard to Code of Practice.	5	6
Equality Act exceptions.	–	7
Interpretation.	6 (1) – (2)	8 (1) – (2)
Interpretation.	–	8 (3) – (4)
Consequential amendments and repeals.	7	–
Consequential amendments.	–	9
Repeals.	–	10
Citation, commencement and extent.	8	11
	Schedule 1:	Schedule 1:
Transitional provisions.	1 – 2	1 – 2
Transitional provisions.	–	3 – 4
Letter of Request.	–	Schedule 2
Consequential Amendments.	–	Schedule 3

Repeals.	Schedule 2	Schedule 4
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**Draft Amending Canon No. 30**

	<b>GS 1709 (as at First Consideration)</b>	<b>GS 1709A (as amended by the Revision Committee)</b>
A 4 (Of the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons)	1	–
	2	–
	3	–
C 1 (Of holy orders in the Church of England)	4	–
	5	–
	6	–
C 5 (Of the consecration of bishops)	7	1
C 2A (Of the consecration of women as bishops)	8	2
C 8.2(a) (Of ministers exercising their ministry)	9	3
C 10 (Of admission and institution)	10	4
C 14 (Of the Oaths of Obedience)	11	–
	12	–
	13	–
	14	–
	15	–
	16	–
C 15 (Of the Declaration of Assent)	17	5
	18	6
	19	7
	–	8
D 2 (Of admission to the order of deaconesses)	20	–
	21	–
	22	–
E 5 (Of the nomination and admission of readers)	23	–

	24	–
	25	–
E 6 (Of the licensing of readers)	26	–
	27	–
	28	–
E 8 (Of the admission and licensing of lay workers)	29	–
	30	–
	31	–
Commencement date.	32 (a)	9 (a)
	32 (b)	–
	32 (c)	9 (b)

**The society model: supplementary analysis**

*General issues for exploration arising from members' submissions*

1. Four important issues would need exploration in developing the 'society model'. The first concerns the question of jurisdiction, the second whether arrangements would require the consent of the diocesan bishop, the third whether any formal functions would be exercised by the society itself as opposed to individual office holders who were members of the society and the fourth what sort of formal relationship between the society and the rest of the Church of England would be provided for in the legislation.

Jurisdiction

2. On the first issue – **jurisdiction** – there was not complete clarity from those members of the Synod who made submissions:
  - One emphasised that the diocesan bishop should still have a 'large role' and retain the right to enter every parish. He saw any 'society bishop' as being 'part of the diocesan team' and was clear that the society would not be a diocese. He did not, however, deal directly with the question of jurisdiction, beyond confirming that there would need to be some constraint on the diocesan's freedom and implying that the society approach would in some way get round the problems caused by the present references to 'delegation'.
  - Two other members were much more explicit that the society approach would be a shift away from delegation. Some limited ordinary jurisdiction would be carved out from that of the diocesan bishop.
  - Another envisaged a formal link between a society and the provision of episcopal oversight and priestly ministry, with parishes joining the society and thereby becoming subject to an ordinary jurisdiction exercised by a nominated bishop – who was both the diocesan bishop of an existing diocese and a member of the society and who would exercise that ordinary jurisdiction (at least in part) by delegation through other bishops.
  - Like the previous member, another member envisaged ordinary jurisdiction being transferred to a nominated episcopal member of the society upon a parish joining it, and priestly ministry thereupon being limited to members of the society.
  - Another member also envisaged a clear formal link between membership of the society and the provision of episcopal oversight and priestly ministry for its member parishes and clergy – the society having responsibility for providing both (in the case of the former, through stipendiary episcopal vicars). Jurisdiction would be conferred directly by Measure upon episcopal vicars (broadly corresponding to that proposed to be delegated to complementary bishops under the current draft legislation).

3. It is clear that for very many of those who advocate the society model the fact that pastoral and sacramental authority would not be derived from the diocesan bishop by way of delegation is fundamental. **It is therefore difficult to see how the society model could satisfy those who have advocated it unless it involved the conferring of some measure of ordinary jurisdiction on the ‘society bishop’.**
4. The society model does not therefore avoid the knotty question of jurisdiction. It simply requires it to be addressed in a slightly different context.

#### The consent of the diocesan

5. On the second issue – **the consent of the diocesan** – the clear intention of the society model’s proponents is that, where a parish wished to receive priestly or episcopal ministry from a member of the society, it should have the right to do so. Thus the diocesan bishop would, in those circumstances, lose the discretion that the draft Measure provides to determine (following consultation) how the needs of a petitioning parish should be met.
6. This would not necessarily remove all discretion from the diocesan. It would, for example, be possible to provide that the diocesan retained the ability to decide which episcopal member of the society should provide oversight. But he or she would have to ensure that a ‘society bishop’ was provided and could not, for example, insist that a male suffragan who was not a member of the society would suffice.

#### The functions of the society

7. The relationship of the diocesan to the ‘society bishop’ would turn to a significant extent on the answer to the third question – **whether statutory functions were to be exercised by the society itself** as opposed to individuals who were members of the society. It is common ground that any society would not be a diocese and would therefore not have the raft of functions and legal bodies that go with being a diocese of the Church of England. The question is, rather, what corporate functions – if any – the Measure would give the society, distinct from those which its members would exercise.
8. One member who made an oral submission to the Committee spoke of jurisdiction being provided ‘by way of the society’. But the normal principle is that **jurisdiction subsists in individuals** – either (1) **by virtue of the office that they hold** (so that Nigel McCulloch has ordinary jurisdiction simply by virtue of being the holder of the see of Manchester and not because it is conferred on him by the college of bishops or some diocesan entity) or (2) **because it has been conferred on them as individuals** under specific statutory provisions (for example, during a vacancy in see where jurisdiction is temporarily conferred on a particular bishop under section 14 of the Dioceses, Pastoral and Mission Measure 2007).

