

**LEGAL OFFICERS (ANNUAL FEES) ORDER 2007**  
**ECCLESIASTICAL JUDGES, LEGAL OFFICERS AND OTHERS (FEES)**  
**ORDER 2007**

**Explanatory Memorandum**

1. The membership of the Fees Advisory Commission (“the Commission”)<sup>1</sup> for the current quinquennium is:

Appointed by:

His Honour Judge Andrew Rutherford  
(Chair)

The Lord Chancellor

Mr Geoffrey Tattersall QC

The Chairman of the Bar  
Council

Mr Aiden Hargreaves-Smith

The President of the Law  
Society

Mr Michael Chamberlain

The Archbishops’  
Council

Mr Andreas Whittam Smith  
(First Church Estates Commissioner)

The Church  
Commissioners

Mr Timothy Allen

The Appointments  
Committee

All members are members of Synod, except the Chair.

2. The Commission is assisted by four consultants: one from the Ecclesiastical Judges Association (representing diocesan chancellors and other ecclesiastical judges), one from the Ecclesiastical Law Association (representing the diocesan registrars), one of the provincial registrars and a member of the Research and Statistics Department of the Archbishops’ Council.

(a) *Legal Officers (Annual Fees) Order 2007*

3. The Legal Officers (Annual Fees) Orders made under section 5 of the 1986 Measure fix the annual fee payable to each diocesan registrar for the work specified in Schedule 1 to the Order (much of which they are required by law to carry out).

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<sup>1</sup> The constitution of the Commission is laid down by section 4 of the Ecclesiastical Fees Measure 1986, as amended by section 16 of the Church of England (Miscellaneous Provisions) Measure 2000.

## Background to the 2007 Order

4. As members of the Synod will be aware, the evidence supplied to the Commission over a substantial period has consistently demonstrated that the amount paid to the registrars by way of annual fees falls some way short of what would be reasonable remuneration for their work. In 1996 the Commission therefore informed the Synod that it proposed “that in 1997 and in subsequent years if the information which registrars supply annually....continues to reveal a substantial shortfall, it will ask the Synod to agree to an increase of 2% on top of that which is calculated in accordance with the usual inflationary formula.” (GS 1225X). The term “usual inflationary formula” was used at that time, and is still used, to refer to a combination of the increases in RPI (25% weighting) and AEI (75% weighting) for the previous year (both published by the Government).
5. Each year between 1997 and 2002<sup>2</sup> the Synod approved draft Orders that increased the total amount paid to all diocesan registrars by the ‘usual inflationary formula’ plus a further additional increase. In each year between 1997 and 2000 this additional increase was 2%, while in both of the years 2001 and 2002 this additional increase was 1%<sup>3</sup>. In 2003 the Synod approved a draft Order that provided for an increase by inflation, as measured by the RPI alone, with no additional upgrade.
6. In May 2004 the Commission agreed, by a majority of those present, to recommend to Synod a draft Order that was again calculated using RPI alone, with no additional upgrade (GS 1537X). The motion for the approval of this draft Order was defeated at the July 2004 Group of Sessions. In October 2004 the Commission agreed (with one member absent) to recommend a revised draft Order calculated using the ‘usual inflationary formula’ (GS 1562X). The motion for the approval of this Order (to come into force with effect from 1<sup>st</sup> January 2005) was carried at the February 2005 Group of Sessions. In July 2005 and July 2006 the Synod approved in each year draft Orders that provided for an increase by the usual inflationary formula alone, with no additional upgrade.
7. In May 2007 the Commission agreed unanimously (with all members present) that the inflation figure to be used to calculate the level of fees contained in the Legal Officers (Annual Fees) Order 2007 (to come into force on 1<sup>st</sup> January 2008) should be the **usual inflationary formula**<sup>4</sup> with no above

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<sup>2</sup>Each year, in support of these proposals, the Commission set out a sequence of supporting statistics that have been gathered and analysed by the Statistical Unit of the Central Board of Finance (now a Department of the Archbishops’ Council), the latest of which (for 2006) is annexed to this explanatory memorandum. The median retainer figures given in the statistical analysis are based on the figures provided by the registrars. These figures show significant variations between the time spent by registrars and their staff albeit in dioceses of similar size. These variations may be down to many factors, including varying levels of demand from the diocesan bishop and other officials for the diocese.

