

## General Synod

### Follow-up to '*Discerning in Obedience*': Proposed changes to the Standing Orders relating to the Crown Nominations Commission

#### Summary

At the February 2018 group of sessions the General Synod 'took note' of the report *Discerning in Obedience: a theological review of the Crown Nominations Commission* (GS 2080). Since then, the Archbishops and the Central Members of the Crown Nominations Commission have given consideration, in consultation with the Standing Orders Committee, to various possible changes to the Standing Orders regulating the Crown Nominations Commission. As a result, they now bring forward a number of proposed changes, for approval by the Synod. This note provides the background to those amendments, which are set out in the First Notice Paper.

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#### Introduction

1. Since the General Synod 'took note' of the report *Discerning in Obedience: a theological review of the Crown Nominations Commission* (GS 2080) at the February 2018 group of sessions, the Archbishops and the members elected to the Crown Nominations Commission ('the CNC') by the Houses of Clergy and Laity ('the central members') have given consideration, in consultation with the Standing Orders Committee, to various possible changes to the Standing Orders regulating the CNC that arise out of the recommendations made in *Discerning in Obedience*. This note provides the background to those amendments, which are set out in the First Notice Paper. Members are also encouraged to read the report from the oversight group established by the Archbishops to monitor the progress on the discussion and implementation of arrangements (GS Misc 1209).

#### Standing Order 137 (Crown Nominations Commission: membership)

2. The first issue considered was that of the possible exclusion of central members from consideration of a vacancy in the see of their 'own' diocese.
3. Sir Philip Mawer notes in his paragraph 116 of his report *Review of the nomination to the See of Sheffield and related concerns: Report by the Independent Reviewer* (2017) that the proposal that central members should not serve on the CNC for their own diocese was first made by Baroness Fritchie in a review of the Southwark CNC in 2010. She noted

*"I think that in terms of influence and perception of influence it would be advisable for central CNC members to wholly withdraw from taking part in an appointment which is being made in their own diocese. This would enable the process to be more objective and remove any suggestion of additional or undue influence. It would also ensure that the balance of diocesan members and central members was properly maintained. It would also free up the affected member to contribute their*

*thoughts and contributions more freely within the diocese at the earliest stage in the process.”*

4. Sir Philip Mawer also noted that strong representations had been made to him in relation to the fact that one of the Diocese of Sheffield’s representatives on the General Synod, previously elected by the Synod as a central member, was able to continue as a member of the Commission which considered the vacancy in Sheffield. He recommended (in paragraph 117) that the possibility of this happening be reviewed.

5. *Discerning in Obedience* noted (in paragraph 5.8):

*“Where the integrity of a body depends on a certain representative balance, no member can wear two hats. This implies that a central member needs to step aside from his or her home diocese.”*

6. The central members unanimously support the proposal that central members should not serve on a CNC considering a vacancy in the see of their own diocese. Furthermore, they consider that in the case of clerical members that principle ought to apply as much to deans and to clergy who represent the Universities and Theological Education Institutions as to proctors in Convocation.

7. **Item 30** in the First Notice Paper will amend SO 137 accordingly.

8. The central members note that if that amendment is made, it will create something of an anomaly in relation to any member of the CNC who represents the Universities and TEIs. In addition to being excluded from membership of the CNC, such a representative would also currently be ineligible for membership of the diocesan Vacancy in See Committee (in contrast to the position of a member of the CNC who was a dean or a proctor in Convocation, who would be an ex officio member of the Committee). The central members have accordingly suggested to the Group reviewing the processes of election to the CNC that it give consideration to proposing amendments to the Vacancy in See Committees Regulation in such a way as to enable University and TEI representatives to serve as of right on the Vacancy in See Committee for their own diocese in the same way that proctors in Convocation of the diocese do.

### **Standing Order 138 (Crown Nominations Commission: Chair)**

9. The second issue proposed to be addressed is that of the Chair of the CNC for the see of York.

10. At present, SO 138(7) provides that the Chair of the CNC for a vacancy in the see of York *“must be an actual communicant lay member of the Church of England appointed by the Appointments Committee after consultation with the Archbishop of Canterbury”*.