9. Consistently with that principle, if (for example) the Bishop of Ebbsfleet were to have some limited jurisdiction it would have to be because, by virtue of provisions contained in the Measure, those functions were conferred on him as an individual bishop holding office in the Church of England. Where the society could come into play is that the Measure could, if it were desired, create a condition precedent that any bishop on whom such functions were to be conferred should be a member of a designated society.
10. But the functions would be exercisable by virtue of their having been conferred by statute on the individual bishop who was a member of the society, not conferred by the society itself. The essential functions of the society would therefore be small. What might in practice prove to be its most important and sensitive role – verifying that those priests and bishops applying for membership had been ordained in circumstances that would not raise conscientious difficulties for those who wished to receive ministry under the society model – is precisely one on which the legislation would remain silent.

*Would provision be available only through a society/societies?*

11. The draft Measure provided that, under the Code of Practice, oversight could be provided by a range of bishops (a clause 3 bishop, a male diocesan from another diocese, a male suffragan etc.), with the decision as to who should provide oversight in any particular case being taken by the diocesan bishop after consulting the parish concerned.
12. If the legislation provided for a society model there would need to be a decision on whether the society/societies were to be the **sole** means by which those conscientiously unable to receive women's ministry would be able to access special arrangements to meet their needs or whether a variety of provision was still to be possible.
13. As noted above, for the society model to work it would be necessary to give the parish an entitlement to receive ministry from an episcopal member of the society. The role of the diocesan bishop would be limited to ensuring him/herself that the necessary resolution/petition had been passed and – possibly – to deciding which episcopal member of the society should act in relation to parishes within the diocese. But it is not clear that it would be necessary to extinguish the possibility of other, less elaborate, arrangements where these were sufficient to meet the particular need (e.g., where a conservative evangelical parish was content to receive episcopal oversight from the male diocesan or a male suffragan of the diocese).
14. The key difference would be that any other arrangements would remain, as under the draft Measure in its original form, at the discretion of the diocesan bishop, after consulting the parish, whereas – in the case of a parish which sought it – there would be a right to receive ministry from an episcopal member of the society.

15. Thus the legislation and the Code made under it could be drawn so that provision such as episcopal oversight by a male diocesan or suffragan, or by any complementary bishop acting under delegated authority, might be available without resort to a society, at the discretion of the diocesan bishop; but provision such as episcopal oversight by a male diocesan or suffragan, or by any complementary bishop acting under delegated authority, might be available without resort to a society, at the discretion of the diocesan bishop; but where it was requested, there would be an entitlement to oversight by a bishop who was a member of the society.

*What would be the nature of provision made through a society/societies?*

16. A further key question would of course be the precise nature of the functions to be performed by a bishop who was a member of a society. The draft Measure envisaged a wide range of functions being exercised by the complementary bishop, but in the context of delegation from the diocesan bishop. If authority to exercise functions were to be conferred on episcopal members of the society by the legislation, that list of functions could, but need not necessarily, be the same – though it would as a minimum have to include pastoral and sacramental functions.
17. Whatever decision was reached on this point, the identification of the precise episcopal functions to be performed in relation to a petitioning parish by a bishop who was a member of a society could perhaps most suitably be specified in Regulations made by the House of Bishops, with the approval of the General Synod, so as to confer a degree of flexibility as the range of relevant functions changes over time – **but subject to any over-riding limitations imposed by the Measure as to the general type of functions that could be undertaken by a bishop of a society.**
18. Lastly in connection with episcopal ministry, a further question that would arise would be the arrangements for the nomination and consecration of bishops who were intended to act as episcopal members of a society. At the time of the coming into force of the legislation it would of course be open to any bishop to make the requisite clause 2 declarations and join the society. And clause 3 of the draft Measure envisages that the special suffragan sees would be filled only by bishops who had made the full form of the declaration. But for the society model to work it would presumably be necessary to provide that someone could only be nominated to a clause 3 see if he had joined (or, being eligible, had signalled his willingness to join) the society.
19. Several issues would also arise in relation to priestly ministry. They include: the nature of the arrangements as regards the ordination and appointment of clergy to minister in parishes which had petitioned to receive ministry through the society; and the position as regards appointments to petitioning parishes (which might be restricted to clergy who were members of the/a society).

20. Since clergy and parishes would remain part of the diocese the presumption must be that the society would have no direct responsibilities in relation to church buildings, clergy stipends, parish share or church schools. The final decision in relation to pastoral reorganisation would also rest with the diocesan bishop although the society bishop would need to have the right to be consulted. (It would be for decision whether the society itself should be a statutory consultee.) The society would no doubt want to levy a small membership fee to cover its expenses but these should be small; it would not be the ‘employer’ of the special bishops.

