

Responses to the Revision Committee for the Draft Cathedrals Measure (GS 2136)

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1. Response from The Very Revd David Ison (54 – Dean of St Paul’s):

In common with many others I want to pay tribute to the work of the Cathedrals Working Group, the Third Estates Commissioner and the Legal team at Church House in producing what overall is a very helpful Draft Measure. My comments are intended to strengthen it and shape it for the future, in the light of comments and responses of others as well as myself. The deans as a group have had a range of responses, but over the last year have been coming to much of a common mind; and the submission from AEC/CAFA is generally in line with that thinking.

I am making this submission to the Revision Committee as an individual, but informed by discussions among the deans, AEC/CAFA discussion, papers and submission, and my experience of three very different cathedrals over the last 24 years.

I have some general points for the Committee’s consideration, before moving on to specific comments and suggestions.

1. The point about **the need for flexibility** has been made in the Synod debates and in the CWG Report; having had the experience of serving on three different Chapters I want to re-emphasise this strongly as it lies behind many of the suggestions below, which relate to my own and to others’ experience. Having the minimum necessary legislation in the Measure itself, and being alert to the different circumstances of cathedrals as you do your work of revision, will be very helpful for our successors.

2. Three ‘hot button issues’ which have been prominent – the roles of the vice-chair, of the bishop and of residentiary canons – are closely connected, all revolving around **the question of accountability**. Getting the balance of accountability as good as possible in relation to these three roles is at the heart of the Revision Committee’s work, and communicating this to Synod so that it’s not up-ended in the revision debates will be important. In my view the main components of a solution have been expressed in debate and consultation, and I will refer to these in going through the Draft Measure below.

3. The Draft Measure notes in sub-section 10(6) the accountability of clergy and staff to Chapter through the dean for cathedral functions, but excepts from this functions exercised as a member of Chapter and charity trustee. Schedule 1 is silent about **how Chapter holds its members (including the dean) accountable for their trusteeship**. The paper produced on *Indicative areas of Guidance to support the Draft Measure etc* suggests that there will be general guidance for Chapter members including discussing the dean’s role as Chair of Chapter, but there seems no balancing guidance specified on how Chapter also assesses the roles of residentiary canons and non-executive members. I’m very happy to be discussed in my presence as well as my absence, but would expect the same to be true of my Chapter colleagues. I am concerned that as it stands 10(6) may give scope to Chapter members to claim that they may not be held accountable for aspects of their cathedral functions because they are to do with Chapter: who will adjudicate on this, and how will Chapter as a body handle it? Given that there have been occasional tensions between deans and residentiary canons over accountability, this area needs careful definition, and I would be glad to see in an appropriate place in the Measure a requirement to pay due regard to specified guidance on accountability. This should also include definition of the accountability role of the ‘vice-chair’; I agree with CAFA’s submission and with the comment of Carl Hughes in his speech in the debate on the Measure at Synod that this role should be that of a ‘senior non-executive trustee’ who convenes the non-execs and helps in holding the executive to account in Chapter.

4. The need to address how Chapters and cathedrals operate according to good practice but outside legislation has been helpfully addressed in the *Indicative Areas of Guidance* paper, with the note that there will be a distinction between statutory and general guidance. However, some problems cathedrals have faced in the past have been related to inadequate application of good practice. In the *Indicative Areas of Guidance* paper there are nineteen areas where guidance is proposed: only two are referred to as 'statutory' (on finance audit and risk, and on reviews commissioned by the bishop), and one has the requirement for due regard (on serious incident reporting). As in point 3 above, the question of accountability applies: how could Chapters and individuals be held accountable for not following recommended good practice? I would encourage the Revision Committee to consider this, and whether the 'due regard' principle or similar should be explicit in the Measure, either specifically referring to particular pieces of guidance, or generally to the expectation of following good guidance produced by the Church Commissioners and Charity Commission. The bishop's reviews are a way of implementing more flexibly the CWG Report's proposed quinquennial governance inspections, and deans welcome more flexibility with peer review and other ways of ongoing assessment of compliance with good practice, rather than a quinquennial 'blitz'; but as in my point 11 below, there may be need for explicit provision for being held accountable where statutory or non-statutory guidance on good practice has not been followed.

5. The complexity of **the role of residentiary canon** has been noted to some extent in the Draft Measure; but I am concerned as to whether only two of the three main roles of residentiaries have been engaged with. Sub-section 10(6) recognises the two roles of executive delivery and Chapter governance; but there is the third role of being priests and ministers in the cathedral alongside one another, being at the heart of the worshipping community and sharing in the task of worship and pastoral care. Where does accountability for this third area lie? The wording of the list in sub-sections 10(2)(a-f) as compared to the wording in 10(6) ('oversee the work undertaken by the clergy and staff' / 'in respect of their functions relating to the cathedral, accountable...through the dean') might allow a canon to claim that, while they were obliged to be accountable to the dean/Chapter for executive work and functions, that accountability did not extend to their participation or otherwise in worship and pastoral care. This is a delicate area, as deans are alongside canons in prayer and worship, lay non-execs may feel this is not their expertise, and bishops have a role in oversight of clergy and ministry development and review.

6. I have a particular concern which I voiced in the debate on **lay discipleship** following *Setting God's People Free* at General Synod in July, which relates to my first point, on flexibility. St Paul's has appointed Dr Paula Gooder as Chancellor as a stipendiary lay reader on Common Tenure, but at present we cannot legally appoint her a member of Chapter. I am asking Synod's Legal Department how it may be possible to appoint a suitably qualified stipendiary licensed lay reader or lay worker to a Chapter, hopefully as a residentiary canon (Canon C21.1 already allows for the principle of lay residentiaries); this is not simply for a specific person, but to allow all cathedrals to have the option, in cases where it would be appropriate, to appoint a suitably qualified licensed lay reader or licensed lay worker as a residentiary canon (e.g. a Church Army evangelist as a Canon Missioner). In a time of falling clergy numbers and well-qualified lay ministers, this could be helpful more widely, as well as being evidence of commitment to lay ministry more generally. I would be grateful if the Revision Committee could bear in mind that possibility and not make it more difficult to attain – I can see little or nothing in the Draft Measure which militates against it so far.

Looking at the specifics of the Draft Measure, I have the following comments (sections not commented on I would generally support as they are):

7. Sub-section 2(2) on abolition of the Council: my understanding of the consensus is that nearly all deans welcome the removal of the Council from the corporate body while wanting to keep a stakeholder body of the kind referred to in sub-section 15(1). I question whether 2(2) is necessary: it will become redundant as soon as the Measure becomes law, and makes the status of a continuing 'Cathedral Council' questionable – like some other cathedrals, we are likely at St Paul's simply to carry on with meetings of our Council (as its effective role has been almost entirely advisory) while taking the opportunity to review its membership, rather than saying that a Council 'ceases to exist'. Does not sub-section 2(1) provide sufficient authority for Councils not having any governance role? If 2(2) is deemed necessary, could it not go in a Schedule? And compliance with this can be checked by the Legal Department as part of reviewing all the new constitutions and statutes against the new Measure.

