

## **LEGAL ADVISORY COMMISSION OF THE GENERAL SYNOD**

### **COLLECTIONS AT FUNERALS AND MEMORIAL SERVICES**

1. A question has been asked of the Legal Advisory Commission as to what should happen in relation to collections taken at funerals. On some occasions relatives request that the collection should be donated to a particular charity or charities, although this may not have been notified to the minister and the funeral director may also on occasion arrive at the church with his own collection box. In some parishes the PCCs have agreed policies in relation to such collections, for example, that, if the preceding press notice of the funeral specifies a charity to which memorial donations might be made, donations placed on the collection plate in envelopes marked with the name of the charity or with other appropriate words will be forwarded to that designated charity. Some parishes have adopted a policy of a 50/50 split between a charity so nominated and parish funds of whatever collection is taken although this has caused friction with some families.
2. The opinion specifically relates to any collection (however taken and by whomsoever taken) within the church building whether before, during or after the service.
3. Again, although this opinion specifically addresses the question of collections at funerals, the same principles apply to collections taken at memorial services and services of thanksgiving for deceased persons. Moneys sent directly to an undertaker or funeral director must be forwarded directly to the specified charity.

#### Collections Generally:

4. In *Marson v Unmack* [1923] P 163 the Dean of the Arches said:

“I need hardly say that in public worship deviations from the services contained in the Prayer Book, unless authorized by or under the Acts of Uniformity, are unlawful. A collection made during Mattins or Evensong -- I exclude an offertory during the Communion service because that is expressly provided for by rubric, and may therefore perhaps be regarded as a part of the service -- is not provided for in the Prayer Book. It is an incident occurring during a service or interposed between different portions of it, but it is no more part of the service than a voluntary played on the organ or the action of a verger closing windows or lighting the gas while the service is in progress. Though of course varying greatly in degree of importance, they are all alike in being matters, not in themselves irreverent or unseemly, but outside the rites and ceremonies of public worship. Such a collection is an interlude entirely at the option of the minister, and has its sole justification in the sanction of long custom. It is quite impossible to treat the action of the minister in ordering a collection to be made during morning or evening service as an ecclesiastical offence. But, if he orders such a collection, its allocation is, under the Measure of 1921, a matter for the decision of himself and the Parochial Church Council jointly.... Collections in church, other than those made at the offertory [at Holy Communion], may lawfully be made for objects determined by agreement between the incumbent and the Parochial Church Council. Such objects may be, and I think, having regard to the language of clause 6 (iv) of the Measure of 1921, ought to be announced to the congregation before the collection. When the objects have been so determined and announced, the resulting collections must of course be applied to those objects.”

The same reasoning would apply to collections at funeral services. At the time of the above judgment the rubric at the end of Holy Communion in the Book of Common Prayer provided\_

“After the Divine Service ended, the money given at the Offertory shall be disposed of to such pious and charitable uses, as the Minister and Church-wardens shall think fit. Wherein if they disagree, it shall be disposed of as the Ordinary shall appoint.”

However, this rubric has now been superseded by Canon B 17A which overrules the rubric and states that \_

“... moneys given or collected in church at Holy Communion shall form part of the general funds of the parochial church council and shall be disposed of by the parochial church council in accordance with the provisions of section 7(iv) of the Parochial Church Councils (Powers) Measure 1956.”

5. The provisions of the Parochial Church Council (Powers) Measure 1921, section 6(iv), were to all extents and purposes the same as section 7(iv) of the Parochial Church Council (Powers) Measure 1956, which now states \_

“The council of every parish shall have the following powers in addition to any powers conferred by the Constitution or otherwise by this Measure:—

(iv) power jointly with the minister to determine the objects to which all moneys to be given or collected in church shall be allocated . . . .”