*One society or more?*

21. At least one of those who made a submission seemed to envisage a single society. Others may be attracted to the idea of leaving space for more than one society, each to reflect distinct church traditions. A policy decision would be needed on whether the legislation should provide only for one recognised society or should allow for the possibility of more. In this connection paragraph 87 of the first report of the Legislative Drafting Group is relevant. It read: “*we see some risk that a society approach could lead to a greater fragmentation within the Church of England, particularly if there were to be a range of societies of varying traditions.*”
22. If as a matter of policy it were desired that it should be possible for there to be more than one society, decisions would be needed on:
- (a) whether there should be any maximum number of societies; and
  - (b) what the mechanism would be for allowing them to become part of the formal arrangements for those conscientiously opposed (especially from the point of view of the approval(s) required).

Mechanisms

23. The Church of England has a long tradition of including within its wider family a large number of voluntary organisations, established by groups and individuals for the advancement of religion. Mission agencies, patronage societies, groups established to promote a particular theological emphasis or nurture a particular approach to liturgy are among many other examples. There is, however, no ready template for the relationship with the formal structures of the church that is envisaged here.
24. Since the right to have provision other than by way of delegation would be formally dependent upon the existence of a society or societies, the Church of England would have to decide what sort of interest to take in the identity, nature and activities of such a society in a way that it would not if the society were merely one of the Church’s many voluntary organisations.
25. As a result, the legislation would need to enable the Church to ensure that the nature of the arrangements made for those with conscientious objections was, and

continued to be, of a kind that was acceptable to it. The most straightforward way of achieving that would be for the Measure to confer powers on the Church to recognise one or more voluntary societies.

26. Indeed, there would seem to be something to be said for those in favour of any society owning the process of creating it and for avoiding the notion that it was a statutory body within the Church of England in the same way as a diocese or the Archbishops' Council or the Cathedrals Fabric Commission. If the Committee were to take that view then the legislation could simply give the archbishops power to designate a society (or as the case may be two or any number of societies) for the purposes of the Measure.
27. There are, however, a number of contingencies that would need to be worked through in deciding how such a power should be framed and exercised to minimise the disadvantages inherent in the arms-length relationship it would involve. The archbishops would probably wish to make clear the general parameters within which they expected any society to be established and to operate. They might also make it clear that they would expect to have a veto over proposed changes to its constitution.
28. The archbishops would also need to have a power to withdraw designation, exercisable if (for example) serious concerns were to develop about how the society conducted its affairs or if, hypothetically, it were to advise parishes to cease paying diocesan quota and instead only to support the society.
29. A more complex alternative would be for the Church of England itself to establish the society as a statutory body and to specify its constitution. That would enable the Church to draw some lines around what any society, as an official body, could do since it would then only have the role and functions given it by the legislation and its constitution.
30. But that alternative would seem to be unnecessarily centralising and bureaucratic, assuming a model that involved a limited ordinary jurisdiction being exercised by individual bishops of the Church of England who were members of the society, rather than one that involved jurisdiction being conferred on the society itself. Only if the society itself (as opposed to particular bishops who were its members) were to have functions conferred upon it by statute would there be any particular merit in establishing it as a statutory body.

Summary of the specific issues that would need to be resolved for the implementation of any 'society model'

31. Against that background, before any form of 'society model' could be implemented, a number of issues would need to be resolved. Key issues would include the following:

- (a) How many societies should there be? If there were to be more than one society, should their number be specified in the legislation or would it be possible for further societies to be established at a later date and, if it would, what would be the mechanism for that (especially from the point of view of whether Synodical or other approval should be required for their establishment on behalf of the Church as a whole)?
  - (b) What control would be exercisable on behalf of the Church as a whole in relation to the purposes, membership structure or other aspects of a society's life?
  - (c) What would be the precise linkage between membership of a society by bishops, priests and people/PCCs and the provision of episcopal oversight and priestly ministry? In particular:
    - (i) by whom would episcopal jurisdiction be exercised in relation to member clergy and parishes, what would be the source of the authority of those exercising such jurisdiction and who would nominate and consecrate them?
    - (ii) what would be the arrangements as regards the ordination and appointment of clergy to minister in parishes which had joined a society? In particular, would any restrictions be imposed on the rights of patrons to appoint to the livings concerned (e.g. by requiring them to appoint only members of the (relevant) society)?
  - (d) What would be the nature of the formal relationship between the society and the formal structures of the Church of England? In particular would there be a statutory power for the society to be designated or recognised?
32. Where clergy and/or parishes joined a society, what legal<sup>10</sup>, financial and administrative implications would that have for their relationship with the dioceses?

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<sup>10</sup> As regards the faculty jurisdiction and pastoral reorganisation, for example.

**Transfer by operation of law: supplementary analysis**

**Earlier variants of the transfer option**

1. A number of different variants of the transfer option have been canvassed at earlier stages of the legislative process relating to women in the episcopate, as follows.
2. The House of Bishops Women Bishops Group chaired by the Bishop of Guildford concluded in its report that TEA *“is an option that could be made to work and merits serious consideration by the General Synod as representing the best way forward”*<sup>11</sup>. Further details of how TEA would operate were given in Appendix 1 of the Group’s report.
3. The report of the Bishops of Guildford and Gloucester, produced after the Synod had debated GS 1605 at the February 2006 group of sessions, clarified the TEA proposal in various respects, in the light of various criticisms that had been made of it (which the report identified as falling into the three broad categories of ecclesial, sacramental and pastoral).
4. The Guildford and Gloucester Report explained that concerns had been expressed about the principle, fundamental to TEA, of transferring ordinary jurisdiction away from the diocesan bishop. In the light of that it went on to propose a further option for consideration alongside TEA, that of ‘Special Episcopal Oversight’.
5. Legislation that *“would itself transfer from the diocesan bishop to a complementary bishop specified responsibilities for the oversight of parishes and priests unable to receive the ministry of women bishops ... ”* was one of the possibilities considered by the Legislative Drafting Group, as ‘variation four’ of the second of the third of the three ‘broad approaches’ referred to in paragraph 50 of the Group’s First Report, namely ‘arrangements within the existing structures’. Annex E contained a more detailed description of what that option would involve, together with an illustrative draft Measure.
6. Paragraphs 26 to 30 of the Legislative Drafting Group’s Further Report canvassed a further variant of the transfer option (‘consensual transfer’) under which transfer would only take place if the diocesan bishop gave his or her consent to it.