8. Sub-section 4(9) on the cathedral community role: this provision was included in the 1999 Measure by analogy with a parish electoral roll, because the 1999 Measure required that between two and four persons had to be elected as representatives of the cathedral community onto the Council, and so there had to be a membership roll in order to do that. There is no such requirement in the Draft Measure, and so this sub-section is redundant in its current form. Parish church cathedrals will retain their electoral roll; but non-parish church cathedrals should be allowed flexibility with regard to what they do about rolls. A key difference between parish church rolls and a cathedral community roll is that parish rolls are of habitual worshippers or residents who are members of the Church of England; but a cathedral community roll includes all who regularly work for the cathedral as staff or volunteers, some of who may be worshippers but many are not, and almost none of whom have to be members of the Church of England or of the Christian faith. At St Paul's, like other cathedrals, we have records of who our staff and volunteers are and can keep in contact with them, and where there is privileged access to occasional offices for community members we know who is entitled to them; what we need is a roll of regular worshippers (which staff and volunteers who worship with us can also join) so that we can contact them appropriately. I suggest that this sub-section is simply removed, leaving cathedrals free to do what is locally appropriate. If there is a compelling reason why it should remain, then please change 'must' to 'may'. There is no argument for maintaining a roll simply to have a roll with no specified purpose, which is the case with this sub-section at the moment. The requirement for a roll can be moved to become an option to Schedule 1 subsection 3(2) where it has a purpose in electing non-executive members of Chapter, if a cathedral decides to opt for this in its constitution.

9. Sub-sections 7(3-4) on the bishop: these two sub-sections were flagged up as controversial in the Synod debate, and I support their complete revision/removal. If the bishop is entitled to come to Chapter then s/he is open to criticism for not coming if something goes wrong; or open to criticism if being present at any discussion for either unduly influencing it, or for not doing so; and is not a member, does not vote, and is not a trustee, and so is notionally only there in an advisory capacity, yet acts as Visitor also. The dean with the Chapter are responsible for running the cathedral, and Chapter is required in sub-sections 9 (1)(b) and (2) to consult with the bishop; an annual consultation is a sensible provision (and has been done in all the cathedrals I have served in under the current Measure), but whether it's in a trustees meeting or in a special meeting can be left to local discretion and agreement between Chapter and the bishop. Sub-section 7(4) is a recipe for conflict in itself, which suggests that the bishop being entitled to attend Chapter is unwise, and also that a meeting outside the context of a formal Chapter meeting would be less ambiguous or open to misinterpretation.

10. Sub-section 7(5) and Schedule 1 section 3 on approval of appointments: I welcome the clarification of the bishop appointing canons with the approval of the dean, which strengthens the balance of power in appointment and mirrors Schedule 1 sub-section 3(1) where the bishop

approves Nomination Committee appointments. However, this is not the case in Schedule 1 sub-section 3(3) which does not require the dean's approval for the bishop's nominee, even though it is the dean and the Chapter, not the bishop, who will have to work with the person appointed and who will have requirements as to the skillset of the trustee to be appointed. The underlying presumption here is of confrontation rather than co-operation, which is hardly a gospel value. It would be more consistent and eirenic to give the bishop power of appointment of one non-executive member if that is required – which is itself a debatable question – but with the dean on behalf of Chapter having the right of approval. A disagreement about this appointment would itself be a marker of potential friction which needed addressing, but which would be masked if the bishop had power to appoint with no consultation required.

11. Sub-sections 7(7-9) on review: I support the clarification here for the process of setting up a review as a lesser form of visitation, with clear guidelines required, which can be used to investigate particular issues. Is there a need to specify a penalty in 7(9) for non-co-operation by Chapter, as there is in sub-section 8(5)?

12. Sub-sections 9(1-2) on consultation: sub-section 9(1)(b) is repeated almost verbatim in 9(2): can this repetition be removed?

13. Sub-sections 10(2) and 10(6) on dean's duties and accountability: see point 3 above.

14. Sub-section 11(1) on qualification of interim dean: to be consistent with Canon C21.1 (that a dean must be in priest's orders), an interim dean should be specified as being in priest's (or bishop's?) orders; with the current wording a deacon could be appointed.

15. Sub-section 15(2) on chairing of Chapter committees: I agree with the AEC/CAFA view that requiring all (sub-)committees of Chapter to be chaired by a Chapter member is insufficiently flexible. Having a well-known external figure chairing a Council-like stakeholder body is a good way of bringing external resources into the Chapter; and at St Paul's we have a school which needs to have an independent chair of the governing body (which has delegated powers from Chapter) in order to ensure good governance. The underlying question is what the reason for this provision is, and if that reason is valid, whether what it is trying to safeguard can be done in another way. Could you merge subsections (2) and (3) so that the statutes provide for terms of reference which include who is the chair and why they should or should not be a Chapter member?

16. Sub-section 28(1) on financial year end: the power given to the Church Commissioners to order the financial year end of all cathedrals is contrary to the principle of flexibility for local circumstances of cathedrals. For whose benefit is this? Does the Charity Commission require a single year end for all charities? The Explanatory Notes which were issued with the Draft Measure do not give a rationale for this. It gives power to the Commissioners to change the year end date at will, without consultation. If there is a very good reason for this, then the Measure should specify the date with power to vary it, and/or require consultation with cathedrals and other relevant bodies (see wording at 26(7) for sample wording regarding representative bodies with which consultation should be required).

17. Sub-section 28(3) on financial information provision: this should also have the requirement for consultation, in order to avoid unreasonable demands and/or timescales. Most cathedrals do not have much in the way of resources, and providing additional information will take up time and money which could be used on mission – so there should be a clear and agreed reason as to why this is required.

18. Sub-section 30(3)(c) on publishing notice of constitutional amendments in one or more publications: the requirement to publish constitutional changes in a publication circulating in the diocese dates from before the ubiquity of the internet. It incurs additional expense; the choice of publication may be arbitrary (and could it include electronic publication?); the changes made in cathedral constitutions and statutes are irrelevant to nearly all the readership of such publications; statutory changes may be more significant for those concerned about cathedrals than constitutional changes, but these do not require such publication; and in all three cathedrals I have served in over the last 24 years there have been constitutional changes with consequent publication, and no response whatsoever. I submit that this sub-section is out-dated and should be removed, and subsections 30(3-4) merged together.

