

SPECIAL AGENDA III

PRIVATE MEMBERS' MOTIONS

MEMBERSHIP OF ORGANISATIONS WHICH CONTRADICT THE DUTY TO PROMOTE RACE EQUALITY

Background note from the Secretary General

1. In considering this motion Synod may find it helpful to have to hand the text of the motion that it passed in July 2007 following a debate sponsored by CMEAC (clause (c) is particularly relevant):

'That this Synod, rejoicing in the enrichment that minority ethnic Anglicans bring to the Church of England and the wider society, and reaffirming our abhorrence of the grave sinfulness of covert, overt and institutional racism:

(a) request all dioceses to assess what further developments of their structures and practices are needed to secure a greater use of the gifts of minority ethnic people in the life of the Church at all levels and an increase in the number of ethnic minority young people in leadership;

(b) request the Archbishops' Council to review the results of these assessments, consider whether further national action is required and report to Synod within three years;

(c) reiterate that support for political organisations whose policies engender racism is inconsistent with Christian discipleship.'

2. In relation to candidates for the ordained ministry Synod will want to be aware of a good deal of related work undertaken by the Ministry Division:
 - In May 2006, the Bishops' Committee for Ministry commended as good practice the report *Screening Candidates for Racist Attitudes*. The report recommended that the issue of race and diversity should be addressed by DDOs as part of the discernment process and that clear guidelines should be drawn up for DDOs. These recommendations have now been implemented: there are guidelines for DDOs on the screening of candidates for racist attitudes; and DDOs now indicate in candidates' Sponsoring Papers that issues of race and diversity have been discussed with the candidate and that he/ she appears to understand and be sensitive to social, cultural and racial difference.
 - In addition, the Ministry Division has run 5 in-service training days during late 2007 and early 2008 on racial and cultural diversity. The days were held at, and staffed by, Queen's College Birmingham (whose staff have considerable experience in cross-cultural issues) and were attended by Bishops' Advisers and DDOs.
 - The Ministry Division is working closely with The Queens Foundation, Birmingham to develop the roles of a National Coordinator/ Facilitator for Training for Minority Ethnic Anglicans and the post of a Leadership Development Officer to develop the mission and ministry of Black and Asian ministers.

3. In relation to existing clergy the advice from the Legal Office is that a policy that was identical to that within the police service would not be enforceable under the Clergy Discipline Measure given the terms of that measure as approved by Synod. Proceedings under the Clergy Discipline Measure - on the grounds that membership of the BNP, or of a like party, is conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders - would be ruled out because section 8(3) of the CDM provides that proceedings for unbecoming conduct may not be taken in respect of the lawful political opinions or activities of any bishop, priest or deacon. Since the BNP is not a proscribed political party, it is lawful to be a member. Merely being a member of it could not, therefore, provide a basis for disciplinary proceedings against a member of the clergy under the Measure.
4. Adopting the same policy as the police service in relation to employed lay people who represent or speak on behalf of the Church would require rather more by way of fresh work, since there is currently no Church wide set of requirements in relation to lay staff, who are, of course employed by a range of national, diocesan, parochial and other bodies. Implementation of any new national policy would in practice be a matter for each employer within the Church and would require some thought to be given to:
 - How enforcement was to be secured at the point of recruitment. Applicants would presumably need to be invited to declare that they were not currently members of BNP or such other organisation of the kind specified. It would also need to be made clear that declarations found to be false could result in dismissal.
 - How enforcement would work if a member of staff recruited after the new policy came into force was to join the BNP etc during their employment. The invocation of a disciplinary process, with the potential for dismissal would in principle be possible, though consistency of approach would be important.
5. Again in relation to existing staff the position is more complex. The Legal Office advise, for example, that there would be difficulties in obtaining information about political affiliation from employees who were unwilling to supply it. Furthermore, any policy would need to be drafted to minimise the risk of claims for unfair dismissal by aggrieved employees and of litigation seeking to argue that the dismissal of existing staff solely on the grounds of their membership of a political organisation was unreasonable.
6. A person dismissed on those grounds might also seek to bring a claim of discrimination, on the grounds that a requirement not to belong to the BNP would put people of that employee's race or ethnic origin at a particular disadvantage compared to other persons. In order to defend such a claim, it would then be for the employer to show that the imposition of the requirement was a proportionate means of achieving a legitimate aim.
7. Since clergy cannot, under the law as it stands, be prevented from belonging to the BNP, a policy that prohibited lay employees from being members would be correspondingly more problematic to justify successfully in a discrimination case. Cases outside the Church concerning the BNP have seen employees bringing claims against their employers arguing that their less favourable treatment is an interference with their human rights under the Human Rights Act (for example, under articles 9 [freedom of thought, conscience and religion], 10 [freedom of expression] and 11 [freedom of association]).

William Fittall
Secretary General
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