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<sup>11</sup> Page 39.

## **Variants of the proposal made in submissions**

### *The Archbishop of York's proposal*

7. The Archbishop of York's submission on the draft Measure sought to build upon both the proposals for statutory transfer contained in the first report of the Legislative Drafting Group and the existing arrangements for extended episcopal care under the Act of Synod. Key aspects of the proposal were as follows:
  - (a) petitioning parishes would be able to petition for arrangements involving the exercise of 'transferred functions' by a complementary bishop;
  - (b) parishes which had petitioned under the Act of Synod would be deemed to have petitioned for such arrangements;
  - (c) the complementary bishops would be (i) the holders of the existing sees of Ebbsfleet, Richborough and Beverley and (ii) a suffragan or stipendiary bishop serving in the diocese concerned who had made a declaration that they would not participate in the consecration of a woman to the office of bishop;
  - (d) a petitioning parish would be able to require the appointment of a bishop holding one of three sees specified in (c) above if they so wished;
  - (e) transferred functions would be stated to pass to complementary bishops by operation of law and to have an ordinary jurisdiction in relation to such functions;
  - (f) the precise functions to be transferred to complementary bishops would be determined by Regulations made by the House of Bishops, with the approval of the General Synod;
  - (g) such Regulations would also make provision for clergy, deaconesses, readers and lay workers who had conscientious objections;
  - (h) there would also be a Code of Practice, which would make provision for matters including the appointment etc. of bishops to the specified suffragan sees and for consultation / co-operation between diocesan and complementary bishops; and
  - (i) the 1993 Measure would not be repealed, so that the current arrangements as regards women's priestly ministry would continue in force.

### *The proposal by the Bishop of Willesden and others*

8. The submission made jointly by the Bishop of Willesden, the Ven Julian Henderson and Dr Philip Giddings proposed a package of amendments, part of which involved providing for the episcopal functions exercised by a complementary bishop to be exercised by virtue of statutory authority rather than by delegation from the diocesan. Key aspects of the package were that:
  - (a) each diocesan bishop must put in place arrangements for his/her diocese, agreed with its diocesan synod, for the exercise of episcopal functions by a complementary bishop or bishops;

- (b) the arrangements made in a diocese would prevail over the wishes of the petitioning parish;
- (c) the functions of the complementary bishop would not be conferred upon him by delegation but under and by virtue of (i) the Measure and (ii) Rules taking effect by way of statutory instrument; and
- (d) the Rules would specify the precise nature of the functions to be transferred and would be binding on all those exercising functions in the Church of England.

*The Bishop of Guildford's proposal*

9. The Bishop's proposal was well-developed, including draft provisions to give effect to it. It would give effect to the option of 'consensual transfer' referred to in the Legislative Drafting Group's Further Report.

10. Key aspects of the bishop's proposal were as follows:

- (a) petitioning parishes would have the option of seeking either 'delegated episcopal arrangements' or 'transferred episcopal arrangements';
- (b) delegated episcopal arrangements would involve functions being conferred upon the complementary bishop by delegation from the diocesan, as under the draft Measure;
- (c) transferred episcopal arrangements would involve functions being conferred upon the complementary bishop by virtue of the Measure;
- (d) transferred episcopal arrangements would require the consent of the diocesan bishop, which could subsequently be revoked;
- (e) nor would transferred episcopal arrangements bind the diocesan's successor, since they would come to an end automatically three months after the successor came in to office;
- (f) the nature of the functions transferred under transferred episcopal arrangements would be determined by Regulations made by the House of Bishops with the approval of the General Synod;
- (g) the Code of Practice would deal, *inter alia*, with the circumstances in which transferred episcopal arrangements might be made, including the giving and revocation of consent by bishops; and
- (h) in other respects the provision made (e.g. as to who could act as a complementary bishop) would be as under the draft Measure.

**Issues arising in connection with proposals for the transfer of functions**

*What should the 'transferred functions' be?*

11. A key question for decision would be the nature of the functions to be transferred by operation of law to the bishop exercising episcopal ministry to those with conscientious difficulties.