19. Schedule 1 subsection 2(3) on Chapter membership of chief officers: a relatively small number of cathedrals have opted for their administrator to be a member of Chapter. The submission from AEC/CAFA argues that the current flexibility for cathedrals to decide this should be continued, that some cathedrals have organised themselves to incorporate administrators into Chapter, that lay officers are at least as capable as clergy of managing conflicts of interest, and that this is allowable in other charities with permission. The situation at St Paul's which I inherited accords with my personal view that it is better for the administrator/COO not to be a member of Chapter, so I have no particular interest here: but it seems to me better to allow flexibility, especially since there is a variety of practice in the wider world about this, and also no evidence I am aware of to indicate that an administrator being a Chapter member has damaged the cathedrals concerned (indeed, CAFA argue the opposite). I do think that only the COO should be eligible to be a member of Chapter, with the CFO in attendance as a potential balancing perspective. I also think that a particular argument against Chapter membership for the COO is the setting of remuneration; an answer to this would be to adopt the same check as exists for clergy setting their own remuneration, i.e. Church Commissioners' permission (see 26(2)). At St Paul's we have a remuneration committee dealing with clergy expenses and conditions which only the dean attends from the clergy, and which has an archdeacon on it to encourage parity with diocesan terms and conditions (St Paul's has not paid additional emoluments above the Church Commissioners' stipend levels since 2010); that might provide a model for good practice regarding the setting of the salaries and conditions of chief officers.

20. Schedule 1 subsection 3(3) on bishop's appointment of one non-executive member: see point 10 above.

21. Schedule 1 subsection 3(4) on non-execs not functioning in operation or management: this is unrealistic in small cathedrals, where those appointed or elected to Chapter may be involved across the life of the cathedral (as churchwardens, other lay officers, voluntary managers/executives, etc). This is where the strict segregation of governance and management is hard to maintain given the resource constraints of many cathedrals. Rather than the absolute prohibition in this subsection, can the Revision Committee find a way to encourage separation but also provide for models of good practice where this is not possible? We rely on deans and canons to exercise separate roles in cathedral and in Chapter: why do we assume lay people cannot do the same?

22. Schedule 1 sections 5-6 on the vice-chair: following on from point 3 above, the vice-chair role should be separated into its three components: (a) the member of Chapter appointed by the bishop (with the approval of the dean), which is covered in Schedule 1 subsection 3(3); (b) the 'senior non-executive trustee' who should be appointed by the Nominations Committee or preferably elected by Chapter, with its built-in majority of non-execs, to convene the non-execs (in effect bringing the role of Chair of Council in the 1999 Measure into the Chapter, as a support and challenge to the dean and canons); (c) the role of vice-chair of meetings in the dean's absence, which should be provided for in

section 6 allowing local flexibility – some cathedrals have appointed a vice- or sub-dean for this role, others have used a canon in residence or the most senior in service as a chair; at St Paul’s the provision is for each meeting without the dean to elect its own chair, which would allow lay as well as ordained chairing of meetings to vary according to the ability of Chapter members and the content of the meeting. The deans overall would prefer an elected vice-chair. These three roles could be exercised by the same person on merit or not, according to gifts and needs locally.

23. Schedule 1 subsection 6(4) on chief officer attendance at meetings: the question has been raised as to whether the CFO should always be in attendance or only for financial matters, as the CFO normally reports to the COO. My view is that it is good to have the CFO normally in attendance with the COO because they can act as a check and balance, because finance is involved in most matters discussed, and because they will have relevant experience and insights to offer from their previous posts; but there should also be the possibility of allowing the CFO not to be present when they clearly have no interest in the business being discussed, as well as having the possibility of occasionally excluding one of the chief officers for confidential business. Please could the Revision Committee ensure that this subsection will make all of these possible? At the moment the Draft Measure appears to rule out the possibility of the CFO attending for part of the meeting and the COO attending for all of it.

2. Response from The Very Revd Andrew Nunn (55 – Dean of Southwark):

At the meeting of the Chapter of Southwark Cathedral held on 18 July 2019 there was a thorough examination of the Draft Cathedrals Measure. The specific recommendations can be found below. There are areas requesting changes to the legislation and others seeking further clarification.

The areas of concern are principally around the role of the bishop, the Vice Chair, elements to do with Parish Church status and the implications of trusteeship.

Bishop

The Chapter was concerned that any involvement by the bishop in the affairs of the Chapter will compromise their role as Visitor and also have the potential of negatively implicating them in the decisions of Chapter which might be controversial whether they were present at a particular Chapter meeting or not.

Vice Chair

The Chapter accepts the idea of the appointment of a Senior Non-Executive member of Chapter by the bishop but not that this person should be automatically the Vice Chair. This would give to the person appointed the wrong kind of authority and influence. Chapter was also concerned that, as in the Southwark situation, the Sub Dean should chair Chapter in the absence of the Dean.

Parish Church status

We considered it to be of no advantage to designate part of the cathedral as the parish church and in fact this was abandoned in the 1960s in Southwark. There is serious concern about the requirements placed upon cathedrals that are parish churches in terms of elections and getting the right skills on to the Chapter. There was also concern that the role of the laity will in fact be reduced by this legislation in those cathedrals where at present there is a large representation from the congregation and also, as in the Southwark case, a large number of Residentiary Canons who would fall into executive and non-executive categories.

Committees

The regulation around one chair of a combined FA&R Committee or two chairs if separate seemed unnecessary and problematic in those cathedrals where it is hard to find the correct skill sets. There was concern about the burden placed on non-executive members in terms of the requirement to chair committees of the Chapter.

Trusteeship

There were specific questions around disqualification and safeguarding (see below).

SPECIFIC RECOMMENDATIONS

4 Constitution

- (4) (a) The constitution of the Chapter of each cathedral must— (a) provide for the appointment of canons in Holy Orders (including the manner of their appointment);**

The Chapter would support changes to be included which would enable the appointment of authorised lay ministers as residentiary canons

5 Statutes

- (1) (c) if the cathedral is a parish church, provision that part of the cathedral is to be the parish church;**
(d) if part of the cathedral is a parish church, provision that the cathedral or another part of it is to be the parish church.

The Chapter questioned why these clauses are included at all. We recommend that they are removed.

7 The bishop

- (3) The bishop is entitled to attend meetings of the Chapter and must attend at least one of its meetings each year; and at any meeting which the bishop attends, the bishop may speak but may not vote.**
(4) But the bishop may not attend a meeting of the Chapter for the discussion of a matter which the Chapter considers might give rise to a conflict of interest for the bishop, if at least three-quarters of those present and voting have voted to exclude the bishop from the discussion.

The Chapter would support the removal of both 7 (3) and 7 (4) and replace it with a proposal that the bishop should attend an annual extraordinary meeting of the Chapter.

10 The dean

- (3) None of the following may be done without the consent of the dean —**
(b) the settlement of the cathedral's budget

The Chapter is unclear how this provision sits with the requirements for trustees to agree a budget so we think that should be struck from the list.

- (6) The clergy and staff of the cathedral are, in respect of their functions relating to the cathedral, accountable to the Chapter through the dean; but this subsection does not apply to functions exercisable as a member of the Chapter and a charity trustee.**

The Chapter feel that this clause is too vague as drafted and unclear as to what it means.

14 Finance, Audit and Risk Committee

- (3) Where there are two committees, the same person may not be the chair of both.**

The Chapter were unsure what was the purpose behind this requirement when one person would chair a combined Finance, Audit and Risk Committee. Why could not the same person chair both if it was necessary to have two committees?