The 1921 Measure spoke of “the Incumbent” rather than “the minister” but the context of the 1956 Measure makes it clear that the reference is not to the minister taking the service but to the incumbent or priest-in-charge. Subsection (iv) speaks quite specifically of a ‘power’ to determine the objects of any collection; for this reason the final two sentences quoted above from the judgment of the Dean of the Arches should not be read as being determinative that in all cases a decision must be made jointly by minister and the parochial church council. Nevertheless, if the power is exercised, it must be exercised in favour of any charity or organisation the objects of which are such as to further any part of ‘the whole mission of the church’ (see *Parochial Church Council in Legal Opinions concerning the Church of England* (Church House Publishing, 8<sup>th</sup> ed., 2007) at pages 134-135).

6. Unless a collection is prescribed within a particular service, such as in the Holy Communion according to the Book of Common Prayer, no collection may take place without the consent of the minister taking the service. If that consent is, or has been, given two possible situations may arise: (i) where the statutory power to determine the objects of any collection has been exercised; and (ii) where the power has not been exercised in relation to the circumstances in which the collection in question is to be made. In this regard it may be noted that, although Canon B 17A assumes the statutory power will be exercised in relation to moneys collected during Holy Communion according to the Book of Common Prayer, the Measure and the Dean’s judgment are both silent on the actual question who should allocate the objects of any collection not covered by an exercise of that power.

## Collections at Funeral Services:

7. Neither the *Book of Common Prayer* 1662 nor *Common Worship: Pastoral Services* provide for a collection to be taken in church<sup>1</sup> during or immediately following a funeral service. However, this may take place only with the consent of the minister taking the service. Collections in a churchyard may only be made with the express agreement, and in accordance with the directions, of the incumbent or priest-in-charge.
8. Although a collection at a funeral service is not part of public worship, it follows from what has already been said that the parochial church council may together with the minister in charge of the parish decide for what purposes a collection is to be taken. (If there is disagreement between the minister and the parochial church council, the diocesan bishop may give directions: Parochial Church Councils (Powers) Measure 1956, s 9(3).) Indeed, there is no reason why the minister and parochial church council should not agree in advance which of a number of specified charities may be the recipients of collections, for example, Cancer Research, NSPCC or Help for Heroes; these might, of course, be chosen in the light of the experience of the particular parish involved.
9. Whenever the statutory power is exercised in relation to a funeral service (whether it is exercised by the minister and the parochial church council as a whole or by the minister and a subcommittee) it is highly desirable in order to avoid bad feeling that it is exercised well in advance; indeed, as the power may nevertheless need to be exercised quickly, it is best that its exercise has been delegated to a subcommittee. It is also good practice to ensure that continuing publicity (for example, on the church notice board) is given to any policy decided by the minister and parochial church council. The statutory power, once exercised, cannot be overridden by the wishes either of the relatives or the actions of the funeral director.
10. In relation to funerals and memorial services pastoral sensitivity is of special importance and it may therefore be felt that the statutory power should not be exercised in too prescriptive a form. For example, there is no reason why the minister and parochial church council should not determine in advance that a collection should be apportioned between, say, the parochial church council's own funds and one of several specified charities. Alternatively, if the minister and parochial church council do not wish themselves to exercise the statutory power (or only to exercise it to a limited extent), the parochial church council may specifically appoint a subcommittee to determine the charity or organisation as long as the minister agrees with any particular decision made by that subcommittee.
11. On the other hand, if (a) the minister taking the service has exercised his or her authority to permit the taking of a collection and (b) the statutory power has not been exercised, long standing custom would permit a collection at a funeral or memorial service to be distributed to such objects as the personal representatives or close relatives of the deceased may determine as long as those objects are lawful. If such objects were lawful but nonetheless inimical to the Church or Christian values, permission to take the collection should be refused. (In this regard Canon B 1, paragraph 2, Canon F15, paragraph 1, and Canon F 16, paragraph 1, reflect the wider aspect of good order within the church.) However, this latter problem may in practice often be obviated if the statutory power has been exercised in advance.

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<sup>1</sup> In this context the church includes the church porch.