12. In the process to date that question has been approached in different ways, as follows:

- The draft Measure specifies 9 categories of episcopal functions for the exercise of which the Code should make arrangements – but of course by way of delegation rather than transfer.
  - The illustrative draft Measure prepared by the Legislative Drafting Group to show how the statutory transfer model might be given effect (set out in Annex E to its First Report (GS 1685) ('the draft No 3 Measure') provided for Regulations to be made by the House of Bishops, with the approval of the Synod, specifying the transferred functions – which had to fall within 6 specified categories (although the Regulations could also specify any other functions which appeared to the House of Bishops to be appropriate to be exercised by a complementary bishop).
  - The proposals made by the Archbishop of York adopted the same approach.
  - Under the proposals of the Bishop of Guildford, the transferred episcopal functions would again be specified in Regulations to be made by the House of Bishops, with the approval of the Synod, but would fall within the nine categories referred to in the draft Measure.
13. Were the transfer by operation of law approach to be adopted, it would be necessary to ensure – if the goal can be achieved – that the content of the 'transferred functions' represents a coherent package. **The difficulty lies in determining whether there is any principle that can be employed to determine the coherence of that package and, if so, what it is.**
14. For the purposes of its work on the draft Measure and the draft No 3 Measure, the Legislative Drafting Group approached the question from the point of view of what functions the diocesan bishop would have to retain given his continuing responsibilities in relation to the rest of the diocese – so that, in particular, the responsibility for pastoral reorganisation should remain with him.
15. But, short of that, the Legislative Drafting Group appeared willing to contemplate the greater part of the role of the bishop in relation to a petitioning parish – whether sacramental, pastoral or disciplinary – being discharged by the complementary bishop, on the basis that these different aspects of the episcopal role were linked one with another; and the list of classes of function that might pass to such a bishop contained in both draft Measures was therefore a long one.
16. Were it to be desired that a narrower range of functions be vested by operation of law, the question would be whether it was still possible to identify a principle or principles which provided a coherent basis for selecting one or more episcopal functions to the exclusion of others.
17. In approaching that question it would be necessary to bear certain distinctions in mind. First, **there is a distinction between 'functions' in the sense of 'responsibilities' and 'functions' in the sense of 'acts' or 'activities'**. Second, **there is a distinction between 'functions' which can more accurately be described as 'episcopal' in that they are peculiar to bishops and 'functions' which, whilst they are undertaken by bishops, can also be undertaken by priests.**

The celebration of the rite of confirmation is an example of the first category; the celebration of the Holy Communion is an example of the second.

18. Against that background, it might be argued that if the Committee wished to confer a narrower range of functions on complementary bishops than was contemplated by the Legislative Drafting Group it should begin by considering the narrowest range of functions – in the sense of responsibilities the exercise of which is peculiar to bishops – which is consistent with the policy objective of conferring powers on complementary bishops in the first place and then consider whether it wishes to go on to add additional functions.
19. If analysed in this way, then it might be argued that, in relation to *ordination* and functions “*related to the celebration of the sacraments and other divine service*”, the key episcopal function in the fullest sense is the responsibility – as ‘principal minister’ in the diocese, as Canon C 18 puts it – to decide whether to celebrate the Holy Communion or other sacraments and divine worship personally or whether to confer authority on others to do so on his behalf.<sup>12</sup>
20. If that way of approaching the question is accepted, then acceptance of the principle that a complementary bishop should have any genuinely episcopal function would seem to carry with it, logically, the consequence that the complementary bishop must also be allowed to ordain clergy to a title in a petitioning parish. Since ordination will not by itself be sufficient to allow the person to officiate in relation to a petitioning parish (see Canon C 8.2) it can also be argued that the powers of instituting, licensing and giving permission should be vested in the complementary bishop rather than exercised by way of delegation.
21. In the absence of any clear, logical basis for selecting which episcopal functions might be vested the Committee will need to resort to more pragmatic grounds for the purpose of deciding which ‘functions’ it is willing to allow complementary bishops to exercise as of right. (It would of course be possible for some powers to be transferred and others delegated.) In doing so, it will need to bear in mind the distinctions drawn above (i.e. between ‘functions’ that are responsibilities and those that are acts; and between functions that are peculiar to bishops and those which may also be exercised by other clergy).

### **The mechanism for identifying the ‘transferred functions’ in clause 6**

22. A further question arises as to how the precise functions to be transferred by operation of law should be identified.
23. One option would be for those functions to be left to be determined by Regulations made under a power conferred by the Measure.

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<sup>12</sup> A similar analysis could be applied to the issue of pastoral care, the relevant ‘episcopal function’ in the fullest sense in that connection being the responsibility to determine – as ‘chief pastor’ in the diocese – whether to discharge that role personally or through others.

24. An alternative would be for the general category or categories of transferred functions (e.g. the celebration of the sacraments and other divine service and the provision of pastoral care) to be identified on the face of the Measure rather than in Regulations.
25. A possible framework giving effect to the latter option would be to:
  - (a) describe in the Measure the general category or categories of episcopal functions which would be vested in complementary bishops as ‘transferred functions’;
  - (b) specify in a Schedule to the Measure the specific episcopal functions which would be vested in complementary bishops as ‘transferred functions’ (all of which would of course fall within the general categories described in the provision included in the Measure itself); and
  - (c) allow the list of specific functions contained in the Schedule to be amended by Regulations made by the House of Bishops with the approval of the General Synod, by (a) adding particular functions which related to the category or categories specified in the Measure itself, (b) omitting a particular function or functions or (c) amending the description of a particular function or functions – but only, in the case of (b) and (c), if the House were satisfied that the amendment was necessary to ensure that only functions relating to the specified category or categories were vested in complementary bishops or that it was required to give full effect to the exercise of transferred functions.