34 Disqualification

(4) A person’s disqualification under subsection (2) may be waived by the bishop giving the person notice in writing; and the notice must specify the bishop’s reasons for giving the waiver.

(5) Where a person whose seat is vacated under subsection (3) has his or her disqualification waived under subsection (4), the person may resume his or her seat if it has remained vacant.

(6) A waiver under subsection (4)— (a) is of unlimited duration, and (b) has effect in relation to the Chapter of every cathedral.

(7) Before deciding whether to give a waiver under subsection (4), the bishop must consult— (a) the diocesan safeguarding advisor, and (b) such other persons as the bishop considers appropriate.

(8) On giving a notice under subsection (4), the bishop must give a copy of the notice to the registrar of the diocese; and the registrar must file the copy in the diocesan registry.

The Chapter questions whether this is now correct in the light of the latest safeguarding best practice and the desire of the Church to actually make safeguarding transparent. Particular concern was expressed about the ability of the Bishop to waive a disqualification even if appropriate consultation has been undertaken with the DSA and other persons. It seems to go against the drive towards external regulation of the Church on safeguarding matters following IICSA and place too much responsibility in the hands of the bishop.

35 Suspension

(11) Having given a notice of suspension or revocation under this subsection, the bishop must give each of the following written notification—

(a) the clergy who hold office in the cathedral,

The Chapter recommend that clause 11 (a) be changed to ‘the chapter who hold office in the cathedral,’

38 Modification of Church Representation Rules, etc.

(3) In their application to the parish concerned, the Church Representation Rules have effect as if—

(a) for each reference to the PCC or its secretary there were substituted a reference to the Chapter of the cathedral or its clerk,

(b) Rules M1(3)(d), M5(4) to (8) and M6(1) (b), (2) and (7) were omitted,

(c) Rule M8 was disapplied in relation to the PCC,

(d) Rules M14 to M42 were omitted, and

(e) despite Rule M1(2)(b) and (3), every residentiary canon of the cathedral and other clerk in Holy Orders holding office in the cathedral were entitled to attend any annual or special parochial church meeting of the parish and to take part in its proceedings, whether or not the canon or other clerk is resident in the parish.

The Dean asked for clarification of what (3) (b), (c), (d) and (e) actually mean

SCHEDULES

SCHEDULE 1

2 (5) At least one non-executive member must have financial expertise which is relevant to the affairs of a cathedral.

The Chapter ask for clarification about what 'financial expertise' means? Could this be more specific?

Non-executive members: appointment and functions

3 (1) It is for the members of the Chapter, subject to sub-paragraph (2), to appoint all but one of the non-executive members other than the residentiary canons; and an appointment under this sub-paragraph may be made only if the bishop has approved it.

The Chapter recommend removal of the text '... an appointment under this sub-paragraph may be made only if the bishop has approved it.' on the grounds that we believe it gives too much power to the bishop. It confers on a bishop, a degree of liability when things go wrong.

Vice-chair

5 (1) The non-executive member appointed by the bishop under paragraph 3(3) is, by virtue of that appointment, the vice-chair of the Chapter.

The Chapter feel that 5 (1) should be removed. It is for the members of Chapter to elect a vice-chair.

**(2) The vice-chair—
(a) may be a lay person or a clerk in Holy Orders, but
(b) may not have any other role or function in relation to the cathedral.**

The Chapter feel that 5 (2) (b) should also be removed.

3. Response from The Very Revd Jane Hedges (56 – Dean of Norwich):

Introduction

The Chapter at Norwich Cathedral pays tribute to those who have worked on the draft legislation and welcomes the fact that there has been wide consultation with many stakeholders. They are pleased that this draft measure acknowledges the diverse nature of Cathedrals and the need for flexibility in what is laid down in legislation. They are content with much of the draft as it stands but would like to see the following areas revised.

The Role of the Bishop

The present draft could lead to the Bishop being compromised as was pointed out by the Bishop of Exeter at the July meeting of Synod. The current wording could also potentially lead to poor relations between the Bishop and the Dean and Chapter and so they would propose something along the following lines:

Delete the sections 7 (3) and 7 (4) and replace these with:

The Bishop should meet twice annually in a formal setting with the Chapter (outside a normal Chapter meeting) in order to deal with matters of mutual concern.

7 (7) More clarity should be provided about the scope and limits of a review, having regard to the fact that the Bishop's power of visitation is retained by Clause 8. Because of the potentially intrusive and disruptive consequences of such a review, might it not be more appropriate for this clause to be drafted in more specific terms?

Schedule One – The Chapter of the Cathedral

Membership

1 (2) The Chapter does not think that Residentiary Canons who are engaged chiefly on Diocesan business should be counted as executive members of Chapter, but only those who are engaged either exclusively on Cathedral business or who are engaged more than on a half time basis.

They would propose the following for 2(b):

Each Residentiary Canon the cost of whose stipend is met in whole or by 50% or more by the Church Commissioners or the Chapter.

Non-executive members: appointment and functions

3(1) They would like to see much more flexibility in this section. Their current constitution states that the 3 Lay Canons on Chapter and a Chapter Canon from the College of Canons should be appointed by the Bishop after consultation with the Dean. This has worked well in Norwich and has provided Chapter with members from the wider community, bringing diversity and a variety of useful skills to the table. They believe it would be a retrograde step for the Chapter to elect its own members as is currently suggested in the draft measure. They would therefore propose that the Bishop should, if the constitution so provides, after consultation with the Dean and Nominations Committee, appoint all the non-executive members of Chapter, one of whom should be a clergy member from the College of Canons.

Vice Chair

5(1) Should be deleted and replaced with:

It is for the members of Chapter to elect the Vice Chair

Council and College of Canons

Norwich Cathedral values the current role of the Cathedral Council and the College of Canons and both bodies are regarded as critical friends to the Chapter and as ambassadors for the Cathedral. They enrich relationships with people across the Diocese and help the Chapter to align their Strategic Vision with the Diocesan Mission Strategy. The Chapter will therefore want to retain both bodies and give them as much authority as possible within the proposed new structures.

4. Response from The Very Revd Peter Bradley (57 –Sheffield):

This submission is made jointly by the Executive Committees of the Association of English Cathedrals and the Cathedrals Administration and Finance Association.

Role of the diocesan bishop

We are concerned that granting bishops the right to attend Chapter meetings, and requiring bishops to attend at least one Chapter meeting a year (S7(3)&(4)), will compromise the role of bishop as Visitor, because their involvement in Chapter discussion and decision-making by attending meetings would give rise to a conflict of interests if the bishop ever had to exercise their visitorial role. Additionally, regular attendance at Chapter meetings, with the right to speak even if not vote, could also put bishops at risk, if anything were to go wrong, of being held out to be trustees by the Charity Commission and being disqualified from acting as trustees. The current proposals for the bishop attending Chapter could make it unclear who has the ultimate responsibility and authority in Chapter, and this risks fatally undermining the Dean, the Chapter, and the position of the Senior Management Group who are required to deliver against the leadership's directions.