11. The amendment to SO 138 set out at **item 31** of the First Notice Paper proposes that the nomination of the Chair should instead rest with the Prime Minister, after consultation with such “persons or bodies” as s/he thinks fit. Following discussion by the central members, a residence requirement has also been added to ensure that the Chair has a link with the Northern Province.

12. The rationale for this amendment is set out in paragraph 5.21 of *Discerning in Obedience*:

*“The most distinctive feature of the Archiepiscopal nominations is the Lay Chair, who is a communicating member of the Church of England, appointed by the Prime Minister in the case of Canterbury, by the Appointments Committee in consultation with the Archbishop of Canterbury in the case of York. The significance of this arrangement is to highlight the importance of the national profile of the two Archbishops as the leading public voices of the established Church, and, in our view, it should be valued. The task can be a daunting one, but those who have undertaken it have been public figures with a significant weight of experience, who have brought to the task not only their own Christian faith but a sense of national context that would be difficult to equal, which strengthens the wider authority of the Archbishops in the nation. There has been a minority opinion within the Church of England which has favoured severing every link between the church and the wider public and political structures, and from that point of view the role of the Prime Minister in appointing the chair for the Canterbury CNC is an anomaly. Our view, which we believe to be in keeping with the traditional teaching of the Church of England on church and state, sees such interactions as an important safeguard for the character of democratic government in Britain, which has in past generations been open to moral and spiritual influence. Lay Chairs for the Canterbury CNC have not interpreted their role as being mouthpieces for a Prime Minister’s agenda but have sought to facilitate a balanced process in the broadest interests of the church. We find it more difficult to understand the logic of the appointment of the York chair by the Appointments Committee, a body which is mainly involved in church appointments, with little experience to enable it to identify a figure with the appropriate profile. It might usefully be discussed whether this appointment, too, might rest with the Prime Minister”.*

13. A previous report on the CNC, *Working with the Spirit: choosing diocesan bishops* (GS 1405) recommended (paragraph 3.80) that the arrangements for the appointment of the Chair of the Canterbury CNC should mirror that of York and should be made by the Appointments Committee rather than the Prime Minister. This was on the ground that this “goes against a principle which applies in the case of all other vacancies- that the names are proposed by a church body but the decision between them is taken by the Prime Minister. In order for the names to be seen to come from the Church, it is important that the chairman of the Commission should be appointed by the Church”.

14. However, this suggestion was not pursued by the report of the Steering Group appointed to follow up the recommendations of *Working with the Spirit*. They noted in paragraphs D6 and D7 of their report (GS 1465) that the Prime Minister would be disinclined to agree the recommendation, believing that “*the appointment of the chairman by the Prime Minister “reflects the immense public importance of the Archbishopric, and the very real public interest (in the word’s true sense) that there is in the appointment”.* He is also concerned that such a change could be interpreted as a small but significant erosion of the partnership between Church and Nation”. The report of the Steering Group went on to explain that there was a variety of views within it “*about the propriety of the Prime Minister’s role in appointing the chairman, but mindful that the existence the Commission rests on an agreement between Church and State”*, they accepted the Prime Minister’s response and did not propose to progress the proposed change.

15. The central members also have a variety of views on this issue. Some see practical merit in the appointment resting with the Prime Minister, as with a Canterbury CNC. Others believe that SO 138(7) has served the Church well since the creation of the Crown Appointments Commission in 1975 and do not support the proposed change.
16. The Prime Minister has been consulted about the matter. She has indicated that, if Synod endorses the proposed change, she would be happy to accept this. She would ask her Appointments Secretary to consult with the Archbishop of Canterbury and other Church leaders before recommending names for the role of Chair of the York Crown Nominations Commission.

### **Standing Order 139 (Crown Nominations Commission: archiepiscopal vacancy)**

17. *Discerning in Obedience* made several recommendations in relation to membership of the CNC for the see of Canterbury which have been discussed by the Archbishops' Council and the central members. The consultations required for these changes will not be complete before late 2020".
18. The question of episcopal representation on the CNCs for archiepiscopal vacancies is explored in paragraph 5.20 of *Discerning in Obedience*. It reads:

*“We have made the point above that the Archbishop’s office has been historically understood as that of a president among bishops. The bishops must have confidence in the appointment of the Archbishops, so that it is proper for the House to have an elected representation in these nominations. As things stand, the CNCs that nominate to Archiepiscopal sees include two bishops, one of whom is elected by the House while the second may either be the remaining Archbishop, or, at the Archbishop’s discretion, a second elected bishop. In a nomination to York it would be unusual for a sitting Archbishop of Canterbury not to be involved, so in almost all cases there will be just one elected bishop. Standing Orders do not specify that this must be a diocesan, or even come from the province of York. In a nomination to Canterbury the Archbishop of York may choose to be part of the Commission, or not; it will be generally assumed, other things being equal, that this choice indicates a decision whether to be candidate. These arrangements have a haphazard appearance. It is surely improper that an Archbishop of York could be nominated without any bishop of the Northern province having a voice. It is invidious that, when no one else in the Church of England is ever required publicly to declare a candidacy for an episcopal see, the Archbishop of York is more or less forced to do so, negatively or positively, when a vacancy arises at Canterbury. It is erratic that the level of elected representation in an election should depend on an individual’s decision. Given the senior position of the Archbishop of Canterbury, no attempt to organise the two Archiepiscopal CNCs on symmetrical lines will be successful; there must inevitably be a disequilibrium between them. We propose, then, that on the CNC for York the Archbishop of Canterbury should continue to have a position ex officio (which may be delegated to another bishop from the Southern province), while the other episcopal position should be reserved for a bishop of the Northern province elected by the whole House of Bishops. On the CNC for Canterbury, on the other hand, the two episcopal seats should be chosen by election by the whole House of Bishops, one to come from the Northern, the other from the*

*Southern province. We would then regard it as a matter of good practice that the Archbishop of York should be invited to meet the Chair of the CNC and the Secretaries to discuss what is required in a new Archbishop of Canterbury. Whether or not the Archbishop will be a candidate need not be known publicly. There would, of course, be nothing to prevent the Archbishop of York being elected as one of the two episcopal members”.*

19. Thus *Discerning in Obedience* recommends that (i) in the case of the CNC for the see of York the Archbishop of Canterbury should continue to have a position *ex-officio*, (ii) that the other episcopal position on that CNC be reserved for a bishop from the Northern Province elected by the whole House of Bishops and (iii) in the case of the CNC for the see of Canterbury the two episcopal seats should also be elected by the whole House of Bishops, with one to come from the Northern province and one from the Southern - with the consequence that the Archbishop of York would not have an automatic entitlement to membership of the CNC for the see of Canterbury.
20. The central members support the continued role of the Archbishop of Canterbury on the CNC for a vacancy in the see of York. They also consider it important that any elected bishop should come from the Province concerned. They therefore unanimously support recommendations (i) and (ii). However, they also consider it important that the serving Archbishop of York should have the opportunity to be a member of the CNC for the see of Canterbury and accordingly believe that the existing arrangements in that respect to be satisfactory. They do not therefore support recommendation (iii).
21. Since recommendation (i) is in support of the present position, no amendments to the Standing Orders are required in connection with it. **Item 32** on the First Notice Paper will give effect to recommendation (ii).

#### **Standing Order 140 (Crown Nominations Commission: duration of membership)**

22. **Item 33** on the First Notice paper is consequential upon the proposed new disqualification provision to be introduced by item 30: if an elected central member of the CNC is disqualified under that new provision, some arrangement needs to be made to appoint some other person to take the place of the member disqualified. Item 33 does so by extending to this situation the power conferred by 140(9) on the Chair of the relevant House to appoint some other person to act in place of an elected central member who is unable to attend the CNC’s meetings for a particular vacancy.

23. The central members unanimously support this change.

#### **Standing Order 141 (Crown Nominations Commission: business and procedure)**

24. *Discerning in Obedience* makes two recommendations in relation to the voting arrangements in the CNC.

25. SO 141(6) provides that “*A name may not be submitted to the Prime Minister unless it has received the support of at least two-thirds of the total number of the voting members of the Commission, without discrimination in respect of Orders in a secret ballot*”. SO 141(7) provides that “*The Commission must indicate a preference between the two names submitted to the prime Minister, determined by a vote conducted by secret ballot*”.