### **The relationship between transferred functions and delegated functions on the face of the Measure**

26. The question also arises as to what could or should be said on the face of the Measure as to the functions that could be delegated to a complementary bishop to be exercised alongside any transferred functions exercisable by him.
27. One alternative is for the Measure to be drafted in such a way as simply to allow delegation in exercise of the diocesan bishops’ powers in the normal way, with or without provision for the Code of Practice under the Measure to give guidance in that connection. Thus the Code could recommend that, where functions were transferred to a complementary bishop under complementary episcopal arrangements, other specified episcopal functions should be delegated to the complementary bishop as well.
28. If the diocesan bishop delegated functions in that way he or she would not of course be precluded from exercising those functions him or herself if he or she chose to do so: the diocesan’s powers to do so would not be removed as a result of the delegation; but if he or she wished to exercise them there would in practice need to be dialogue between him or her and the bishop to whom they had been delegated as to the exercise of their respective roles.
29. Thus if, for example, the transferred functions were limited to functions of an essentially sacramental character, the Code could recommend that the diocesan should delegate responsibility for pastoral care, preaching and teaching in any

petitioning parish. To do so could help avoid potential difficulties in relation to the boundaries of what the bishop to whom functions had been transferred could do in relation to the parish.

30. However, if the Committee desired, provision could also be added to the draft Measure which could be seen as encouraging *on the face of the Measure itself* an expectation that further episcopal functions would routinely be delegated to complementary bishops to be exercised by them alongside transferred functions.

**The Code of Practice to be made under the Measure**

**Part A: The main points made in members' submissions on the illustrative draft Code**

Submissions were received from a number of members on the illustrative draft Code. The principal points made were as follows:

*Paragraph 3*

A number of submissions related to paragraph 3, which makes an introductory high-level statement about the provision being made for those conscientiously unable to receive the ministry of women as priests and bishops and their position as a legitimate one within the spectrum of Anglican belief.

Several submissions expressed concern about the reference in paragraph 3 to the reception process, some proposing alternative formulations which omitted it. Some of the submissions suggested that, in the event of a decision by the Church of England to ordain women to the episcopate, the reception process would have been brought to an end.

*Paragraph 14*

One submission proposed that this paragraph, which forms part of a section of the draft dealing with 'parity of esteem', should be deleted.

*Paragraphs 16 to 18*

A number of submissions proposed the deletion of paragraphs 16 and 17, which make provision for the consecration of bishops who intended to make a declaration under clause 2(1)(b) or who were to be consecrated to one of the sees nominated under clause 3 and for the holding of a metropolitan service of commissioning for such bishops.

However, this proposal has been overtaken in the sense that both paragraphs would need to be deleted in their present form anyway as a result of the Committee's decision to leave out clauses 2 and 3 of the draft Measure in its original form.

The same is true of a proposal to delete paragraph 18, given that it refers to a diocesan bishop who made a declaration under clause 2(1)(b) of the draft Measure.

### *Paragraph 19*

Three submissions proposed amendments intended to strengthen paragraph 19, which makes provision for the appointment of an adviser in women's ministry where a bishop had made a declaration under clause 2 of the draft Measure.

Although the proposals were made in the context of the draft Measure, with its provision in clause 2 for the making of declarations, clause 2(5) of the revised draft Measure requires a scheme made under new clause 2 to make provision for *inter alia* "the support of the ministry of clergy who are women and their pastoral care". Thus these submissions will remain relevant to the revised draft Measure.

### *Paragraph 22*

Five submissions proposed that paragraph 22 be amended so as to insert the words "when appropriate" at the end of the suggestion that a complementary bishop be invited to attend the senior staff meeting.

### *Paragraph 32*

Several members commented on paragraph 32, which relates to the selection of the bishop to exercise episcopal functions in relation to a petitioning parish. However, this paragraph would not be reproduced in a Code made under the revised draft Measure, given the removal of clause 4(6) of the draft Measure and the fact that the nature of the provision to be made for a parish will turn on the contents of the diocesan scheme made under the new clause 2.

### *Paragraph 37*

One member proposed that the decision to petition should be taken by an annual parochial church meeting rather than the PCC. However, the Committee decided in connection with the new clause 3 that the decision should rest with the PCC.

### *Paragraphs 37 to 41*

One submission proposed the deletion of paragraphs 37 to 41 inclusive, which deal with the delegation of particular episcopal functions to complementary bishops, on the basis that "overall responsibility must rest with the Ordinary of the diocese".

This proposal involves a misunderstanding of the nature of delegation, in that the Ordinary would not be any less the Ordinary simply by virtue of having delegated certain functions. However, these paragraphs will need amendment anyway: the Code will need to give guidance on which functions should be delegated, in the context of the provision made for delegation by clause 2(1) of the revised draft Measure.

#### *Paragraph 48*

One submission proposed that paragraph 48 should be amended to provide for the decision to petition to require a two-thirds majority in a secret ballot taken at an annual parochial church meeting. But, again, that proposal has been overtaken by decisions already reached by the Committee on the new clause 3 of the revised draft Measure.

#### *Paragraph 53*

The same is true of a further submission that paragraph 53 be amended so as to vest the decision to petition in a meeting of the parishioners.

#### *Paragraphs 57 to 64*

One submission related to the arrangements in paragraphs 57 to 64 in relation to multi-parish benefices.

The Committee considers that the Code will need to address the position of parishes in multi-parish benefices and makes some proposals in that respect in Part B of this Appendix.

#### *Paragraphs 65 to 67*

One submission proposed the deletion of clauses 65 to 67, which address the position of individual clergy and other ministers, on the basis that they “*are written far too broadly, thereby giving individual clergy the chance to opt out of the normal relationships of diocesan and pastoral care without proper challenge*”.

Again, the Committee considers that the Code should address the position of individual clergy and other ministers and makes some proposals in that respect in part B of this Appendix.