It is important that the bishop and Chapter should meet and engage, but in a way that does not undermine the bishop's role as Visitor nor put a bishop at risk of action by the Charity Commission.

If it is deemed necessary to legislate to ensure that the bishop and Chapter meet regularly, we propose that the Measure should provide for an annual meeting between the bishop and Chapter, which is not a formal Chapter meeting, at which there could be discussion of topics of mutual interest and a review of the relationship of cathedral, bishop and diocese. It would be possible for there to be more frequent meetings if this would be beneficial. This arrangement would fulfil the requirements of S9(2).

Vice Chair – appointment and role

The provisions of the draft Measure in respect of the new role of Vice Chair give rise to considerable concern. The Vice Chair is a non-executive Chapter member appointed by the bishop who by virtue of his or her appointment is automatically Vice Chair. The only role of the Vice Chair set out in the draft Measure is to chair Chapter meetings in the absence of the Dean or Interim Dean. In particular, the concerns that arise from this system of appointment and lack of clarity as to role are:

- In Schedule 1 3(3), the bishop is not required to pay any attention to the needs of the Chapter as a trustee board in terms of skills and experience when making this appointment, whereas all other non-executive appointments are subject to advice from the Nominations and Development Committee. Care should be taken to take proper account of Charity Commission guidance on trustee recruitment.
- All Chapter appointments to the Chapter are subject to approval by the Bishop (Schedule 1 3(1)) but the Bishop is not even required to consult the Chapter about his or her appointment of a non-executive member and Vice Chair. This appears disproportionate and
- potentially gives rise to suspicion and distrust of the Chapter member appointed by this method.
- There is potential for conflict between the role of Vice Chair and that of a Sub- or Vice-Dean who would normally substitute for all functions of the Dean during a temporary absence. There will be confusion as to whether the Vice Chair of Chapter or the Sub- or Vice-Dean is the decision-maker in the absence of the Dean.

- As set out in the draft Measure, no clear benefit appears to arise from having someone as a Vice Chair of Chapter. In the absence of any obvious strengthening of the governance of cathedrals by having a Bishop's appointee chair Chapter meetings in the absence of the Dean, the role of Vice Chair could be considered spurious.

We propose that:

- The Bishop should be required to consult the Chapter and/ or its Nominations and Development Committee before exercising his or her right to appoint a non-executive Chapter member, ensuring that anyone appointed has appropriate skills and experience.
- There should not be an automatic link between the Bishop's nominee and the role of Vice Chair. If a Chapter considers that a Vice Chair would be helpful to the way in which it governs the cathedral then it should be allowed to specify in its statutes the role of its Vice Chair and how the Vice Chair is appointed (for example from among and by the non-executive members of the Chapter).

Cathedral Committees

We are concerned that the requirement in S13 (2), 14(2) and 15(2) that the Chair of all Chapter committees and sub-committees should be a member of the Chapter is inappropriately restrictive.

This is an issue for Cathedral Councils. The draft Measure gives flexibility to Chapters to determine whether to retain their Councils as a Chapter committee, acting as an advisory body and as a way of engaging with stakeholders, and to set out the role and membership of the Council in the new statutes. Having an independent chair of Council, appointed by the Chapter but not a member of it, will strengthen the Council's role as an advisory body to the Chapter.

There are concerns about the ability of Chapters to recruit Chapter members with relevant expertise and skills due to the demands that would be made of them. For those cathedrals with a considerable number of Chapter committees, the requirement that each is chaired by a Chapter member could be unduly onerous on Chapter members, acting as a disincentive to recruitment and restricting the pool of those who can be appointed to the Chapter. In particular, many cathedrals struggle to recruit Chapter and committee members with financial expertise and it should be noted that requiring the chair of a Finance, Audit and Risk Committee, or the chairs of separate Finance and Audit and Risk Committees, to be Chapter members could be difficult. More flexibility is needed, which could perhaps be provided in guidance.

We propose that the draft Measure be amended to require that the chair of each committee and sub-committee is appointed by the Chapter but remove the requirement that all committees and sub-committees to be chaired by Chapter members.

If deemed necessary, the Measure could be amended to require each committee of the Chapter to report to the Chapter regularly, and for the frequency of such reports to be set out in the statutes. It could also be amended to require at least one Chapter member to be appointed to each committee.

We note that the name of the Nominations and Development Committee could be confusing in a cathedral context. Many cathedrals already have development committees which oversee fundraising activity. We propose that the remit of the Committee remain unchanged but that the name be shortened to 'Nominations Committee'.

Role of non-executive Chapter members

The draft Measure provides that other than the Dean and residentiary canons whose stipends are met in whole or part by the Church Commissioners or Chapter all other Chapter members should be non-executive members independent of the management and operations of the cathedral.

This will be a change for some cathedrals which have assigned oversight responsibilities for specific areas of cathedral life to lay Chapter members and engaged them in management/ quasi-management activities, particularly those cathedrals where the segregation between management and governance has not been as distinct as the draft Measure will require them to be. Such lay Chapter members will be required to step away from any management/ quasi-management role.

What is not clear is to the extent to which non-executive Chapter members can share in the life of the cathedral through voluntary roles. If they are regular members of the worshipping community, can they be stewards/ sides-people, or join coffee rotas? Could they lead a small group? Could they be day chaplains or cathedral guides? Could they be a Cathedral or Church Warden? These voluntary roles are not functions conferred on the non-executive members as Chapter members and charity trustees, but appear to be fully compatible with such status.

We proposed that Schedule 1 3(4) be amended to permit non-executive members to carry out voluntary roles which support the management and operations of the cathedral.

Role of 'Chief Officers'

The draft Measure makes radical changes to the role and status of the senior executive (now management) staff who work for the Chapter. It:

- Requires each Constitution to make provision for the appointment of a Chief Operating Officer (formerly Administrator) and a Chief Finance Officer (job titles to be determined by each cathedral, jointly known as the 'chief officers') to undertake the administration of the cathedral (S4(4)(d)) (administration is not defined and it is unclear precisely what the term means). The same person can be appointed to carry out these two roles if each role is carried out on a part-time basis. The 1999 Cathedrals Measure required each Constitution to provide for the appointment of an administrator of the cathedral, having such functions as may be prescribed, and did not mention the Chief Finance Officer.
- Prohibits the chief officers from Chapter membership (Schedule 1 2(3)), whereas S4(3) of the Cathedrals Measure 1999 gave cathedrals the option of having the administrator as an additional member of Chapter. An administrator who, under the Cathedrals Measure 1999, is a Chapter member would have that appointment terminated automatically when the new Measure comes into effect.
- Gives equal status to the Chief Finance Officer with the Chief Operating Officer and requires both to attend each meeting of the Chapter unless the Chapter has resolved to meet without them in attendance. Although both must attend, they are not entitled to speak at Chapter meetings.