12. Whichever charity or organisation has been allocated or chosen, it is essential that (i) it is specifically named in any service sheet, card and/or envelope distributed at the church, and/or (ii) it is announced or otherwise clearly specified in church before the collection is made. Once such an announcement has been made, or a collection taken, the charity, organisation or object cannot thereafter be altered.
13. Although a collection is properly taken by the churchwardens or the sidespersons, this duty may be delegated to other proper persons or, for example, take place by means of collection bowls, plates or boxes placed in appropriate places. However, when a collection is made (in whatever form) a trust is thereby created and whoever receives the moneys holds them as trustee for the charity or organisation specified or which has been previously determined by the parochial church council (see above).
14. A distinction needs to be made between—
  - (a) a collection taken for the general purposes of the PCC;
  - (b) a collection taken for a church fund raising money for specified charitable purposes where the expenditure of the money on those purposes is under the control or management of the PCC; and
  - (c) a collection taken for a named charity or other organisation with the intention that the sums collected will be passed directly to that charity or organisation.

A collection within category (a) will form part of the general fund of the PCC to be applied by the PCC for any of its charitable purposes. A collection within category (b) will form a restricted fund of the PCC to be applied by the PCC only for the charitable purposes that were specified at the time the collection was taken. A collection within category (c) must simply be passed on to the named charity or organisation. Were a collection to be taken on the basis that it was to be split equally between the PCC and another, named charity (namely, the position envisaged at the end of paragraph 1 above) then 50% of the collection would come within category (a) and 50% within category (c).

15. Canon F 12, paragraph 2, provides that “the alms or other collection and, if desired, notes of significant events” shall be recorded in the register book of services. However, although the words “other collection” might be construed as referring to any collection whatsoever, it is the view of the Commission that they should be interpreted in a restricted sense so as to impose a legal obligation only in respect of what would generally be considered as “church” collections, that is, collections within categories (a) and (b) above.
16. As to whether money collected at a service should be included in the PCC’s financial statements, *The Charities Act 1993 and the PCC* (Church House Publishing, 3rd ed. 2006) states that “[a]ll resources which become available to a PCC and which must be applied in furtherance of its charitable purposes should be included” as incoming resources in the PCC’s financial statements (paragraph 6.6). A collection within categories (a) and (b) above should, accordingly, be included as incoming resources of the PCC in its financial statements; however, a collection within category (c) should not be included. Where only a proportion of a collection is within categories (a) or (b) only that proportion which is within categories (a) or (b) should be included as an incoming resource of the PCC in its financial statements. (The PCC’s accountant should advise how this money should be identified in those financial statements.)

17. If the incumbent or priest-in-charge has agreed to a collection being taken by a funeral director, the funeral director should in practice notify the PCC treasurer of the amounts so collected so that a record may also be kept by the church where appropriate. In no other cases should monies from, or envelopes related to, a collection be removed from the church or churchyard without first being counted and appropriately recorded.
18. In relation to any collection or part of a collection as is within category (c), it must be passed to the charity or organisation for which it was collected, although it is also good practice in such cases in order to obviate later disputes that any loose money is counted at the church and recorded in the register book with a note beside it naming the relevant charitable organisation or in a place separate from the register book. Since collections within category (c), other than in Gift Aid envelopes, may need to be banked in the PCC account before a cheque can be issued to the relevant charitable organisation, it is advisable that PCCs have a ledger account, perhaps called a 'holding fund', where such credits and debits are recorded, although such entries should not be included in the PCC's annual accounts as they are not PCC income.
19. The application of the Gift Aid rules to a collection taken for a charity is explained in guidance notes issued by HM Revenue and Customs. A collection for the benefit of the church (that is, category (a)) where Gift Aid envelopes are used enables the church to make a repayment claim. If the church has set up a fund to raise money for a specified charity (category (b)) then the money collected forms part of the church's income and the church reclaims the tax and passes it on with the donations to the charity in question. Gift Aid envelopes addressed to a charity (category (c)) must only be opened by that charity which will then itself reclaim the tax. It is good practice if the number of such envelopes is first noted separately from the register of services. Further assistance from HMRC in relation to Gift Aid may be found at <https://www.gov.uk/claim-gift-aid/small-donations-scheme>. However, it should be noted that HMRC only permits Gift Aid to be claimed if the relevant charity is specified on the envelope filled out by the donor.

Amended in 2019.