<sup>3</sup> This lower figure was agreed by the Commission in response to the financial constraints facing the Church (and with the support of the registrars’ consultants).

<sup>4</sup> The RPI figure for 2006 is 3.2% and for AEI is 4.1%, giving a ‘mixed’ figure of 3.875%.

inflation top up. The level of increase that has been applied is therefore **3.875%**. As in previous years, this increase is applied to the **total** sum payable under the Order currently in force, which is then divided amongst the dioceses in accordance with a weighted formula which takes account of both the number of parishes in a diocese and the number of clergy of incumbent status and above (excluding cathedral clergy).

(b) *Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2007*

8. The Ecclesiastical Judges, Legal Officers and Others (Fees) Order fixes fees for faculty proceedings and some other proceedings in ecclesiastical courts, and also provides for the fees of the Provincial Registrars and the Vicars-General and certain fees for Synod elections.
9. In past years, the Commission has restricted the increase in the fees payable under the Ecclesiastical Judges, Legal Officers and Others (Fees) Order to the inflation figure used that year to calculate the increase in the Legal Officers (Annual Fees) Order, but always without an additional upgrade. In the period 1997-2002 this resulted in an annual upgrade calculated on the basis of the 'usual inflationary formula' (as defined in paragraph 4 above) whilst the inflation figure used in 2003 and 2004 was based on RPI alone<sup>5</sup>. The Orders in 2005 and 2006 were based in the usual inflationary formula.
10. In May 2007 the Commission, with all members present, agreed *nem con* (with one member abstaining having declared an interest) that the policy outlined above should again be applied in calculating the fees payable under the 2007 Order, which have therefore been increased by **3.875%**, that is the figure calculated using the 'usual inflationary formula', with no additional upgrade.

**21<sup>st</sup> May 2007**

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<sup>5</sup> It should be noted that the Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2004 (based on RPI alone) was approved by the Synod in July 2004.

## **Annex – 2006 Diocesan Registrars’ Retainers – a Statistical Report**

### **Introduction**

Each year since 1994 the Archbishops’ Council’s Research and Statistics Department (formerly the CBF Statistics Unit) has presented a report to the Fees Advisory Commission based on figures supplied by diocesan registrars for the work carried out in the previous year. The data have shown a wide gap between the size of the retainer and the monetary value of the work covered by the retainer.

### **Median Values**

The median is defined as the middle point of a set of values when all the values are arranged in order of size. It is used as a measure of “average” that is not unduly affected by extremes. The table below shows diocesan median values for hours worked, the monetary value of work done, the retainer and the retainer as a percentage of the value of work done since 2001.

Year	Median Values			
	Hours Worked	Monetary Value of Work Done	Retainer	Retainer as a Percentage of Value of Work Done
2001	532	£46,700	£32,800	71%
2002	491	£48,900	£34,500	68%
2003	531	£59,800	£36,300	68%
2004	473	£57,200	£36,900	64%
2005	547	£65,800	£37,800	59%
2006	555	£74,100	£39,060	59%

### **Conclusion**

The above analysis shows that the gap between the median diocesan registrars’ retainer and the median monetary value of work carried out by diocesan registrars increased between 2001 and 2005/6. The median value for hours worked has fluctuated over the period. The median gap of 41% between the monetary value of the work and the retainer in 2006 is similar to the gap when the exercise began (58%). It should be noted that the figures in the above table do not take into account the nature of or the efficiency of the work carried out. In addition, there are variations between dioceses from year to year in the median retainer as a percentage of the value of the work done which are not addressed in this analysis.

*Research and Statistics Department  
Archbishops’ Council*

*May 2007*