Includes the chief officers in the membership of the senior management group in addition to the Dean and each residentiary canon with responsibility for a department of the cathedral or part of its operations, and such other members of staff as the Chapter considers appropriate.

We have a number of concerns about these provisions:

The Cathedral Working Group (CWG) considered that inclusion of the Chief Operating Officer (COO, successor to the Administrator) as a Chapter member would obscure the difference between

governance and management responsibilities and not be acceptable to the Charity Commission. It identified that being involved in the day-to-day running of the cathedral as well as the governing body could create conflicts of interest – but in its report it failed to address why this issue in respect of the COO would be any worse than in respect of the Dean and those Residentiary Canons who are also engaged on cathedral business and are designated as executive members of Chapter. Are lay people really less able to handle potential conflicts between their governance and executive/management roles in a professional way than those who are ordained?

The CWG and Church House officials have also worked on the mistaken assumption that the Charity Commission will not allow an employee of a charity to be a charity trustee. Charity Commission officials have advised the AEC that the Commission would not bar the COO from being a member of a Chapter, the trustee board, if provision is made for this in the governing documents and has the Commission's approval at the point of registration. This advice is consistent with published Charity Commission guidance.

In neither of the cathedrals whose problems in 2017 gave rise to the CWG and the draft Measure was the administrator a Chapter member. It could be argued that lack of fiduciary status, and the resulting lack of personal responsibility and accountability, made it easier to conceal defective information flows between management and governance functions. No cathedral where the administrator is a member of Chapter has experienced such issues, although some have faced financial problems which they have overcome successfully.

We propose that the draft Measure be amended to be consistent with the 1999 Measure and give Chapters the choice of whether the COO should be a member of Chapter or not.

We also propose that the chief officers in attendance should be given the right to speak at Chapter meetings. It is important that they are able to advise, correct misunderstandings and answer questions so that good decisions are made.

We also note that, although the draft Measure gives equal status to both chief officers, in practice in almost all cathedrals the Chief Finance Officer (CFO) reports to the COO. This arrangement works well; most deans do not want the CFO as a direct report. Where this is the position, the draft Measure gives a status to the CFO which other direct reports of the COO do not have; this is not reflective of the relative significance of their role in the management of cathedrals where all direct reports of the COO are equal.

We welcome the inclusion of both chief officers in the senior management group, and regard that as essential, but we are concerned that the requirement that the CFO be present at all Chapter meetings, without the option to be present only for finance-related agenda items, is unhelpful. It could be considered a waste of their time, which could be better used. We note that in Schedule 1 6(4), the Chapter can resolve to meet without the chief officers in attendance: for a Chapter to have to resolve at each Chapter meeting that the business under discussion only requires the attendance of the CFO for part of the meeting is an overly complicated way of achieving flexibility. Consideration should be given to building more flexibility into the Schedule.

The Revision Committee should note that the relationship between the Chapter and its chief officers, in particular the COO, is more important to the wellbeing of a cathedral than any other area covered by the draft Measure, as it is the day-to-day work of governance and management that enables a cathedral to fulfil its ecclesiastical purpose and objects. Whilst legislation cannot dictate good relationships, the framework included in legislation can facilitate them. We urge the Revision Committee to pay attention to the proposals above.

5. Response from The Ven Douglas Dettmer (116 – Exeter):

Lay persons as residentiary canons

For reasons well articulated in the General Synod debate and elsewhere, it should be possible for a lay person to be appointed as a residentiary canon. This would require amendment of Canon C21, and I suggest that as part of the package of legislation around the Cathedrals Measure an amending canon should be brought forward to do so. (One or two further consequential amendments to the draft Measure would then be required.)

Executive members—stipendiary and non-stipendiary

The combined effect of Schedule 1, subsection 1(2)(b) and Schedule 1, subsection 3(4) is that it would be impossible for a minister serving in the cathedral on a non-stipendiary basis (whether as an entirely self-supporting minister, or as e.g. a diocesan officer whose stipend was paid wholly by a Diocesan Board of Finance) to serve as a residentiary canon exercising any operational or management functions in the cathedral. In particular, it would make it impossible for a self-supporting residentiary canon to be a member of the senior management group mentioned in section 16. This exclusion is undesirable in principle for multiple reasons and also cuts across existing practice in some cathedrals.

In any case, in Schedule 1 subsections 4 (1) and (2) are not compatible with each other if 'entitled' means what it says. I suggest that those subsections should read instead:

4 (1) An executive member to whom subsection 26 (1) applies is entitled to receive stipends or any other emoluments in accordance with that section.

4 (2) An executive member holding an office which is stipendiary (whether full-time or part-time) and who is not entitled to receive stipends or any other emoluments in accordance with section 26 is entitled to receive stipends or any other emoluments from the Chapter or from any other person in respect of any functions (other than as a charity trustee) relating to the cathedral.

4 (3) An executive member may be appointed to serve on a non-stipendiary or part-stipendiary basis.

[The following sections renumbered.]

The correlation of the phrase 'executive member' of chapter with payment for service in the cathedral represents a step backward in the reimagining of ministry if it entails a restriction of executive or management responsibility to stipendiary ministers. One solution would be to rephrase Schedule 1, subsection 1(2) as follows:

- 1 (2) The following members of the Chapter are referred to in this Measure as the "executive" members –
- (a) the dean of the cathedral, and
 - (b) each member exercising functions relating to the operation or management of the cathedral (other than functions conferred on the person in his or her capacity as a member of the Chapter and a charity trustee).

If this amendment were made, the numerical balance between operational and non-operational Chapter members specified in Schedule 1, subsection 1(4) would be preserved; and on the basis of the latter subsections of Schedule 1, section 4 (as renumbered), the balance between paid and unpaid Chapter members would be the same if not better.

Section 24 already enables an office-holder in the cathedral to be allocated a house from which to perform the duties of the office. Accordingly it would remain possible for a nonstipendiary residentiary canon to serve as such on a 'house for duty' basis (given that a house in which a minister is required to live for the better performance of his or her duties is not to be regarded as an emolument of office).

I do not suggest any change to the assumption that the dean himself or herself would be formally entitled to receive a stipend (though I hope we will see more self-supporting ministers being appointed to deaneries and other such senior roles in future; there would be nothing to stop such a minister who wished to serve as dean on a self-supporting basis donating his or her stipend to the cathedral). The provision for residentiary canonries needs to be more nuanced, partly because enabling appointment of self-supporting residentiary canons and canons serving in split posts has significant advantages for flexibility in the staffing of a cathedral at senior management level.

Vice-chair of Chapter

Section 2 of Schedule 1 provides that the vice-chair may be either a lay person or a clerk in holy orders, but otherwise 'may not have any other role or function in relation to the cathedral.' This would appear to prevent the bishop's appointing a lay or ordained honorary canon as vice-chair (or a serving vice-chair as an honorary canon subsequently) which may unnecessarily restrict the bishop's discretion in making the appointment.

