

GENERAL SYNOD

LEGAL ADVISORY COMMISSION

PARISH CHURCH : RIGHT TO ENTER

1. Although it is unclear whether the right was originally founded in statute¹ or whether it is purely a common law right², a parishioner has the right to enter his or her parish church in order to take part in divine service and to remain there until the conclusion of the service³. For these purposes ‘divine service’ includes any form of legally authorised religious service⁴. This right is subject to there being sufficient accommodation available (including standing room) but is necessarily subject to the requirements of the preservation of good order⁵ as well as of any applicable health and safety legislation⁶.
2. The parishioner must comply with a churchwarden’s directions (if any) as to where he or she should sit⁷. Although the Canon speaks of allocation of seating “in such manner as the service of God may be best celebrated”, there seems no reason why this should not in appropriate circumstances embrace the seating of the parishioner in a different part of the church away from one or others of the congregation, for example, in the context of safeguarding concerns or possible harassment.
3. There is a similar right to attend the parish church for any meeting of parishioners for the purpose of choosing churchwardens (as long as the person’s name is entered on the electoral roll or is entered on the register of local government electors by reason of residence in the parish⁸) and the annual parochial church meeting (as long as the parishioner’s name is on the electoral roll of the parish⁹).

1 That is, as a corollary of the statutory duty to attend divine service: see the Act of Uniformity 1551, section 1, (repealed); 34 Halsbury’s Laws of England (LexisNexis, 2011) paragraph 292 note 1. See, now, Canons B 6, paragraph 1, & B 15, paragraph 1.

2 See *Cole v Police Constable* 443A [1937] 1 KB 316.

3 *Jarratt v Steele* (1820) 3 Phillimore 170; *In re St Michael’s, Orchard Portman* [2001] Fam 302.

4 As to which see, generally, the Revised Canons Ecclesiastical, Section B.

5 See sections 2 and 3 of the Ecclesiastical Courts Jurisdiction Act 1860 (which are concerned with disturbances in churches and churchyards and enable those guilty of “riotous, violent or indecent behaviour” to be immediately apprehended by a churchwarden and taken before a magistrates’ court). See also Canon E 1.4 as to the duty of the churchwardens to “maintain order and decency in the church and churchyard, especially during the time of divine service”.

6 For example, the requirements of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541).

7 Canon F 7, paragraph 2. There seems to be no reason why this does not also include standing where the churchwarden directs if there is no seating available.

8 Churchwardens Measure 2001, section 5(1).

9 Church Representation Rules 2011, rule 6(2).

4. Subject to the rights already referred to in relation to church meetings, the position of those whose names are on the electoral roll but who are not resident in the parish is not clear¹⁰. Such persons have the right to be married in the parish church¹¹. They may also be elected as members of the parochial church council¹² and chosen as churchwardens¹³. In these circumstances, such persons as may have been elected or chosen presumably have the right to enter the church in order to carry out their legal functions.
5. See, too, the Commission's opinions entitled *Disturbances during services and admission to episcopal enthronements* (op. cit. at page 302-305) and *Celebrating Marriages in Anglican Cathedrals and Churches* (February 2017).

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10 See the Legal Opinions concerning the Church of England (8th ed., 2007) at page 170.

11 Marriage Act 1949, section 72. Those having a qualifying connection with the relevant church have a similar right to be married in that church: Church of England Marriage Measure 2008, section 1.

12 Church Representation Rules 2011, rule 14.

13 Churchwardens Measure 2001, section 1 (3).