

**GENERAL SYNOD****COVENTRY DIOCESAN SYNOD MOTION ON DEANERY SYNODS****Background note from the Secretary General**

1. The Church of England comprises a very large number of bodies, incorporated and unincorporated. Incorporated bodies include ‘corporations sole’ (diocesan bishops, incumbents and cathedral chapters) the more than 13,000 parochial church councils, the 44 diocesan boards of finance and many diocesan boards of education and national bodies such as the Archbishops’ Council, Church Commissioners and Pensions Board. Deanery synods, like the General Synod and diocesan synods are unincorporated bodies, that is to say, they do not, have a legal personality which is distinct from that of their individual members.
2. One of the consequences of this position is that any liabilities incurred by any synod could, in principle, be recovered from its officers or, indeed, its members. Another is that synods do not have the same ability as incorporated bodies to employ staff or hold property. The fact that synods are unincorporated is not, however, relevant to their eligibility for charitable status: that turns on the purposes for which a body, incorporated or unincorporated, exists.
3. Deanery Synods are established under the Synodical Government Measure 1969. Section 5 of that Measure requires a deanery synod to be established for every deanery in accordance with the provisions of Part III of the Church Representation Rules.
4. Section 5(3) specifies the functions of a deanery synod, the first of which is “*to consider matters concerning the Church of England and to make provision for such matters in relation to their deanery, and to consider and express their opinion on any other matters of religious or public interest*”. Notwithstanding the other functions specified in s.5(3), many would consider that deliberative function to be the key role of a deanery synod in the context of the Church’s governance.
5. Under s.5(4) of the 1969 Measure, it is open to a diocesan synod to delegate to deanery synods “*functions in relation to parishes in their deaneries*”, in which case deanery synods are to exercise those functions. Thus there is already some scope, if the diocesan synod so wishes, for deanery synods to be given greater responsibility in relation to their parishes.
6. The proposal that deanery synods be given incorporated status was considered in the course of the implementation of the recommendations of the Review of Synodical Government in the Church of England (‘the Bridge Review’). A number of submissions to the Group established to follow-up the recommendations of the Bridge Review (‘the Follow-up Group’) were to the effect that deanery synods should be given corporate personality, not least so as to enable them more effectively to undertake the role of employer.

7. In 2001 the Follow-up Group set out its views on that issue in its second report (GS 1412), the relevant paragraphs of which are reproduced in the Annex to this paper. For the reasons explained in its report, the Follow-up Group recommended against any amendment of the law to enable deanery synods to have corporate status. That was accepted by the General Synod.<sup>1</sup> Since 2001 there have been two relevant developments.
8. First, the Follow-up Group's report suggested that it was open to question whether deanery synods in their present form would, if incorporated, be eligible for charitable status. In fact, subsequent correspondence with the Charity Commission confirmed that they would not.
9. The reason for that was that, to be entitled to charitable status, a body must be established for exclusively charitable purposes; and the Charity Commission was of the view that the functions of deanery synods were not exclusively charitable. Difficulties were considered to arise from that point of view, in particular, from the deliberative function conferred on deanery synods by s.5(3)(a) of the 1969 Measure quoted in paragraph 4 above. Thus in so far as the motion seeks to secure charitable status for bodies at deanery level, it would seem that that could only be done by separating the deliberative and executive functions between different bodies.
10. Secondly, paragraph 72 of GS 1412 noted that the incorporation of deanery synods was not necessary to enable staff to be employed at deanery level and drew attention to the availability of two possible forms of legal vehicle which could be used for that purpose: a charitable trust and a charitable company limited by guarantee. From later this year a third form of charitable vehicle will be available, in the form of the 'Charitable Incorporated Organisation.'
11. The latter will be a form of legal entity which combines corporate status and limited liability with procedures that are more straightforward than those of a charitable company and with the benefit of regulation by the Charity Commission alone, to the exclusion of Companies House.
12. The paper submitted on behalf of the Diocese of Coventry suggests that the option of creating a distinct charitable entity for the purpose of employing staff and holding property is undesirable because such a charity "*would not be a part of the governance of the Church of England*". It is not entirely clear what is meant by this. A substantial degree of connection with the synodical structures of the Church could be assured by linking the trusteeship of the charity to the officers and/or members of the deanery synod.
13. Whether the Church of England would be a more effective and efficient body if more executive roles should be undertaken at deanery level rather than at national, diocesan or parochial level is a wider question. The present situation