The point is that the vice-chair must not exercise any operational function or responsibility in the life of the cathedral. I suggest that subsection (b) be amended to read '...may not have any other role or function in relation to the cathedral other than as a member of the College of Canons.'

Removal from office

Section 40 amends the Ecclesiastical Offices (Terms of Service) Measure 2009 to provide for the removal from office of certain office-holders including deans and incumbents following disqualification as a charity trustee. However, it does not address the ex-officio membership of the diocesan bishop as a member of a Diocesan Board of Finance under the Diocesan Boards of Finance Measure 1925 as amended, nor the ex-officio membership conferred on suffragan bishops, archdeacons and others by the articles of association of most if not all DBFs. This is inconsistent and arguably unfair; if the bishop must (with provisos) remove a dean or incumbent who is no longer fit to be a charity trustee, then e.g. the bishop must also be entitled/required to remove an archdeacon, or the archbishop to remove a diocesan bishop, who is no longer fit to serve as a member of a DBF.

In any case, the provision in section 40—which is a wholly desirable improvement—is much too significant and far-reaching a change to be buried in a Cathedrals Measure, but needs to be considered in its own right as part of a Miscellaneous Provisions Measure or otherwise.

6. Response from Revd Neil Patterson (128 – Hereford):

To insert an additional clause amongst the requirements for the constitution of the Chapter at 4(4), viz:

(-) provide for the corporate spiritual life of the Chapter;

It will be apparent that, like the other clauses in this section, this is a very general and permissive expression, to be worked out as appropriate in each different cathedral, and for which further advice may be given in the supporting work of the Cathedrals Division. What it will actually mean in practice will often be things that are already part of cathedrals' existing practice, e.g. the Chapter meets for worship before its regular meetings, or finishes with evensong, or that Chapter members agree to pray (daily or weekly) for the life of the cathedral in some shared form of prayer.

I will obviously be content to speak to the proposal at the Revision Committee, but would suggest three related reasons in favour of it:

- As a matter of principle, to define the **whole** Chapter clearly as a *spiritual* body corporate (in parish life, the spiritual nature of the corporation sole is guaranteed by the canons governing the clergy, but those only apply to a minority of the new cathedral Chapters).
- To encourage the principle that 'a Chapter that prays together stays together' or something to that effect – perhaps especially if the Chapter includes members of diverse spirituality who might otherwise not do so.
- To guard against the danger that the spiritual work of the cathedral is seen as purely that of the clergy, leading to a sort of elitism on their part and/or a sense of exclusion of the lay members from that work.

7. Response from Canon Pat Hawkins (144 – Lichfield):

Following discussions with Lichfield Cathedral chapter and senior officers, and as a residentiary canon, I offer the following comments to the revision committee for consideration:

The role of the Diocesan Bishop

The proposed role of the Diocesan Bishop in relation to Chapter (S7.3) gives rise to concern at potential conflict of interest, especially the implications for her/his role as visitor.

The appointment of a Bishop's nominee to Chapter. (Schedule 1.3 (3)). There is concern that this does not require consultation or have regard to the requirements of Chapter. The requirement (Schedule 1.5 (1)) that this nominee is automatically vice-chair is problematic. The need for and role of a vice chair is not clear, especially how the role relates to a vice or sub-dean or an interim dean.

These concerns are covered more fully by the joint submission from the AEC and CAFA

Residentiary Canons

Whilst it is true that there is little in the draft measure specifically concerned with residentiary canons, the provision of Ss 10 (6&7) that the dean should oversee the work undertaken by Cathedral clergy has clear implications for their role. How is the accountability to Chapter *through* the dean (S10 (6)) to be held in tension with the principle of collegiality and the understanding of the dean as "primus inter pares"?

It may be worth considering whether there should be a requirement on the dean to have due regard to clergy role descriptions and statements of particulars.

Schedule 1.2.b limits the "executive" members of Chapter to the dean and those residentiary canons with a stipend met by the Church commissioners. In Lichfield's case this would have debarred a non-stipendiary residentiary from executive function.

The role of Chief Officers and their membership of Chapter

Concerns here are covered by the AEC CAFA submission, as is that relating to the **role of non-executive chapter members**.

Chairing of Chapter Committees

The requirement that the chair of all chapter committees and sub-committees should be chaired by a member of Chapter (S 13.2,14.2,15.2) could unduly restrict the available choice of a suitably qualified chair. It also seems to sit oddly with recommendations from elsewhere that best practice would be an independent chair (especially pertinent with regard to the safeguarding committee and the finance, audit and risk committee). Would a requirement that such chairs *be appointed by* chapter be sufficient.

Safeguarding

The draft measure seems rather thin in regard to safeguarding. I suggest the revision committee give consideration to a new section, inserted after section 14, which would deal with requirement for a safeguarding committee with similar weight to that for the nominations and development committee and the finance, risk and audit committee.

It would be helpful to have some illustration as to the circumstances in which the waiver of disqualification in S34 (4) would be considered appropriate.

Proposed co-regulation by the Charity Commission and the Church Commissioners:

(S6 Application of the Charities Act 2011)

There is concern that it is not sufficiently clear how this would work in practice, (although noting that proposal for amendments are expected to be made to the revision committee from the Charity Commissioners and other appropriate departments).

Is it sufficiently clear that the proposal is the best regulatory framework, as against other models, eg of exempt charities such as universities?

8. Response from Revd Canon Martyn Taylor (152 – Lincoln):

I am writing as a member of both General Synod and a chapter member of Lincoln Cathedral, also on the cathedral Finance Committee.

Please note that I fully support the recommendation of an elected or appointed vice chair who is non-residentiary and can operate in the absence of the Dean. I think that it makes sense for this to be a Bishop's appointment in consultation with the Dean.

I have seen from recent experience the tendency of residentiary canons to take control of the chapter through the chair, when what is needed is someone to chair who has no conflict of interest.

I also support the recommendation that the Bishop should appoint an acting Dean when the Dean for whatever reason cannot act out their duties. I would suggest that this is an external appointment to the existing Cathedral staff.

9. Response from Jeremy Sheehy (173 – Manchester):

I write without any particular experience of cathedral life, but with a good deal of experience of governing bodies and boards (including New College Oxford, a theological college, and several schools both state and independent). It is a narrow point that concerns me, the ruling in Schedule 1 that the non-executive member appointed by the bishop is, by virtue of that appointment, the vice-chair. It seems to me perfectly proper that the bishop should appoint a non-executive member of the Chapter, but I would want to query the wisdom of them automatically being the vice-chair. Joining a governing body and find yourself immediately the vice-chair is not necessarily idea. A new non-executive member appointed by the bishop might find themselves in some difficulty if they took over at a point of tension at a time when background information was especially necessary for the resolution of the problems, as for instance if the dean were taken seriously ill or involved in a serious accident and no interim dean had yet been put in place. I don't know whether there is any simple and relatively minor way of resolving my point, if it is indeed felt that it merits further thought. A couple of ideas occurred to me :

1. could the non-executive member appointed by the bishop be by virtue of that appointment vice-chair unless the bishop and the non-executive member together made other provision in exceptional circumstances
2. is there any simple way in which a bishop's out-going appointee and in-coming appointee could both be on the chapter for period of months, and the out-going appointee be vice-chair for that period.