26. The report's first recommendation relates to the requirement for a 2/3 majority under SO 140(6). In that connection it states as follows in paragraph 6.9:

*“Not only complicated, the voting system is also capable of resulting in deadlock if a round of voting fails to yield a two-thirds majority for one out of the final two candidates. Out of the fourteen voting members a two-thirds majority requires ten, which is a high threshold. If that is not reached, deadlock can only be resolved if one or more supporters of the runner-up transfers support to the leading candidate. A special case of the same problem arises when one or more members find themselves unable to support either of the final two candidates. Failing a concession on someone's part, the CNC must begin again from the beginning, a frustratingly lengthy process inviting speculation and publicity. Our view is that after one failure to reach the ten votes required for a nomination, the chair should be empowered, by amendment of Standing Order 141(6), to accept the vote of nine members out of fourteen as conclusive. For the Archbishopial sees, where, on our proposals, the number of voting members will be twelve for Canterbury and fifteen for York, the strict two-thirds majority is not so far out of reach. It may therefore not be necessary for them to be covered by this special provision”.*

27. The central members who served during the period 2012 – 2017 had previously considered the issue of deadlocked voting. Mindful that the requirement for a 2/3 majority is designed to ensure that the appointee has a wide measure of support and of the historic provenance of the 2/3 majority in ecclesiastical appointments, they had explored amending the Standing Order in such a way that the requirement would be for 2/3 of those “present and voting” rather than 2/3 of “the total number of the voting members of the Commission”.

28. The general position in relation to Synod votes that need a 2/3 majority is that 2/3 of those present and voting vote in favour. Abstentions, although recorded do not count as votes for this purpose. In contrast, under the current CNC system if someone abstains, or indeed is absent from the meeting, the effect is the same as if they had voted against. Anyone with reservations about a candidate could still vote against.

29. The central members revisited this earlier proposal in the light of the recommendation made in *Discerning in Obedience*. A majority of them are in favour of amending the Standing Order in the way previously canvassed, rather than in the way proposed by the report. A minority remain unconvinced that amending the voting system is the right solution to failures to agree a nomination, noting that difficulty in identifying a candidate at a particular time may be the appropriate outcome of a process of discernment for that see at that time.

30. **Item 34** in the First Notice paper will accordingly amend SO 140 so that any name put to the Prime Minister must have the support of “At least two-thirds of the members of the Commission present and voting”.

31. As regards the requirements for a secret ballot under SO 140(6) and (7), paragraph 6.7 of *Discerning in Obedience* states as follows:

*“In the light of our reflections on confidence and secrecy (2.12 – 2.14) we encourage the Archbishops to propose the necessary change to Standing Order 141(6) to remove the requirement that voting in the CNC should be secret, subject, of course, to the rule of confidentiality that governs all the CNC's proceedings. The confidentiality of CNC*

*proceedings is a good example of a sphere of restricted communication that enables people to communicate with one another frankly. The secret ballot, on the other hand, appears merely to create a veil of mystery dividing those who need to be able to cooperate more. Yet arguments in favour of the secret ballot are not negligible: (a) the presiding Archbishop, too, would declare a vote, and it might become known if **the** Archbishop had favoured a candidate other than the successful one (a concern on which we have already commented in 5.4 above); (b) the Archbishop's vote might carry too much influence; (c) if, as has occasionally happened, the diocesan members apparently act and think as a block, the secrecy may allow their solidarity to break up. These arguments have in common that they treat secrecy as a defence against dysfunction - breach of confidence, the phalanx mentality etc. We suspect, on the other hand, that the secrecy of the ballot may actually encourage the dysfunctional syndromes it is meant to guard against. A culture in which members report their votes, and when appropriate explain them (the Archbishops, no doubt, after everyone else), strikes us as a better defence against excessive influence than secrecy can be. We believe open voting will help to provide a context in which discussion, and not only the casting of votes, receives proper emphasis. It may also be a better defence against the temptation to breach confidence, simply because it allows members to talk more openly to one another".*

32. The central members have different views on the issue: whilst some agree with the rationale set out in the report for the removal of the requirement of a secret ballot, for others the principle of the secret ballot is an important one which needs to be maintained. The central members have therefore agreed that an amendment removing the requirement for a secret ballot should be put before the General Synod so that it is in a position to decide the matter. **Items 35 to 38** on the First Notice Paper will accordingly have that effect. (Items 35 and 36 amend SOs 141(6) and (7) respectively, while items 37 and 38 make consequential amendments.)

+ Sentamu Eboracensis

On behalf of the Central Members of the Crown Nominations Commission

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