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<sup>1</sup> The resolution passed by the Synod at the July 2001 group of sessions instructed the Business Committee to introduce legislation based on recommendations contained in GS 1412, with certain exceptions - none of which related to the Group's recommendation that steps should not be taken to confer corporate status on deanery synods.

is that this is a matter for determination within each diocese rather than national policy.

14. In considering whether to ask for resources to be committed to a review the Synod needs to assess whether a national policy would add value. It also needs to consider to what extent a national review of the case for giving deaneries a larger executive role could be conducted without in practice reviewing the role of parishes and dioceses.
15. If what is sought is more support and facilitation rather than policy, this could be provided by producing in due course an updated information document setting out options for those deaneries which wish to create more executive capacity through establishing a distinct charitable entity - whether for the purposes of employment or otherwise . This would build on the document *Good Practice in Deaneries* (GS Misc 639) referred to in paragraph 72 of GS 1712.

**William Fittall**

**January 2010**

Extract from the Second Report of the Follow-up Group to the Review of Synodical Government in the Church of England (GS 1712)

*(c) Corporate and employer status for Deanery Synods*

- 69 One issue consistently raised in submissions to the Following-up Group was whether Deanery Synods should be given corporate and employer status in law. In times when many more initiatives and projects are being undertaken on a deanery-wide basis the need to employ personnel to further such initiatives and projects increasingly arises. Since Deanery Synods do not have corporate or employer status the current practice is to rely on the diocese to be the employer on behalf of the Deanery, or for a particular parish within the Deanery to take on the duties of employer on behalf of the whole Deanery. Would it be sensible for Deanery Synods to be constituted as corporate bodies able to act as employer in their own right?
- 70 In order to gain some sense of the support there might be for such a move dioceses were asked to comment on the issue. Some 25 dioceses responded (most after taking wider soundings within deaneries). The responses were more or less equally divided between those welcoming the possibility of more flexibility by giving corporate status to deaneries and those who had concerns over possible liabilities falling on Deanery Synod members and the complexities of coping with employment legislation at that level.
- 71 While noting the support for deaneries to develop their own projects, the Follow-up Group did not feel that corporate status was the appropriate vehicle for achieving this. Deaneries could only become corporate entities by changing the current legislation, a method that is not recommended for the following reasons:
- It would oblige all deaneries to become bodies corporate.
  - While it would be possible to make legislative provision for some deaneries to become bodies corporate if they so wished, that would add considerable complexity to the arrangements.
  - It would seem desirable that if projects are to be undertaken on behalf of a deanery they should be undertaken through a body having charitable status (so as to secure tax relief and access to charitable funding); and it is doubted whether deanery synods in their present form would be eligible for such status in view of their purposes as set out in Section 5 of the Synodical Government Measure 1969. (Whether this is in fact the case is being explored with the [Charity] Commissioners.)
- 72 The Follow-up Group believes that deaneries wishing to undertake major projects, including the employment of staff, will wish to do so through the medium of a charitable entity. On the assumption that deanery synods are not

themselves eligible for charitable status, the Follow-up Group recommends that deaneries wishing to consider projects of this kind should consider establishing a separate charitable entity for the purpose. Two forms of charitable vehicle are recommended: a charitable trust and a charitable company limited by guarantee. Deaneries planning to go in either of these directions would need to take legal advice and consult their diocesan office. Details about these recommended forms of charitable vehicle are explained in the “Good Practice in Deaneries” report from the Follow-up Group’s Deanery Sub-Group (GS Misc 639) which will shortly be circulated to General Synod members.

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