### **Part B: The Committee’s views on the content of the Code of Practice to be made under the revised draft Measure**

By virtue of what is now clause 5(1) of the revised draft Measure, the Code must include guidance on a number of matters, namely:

- (a) the making of schemes under new clause 2;
- (b) the exercise of episcopal ministry in accordance with the arrangements contained in such schemes;
- (c) the exercise, by those involved in the making of an appointment of an incumbent of and a priest in charge for a benefice, of their functions in that regards where a Letter of Request during a Vacancy is issued;
- (d) the matters mentioned in new clause 2(5); and

- (e) such other matters as the House of Bishops considers appropriate to give effect to the Measure.

In the Committee's view the guidance to be given under each of those headings would as a minimum include the following:

*Clause 5(1)(a) – Guidance relating to the making of schemes under new clause 2:*

- (a) the form and general content of schemes to be made under new clause 2;
- (b) the male bishops to whom functions could be delegated under diocesan schemes made under new clause 2(1) (see further below on this point);
- (c) the functions to be delegated under diocesan schemes relating to the celebration of the sacraments and other divine service [for the purpose of new clause 2(1)(a)];
- (d) the functions to be delegated under diocesan schemes relating to the provision of pastoral care to clergy and parishioners [for the purpose of new clause 2(1)(b)];
- (e) possible other functions that could be delegated to male bishops alongside those referred to in new clause 2(1) [for the purpose of new clause 2(3)];
- (f) the procedure to be followed for the making, review and amendment of diocesan schemes, including consultation with the diocesan synod [for the purpose of new clause 2(1) and (6) to (9)]; and
- (g) the arrangements for the publication of diocesan schemes [for the purpose of new clause 2(1)].

With regard to any guidance on the male bishops to whom functions could be delegated under diocesan schemes made under new clause 2(1), it would be possible for the Code to offer guidance to bishops on whether they should accede to requests from parishes that the arrangements made for them under a Letter of Request should involve the exercise of episcopal functions by a male bishop who was ordained by a man and who did not ordain or consecrate women. The view of the Committee is that, the Measure not precluding that possibility, the Code should not do so either.

*Clause 5(1)(b) – Guidance relating to the exercise of episcopal ministry in accordance with arrangements under diocesan schemes:*

- (a) guidance on the way in which bishops exercising delegated functions under diocesan schemes go about conducting their ministry generally; and
- (b) guidance on the role to be played by such bishops in particular contexts (e.g. where pastoral reorganisation affects a parish which has issued a Letter of Request).

*Clause 5(1)(c) – Guidance on the exercise, by those involved in the making of an appointment of an incumbent of and a priest in charge vicar for a benefice, of their functions in that regards where a Letter of Request during a Vacancy is issued:*

guidance to bishops, patrons and others on how to exercise relevant functions in relation to such appointments following the issue of a Letter of Request during a Vacancy [for the purposes of new clause 3(9)].

*Clause 5(1)(d) – Guidance on the provision for the matters mentioned in new clause 2(5):*

- (a) guidance on the provision to be made, where a diocesan bishop has stated that he will not ordain women to the office of priest, for the ordination of female candidates for the office of priest; and
- (b) guidance on the provision to be made in such circumstances for (i) the support of the ministry of clergy who are women and (ii) their pastoral care.

*Clause 5(1)(e) – Guidance on such other matters as the House of Bishops considers appropriate to give effect to this Measure:*

- (a) guidance to PCCs on passing a Letter of Request [for the purposes of new clause 3(1)];
- (b) guidance to PCCs on passing a Letter of Request during a Vacancy [for the purposes of new clause 3(3) *et seq*];
- (c) guidance to PCCs on withdrawing a Letter of Request [for the purposes of new clause 3(12)]; and
- (d) guidance to bishops and others on the implications where a notice under clause 3(8) is in force [for the purposes of new clause 3(16)].

### **Specific issues previously identified by the Committee**

In the course of the Committee’s discussions, various additional issues were identified as ones which might helpfully be addressed in the Code. They include the following:

- (a) the arrangements for the collation etc. of priests who are women in a diocese in which the diocesan bishop has stated in the diocesan scheme that he will not ordain women;
- (b) the question of who should attend any PCC meeting at which the PCC is considering whether to issue a Letter of Request or Letter of Request during a Vacancy;
- (c) the situation where a female priest is invited to celebrate the Holy Communion, for example because no other priest is available, in a parish which has issued a Letter of Request;
- (d) the position in multi-parish benefices;
- (e) the position of team vicars;
- (f) the position of individual clergy and other ministers;

- (g) the position of clergy in extra-parochial places; and
- (h) guidance on the internal ordering of the House of Bishops once the Measure is in force.

So far as the position of multi-parish benefices is concerned, the Committee considered whether parishes in multi-parish benefices should be able to issue Letters of Request during a Vacancy. (It did not consider there to be an issue as regards Letters of Request: a diocesan scheme under new clause 2 could make provision for episcopal ministry and pastoral care to be provided in relation to such a parish in accordance with the request notwithstanding that other parishes in the benefice were content to receive episcopal ministry and pastoral care from the diocesan bishop.)

The Committee did not favour the possibility that parishes in multi-parish benefices should not be able to issue Letters of Request during a Vacancy. However, if such parishes were to be able to issue Letters of Request during a Vacancy, the Committee considers that bishops should have a considerable degree of flexibility in how to respond to them, in the light of the resources that were available in practice; and it did not wish diocesan bishops to have to create, or to be able to create, a ‘woman-free zone’ in the benefice. It therefore suggests that the Code might contain advice to the following effect:

- (a) there is no difficulty as regards episcopal ministry since if a Letter of Request is issued by the PCC of a parish in a multi-parish benefice the bishop should respond to it as he would to any other Letter of Request;
- (b) the Measure recognises that a parish should not be deprived of the possibility of issuing a Letter of Request during a Vacancy simply because it is included in a multi-parish benefice;
- (c) however, the legislation also proceeds on the basis of a principle that, if the PCC of such a parish issues a Letter of Request during a Vacancy, that should not be determinative of the arrangements made for other parishes within the benefice;
- (d) that being so, bishops and others concerned with appointments should seek to arrange for priestly ministry to be undertaken in the parish which has issued the Letter of Request during a Vacancy by a male priest **in so far as it is practicable to do so**;
- (e) in deciding what is practicable the bishop should take account of the priestly resources that are available to make such arrangements – primarily from within the benefice but also from elsewhere (e.g. under any diocesan arrangements in that respect contained in the scheme made under new clause 2);
- (f) as a minimum the bishop should seek to ensure the regular celebration of the Holy Communion in the parish by a male priest;
- (g) in the case of a team ministry, the bishop should not give a female priest a special cure of souls in respect of an area comprising the parish whose PCC had issued the Letter of Request during a Vacancy; and
- (h) any arrangements should reflect the fact that the parish which had issued the Letter of Request during a Vacancy continued to form part of the benefice and

therefore part of the cure of a female incumbent or priest in charge, who remains entitled to exercise her priestly ministry in the parish even if – out of respect for the conscientious convictions of the parish – she chooses not to do so.

So far as the position of team vicars is concerned, the Committee considered whether to extend the procedure made by new clause 3(3) of the draft Measure for the issue of ‘Letters of Request during a Vacancy’ to the appointment of a team vicar, in addition to the appointment of an incumbent or priest in charge. It decided not to do so because:

- to do so would be to apply it to a rather different situation which was not a ‘vacancy’ in the generally understood sense (because a team vicar could be appointed at any time, including when there was a team rector in post) and would draw a false equivalence between the role and functions of, on the one hand, incumbents and priests in charge and, on the other, of team vicars;
- to do so would further complicate the Measure (as it would need to add a further form of ‘Letter of Request during a Vacancy’ to Schedule 2); and
- if the ‘Letter of Request during a Vacancy’ procedure were to apply where the appointment of a team vicar were in prospect, it was not clear why it should not equally apply in relation to curates and other assistant clergy.

Instead, in order to make provision for those conscientiously opposed in relation to the appointment of team vicars, the Committee considered that provision should be made in the Code of Practice to the effect that:

- a female team vicar should not be appointed to a team ministry established for a single parish if the PCC of the parish had indicated that, on grounds of theological conviction, its desire that only a male team vicar should be appointed; and
- in the case of a team ministry established for a multi-parish benefice, a female team vicar should not be given a special cure of souls for any parish whose PCC had indicated, on grounds of theological conviction, that only a male team vicar should be given such a cure.

The Committee did not consider it appropriate to make the position in such cases turn upon whether the parish had issued a Letter of Request in relation to episcopal ministry since the fact that it had done so did not necessarily mean that it was unable to accept the priestly ministry of a woman as team vicar. The Committee also considered that the indication required to trigger the position described above need not take any particular form provided that it was sufficiently clear and followed from a formal decision of the PCC.

So far as the position of individual clergy is concerned, the Committee considers that the Code should make provision of a sparing, pastoral kind – not least because it considers that it would be anomalous for the bishop who exercised oversight in relation to an incumbent or priest in charge to be different from the bishop who exercised it in relation

to the parish. The Committee therefore suggests that, relying on the power conferred by new clause 2(3), a diocesan scheme under new clause 2:

- (a) should provide that the bishop should make arrangements which respected the theological convictions of individual clergy or lay ministers serving in parishes which had not issued a Letter of Request but who were personally unable to receive the episcopal ministry of a woman, by allowing them to receive at least certain episcopal functions from a male bishop;
- (b) could properly draw a distinction between the arrangements to be made for the incumbent or priest in charge and those to be made for other ministers ministering in the parish; and
- (c) should identify the specific episcopal functions that would be undertaken by the male bishop.

Finally, the Committee also considers that it would be desirable for the Code to give some guidance on the arrangements to be made in relation to episcopal ministry to clergy ministering in non-parochial places. It suggests that to that end the Code could recommend that:

- (a) relying on the power conferred by new clause 2(3), a diocesan scheme should provide that the bishop should, so far as possible, ensure that suitable arrangements are in place in relation to ministers in chaplaincies and other non-parochial roles who, on grounds of theological conviction, cannot receive the priestly or episcopal ministry of women to enable them to receive episcopal ministry and pastoral care from a male priest; and
- (b) such arrangements should be made on the application of some appropriate persons or body, such as the governing body of the institution concerned, the clergy licensed to it or those worshipping there.

However, the Committee recognises that the contexts in which clergy minister in non-parochial places are many and varied and that it would be undesirable for the Code to contain guidance which was over prescriptive in the sense of recommending arrangements which might be unsuitable in certain sorts of non-parochial context: whilst a bishop would be able to depart from the guidance given in the Code if he or she had cogent reasons for doing so in the light of the particular non-parochial context concerned, it would be undesirable to create expectations that might be disappointed. The Committee therefore recommends that any guidance given in the Code in relation to ministry of this kind be suitably flexible.