This is a submission rather than a drafted amendment. I expect I could produce a draft if the Revision Committee so wished, but of course there may be others who have done that.

10. Response from Canon Tim Bull (202 – St Albans):

New Cathedral Measure: Response from St Albans Cathedral Chapter

We would be grateful for greater clarity on the following points:

- Membership of Chapter. As drafted, the need to calculate a percentage of percentages is confusing and results in small fractions for smaller Chapters. It might be better to provide principles for balancing the membership between executive/non-executive, lay/clergy, and elected/appointed members, and to allow individual cathedrals in their constitutions to create the pattern that best suits them in accordance with these principles. St Albans Cathedral Chapter has always had a lay majority and we strongly wish to be able to maintain this.
- Section 5 Statutes (1), c and d. We did not understand exactly what was intended here. The wording needs clarification, since it does not seem to cover the situation of St Albans where the whole cathedral is the parish church, and we wish to remain that way. Perhaps c) should read: “if the cathedral is a parish church, provision that *all* or part of the cathedral to be the parish church”?
- The barring of chief officers from membership of Chapter. This is not an issue for St Albans as the Cathedral Administrator is not a member of the Chapter. We wonder, however, how this will work in cathedrals where executive members of Chapter report within the line management chain to the chief officer. We also note that this rule may be discriminatory, since the effective reason for barring chief officers from being on Chapter is that they are not clerics.
- The Peer Review system. How will this relate both to the new Bishop- commissioned “review” mentioned in Section 7, 7, and to the current form of visitation which the bishop may still hold, mentioned in 8, 3b – and how do they all relate to one another?

We seek revision on the following points:

- The role of the bishop. We agree with the points made by the Bishop of Exeter at the July 2019 General Synod. Lines of responsibility and accountability will become confused if the bishop is an irregular attendee at routine Chapter meetings and his/her role as Visitor would be compromised. We suggest that, with the abolition of Councils, which currently provide a direct link to the bishop, one special meeting might be held each year between Chapter and the bishop to inform the bishop and seek his/her wisdom.
- Vice Chair of Chapter. We are content with the principle of the bishop appointing a senior, non-executive member of Chapter. St Albans Cathedral constitution already provides for a bishop’s nominee. But the role of this senior non-executive is quite different to that of the Dean who is the Chair of Chapter. If the Dean cannot chair Chapter for whatever reason, the task should fall to the Sub Dean or to another executive member of Chapter as they will be best placed to represent and fulfil the role of the Dean. If neither the Dean nor any of the executive members are available, Chapter should not meet. The senior non-executive should always be a lay person to ensure the right skill set and to provide independence.
- Cathedral Council. At St Albans the scrutiny role of Cathedral Council has worked very well for many years. We have reluctantly accepted the proposal to abolish the Council as part of the corporate body. We would welcome the flexibility to continue with a Council of stakeholders that can be invited to scrutinise, although without specific authority. We

would like the measure to allow for this to be set up as an arms-length, advisory body and not as a subcommittee of Chapter.

11. Response from Revd Canon Kevin Goss (204 – St Albans):

I write as an Honorary Canon of St Albans Cathedral, member of St Alban's Cathedral Council and with first hand experience of cathedral ministry as a former Precentor of Canterbury Cathedral.

It has been instructive to see how helpful the work of scrutiny performed by the Cathedral Council has been to the Dean and Chapter at St Albans. My own experience is that cathedral communities can too easily fall victim to the tendency to think as living in a cathedral 'bubble', especially those foundations contained within physical precincts or closes. Such communities need constantly to be addressed and refreshed by voices other than themselves.

While Cathedral Councils face abolition as part of the corporate body according to the proposals contained in the new Cathedrals Measure, there is a real danger that this abolition may result in the loss of the voices of stakeholders, from the diocese and also from the wider community and civic life. While the College of Canons may be able to provide one kind of voice from the diocese, other voices need to be heard and provision made for this.

I believe it is essential that Cathedrals not only be permitted the flexibility to continue with a Council of stakeholders but be encouraged to do so. While such a body, lying outside the field of formal governance, would not have specific authority, it may and perhaps should be invited to scrutinise, to encourage, to advise and to warn, perhaps in the role of 'critical friend'. I would urge the revision committee to strengthen the revised measure not only to allow but to encourage the provision of the formation such a body, tailored to the needs of each individual cathedral.

12. Response from Revd Andrew Dotchin (208 – St Edmundsbury & Ipswich):

Response from the Dean and Chapter of St Edmundsbury Cathedral to the draft Cathedral Measure:

The Dean and Chapter of St Edmundsbury Cathedral have discussed the draft Cathedral Measure and are broadly supportive of its provisions.

One major concern they have is reflected in Schedule 1 (The Chapter of a cathedral), Paragraph 5.1 and 5.2: (The Vice Chair).

The Constitution and Statutes of St Edmundsbury Cathedral provide for the Bishop of the Diocese to nominate two members of Chapter, one lay and one ordained. Under the provision of the draft measure the rights of nomination by the bishop to Chapter is reduced to one, which seems to go against the intention of the Measure to embed a closer working relationship between the Bishop and cathedral. The Chapter of St Edmundsbury greatly values the presence of two people nominated by the bishop and the diocesan perspective they bring and would hope not to have the number reduced.

A further aspect of Schedule 1, 5.1 & 5.2 is the provision that the person nominated by the Bishop to Chapter shall be Vice Chair of Chapter. The Chapter of St Edmundsbury felt that this both undermines the role of the Sub Dean who under the provision of the current Constitution and Statutes chairs Chapter in the absence of the Dean and also feels as though it risks embedding a sense of suspicion that the Vice Chair will be the Bishop's 'eyes and ears' on Chapter. In his recent meeting with Chapter, The Bishop of St Edmundsbury and Ipswich observed both that he does not expect his nominations to Chapter to report back to him and to be his delegates, and also that he would expect to have a close enough working relationship with the Dean to obviate the need to have his one nomination serve as Vice Chair of Chapter.

For this reason the Dean and Chapter of St Edmundsbury hopes that Schedule 1, paragraphs 5.1 & 5.2 might be reworded to reflect their preference to retain two members of Chapter nominated by the Bishop and to remove the clause which provides for the Bishop's nomination to be Vice Chair of Chapter.

13. Response from The Ven Dr Jane Steen (225 – Southwark):

2 2 The Chapter of the cathedral

(1) For each cathedral, there is to continue to be a body established by the constitution of the cathedral called the Chapter; and that body alone is to be the body corporate for the cathedral.

It is not clear from this that the Chapter has to include clergy. Schedule 1 clearly states that the Dean and residentiary canons are to be the members of the Chapter but not that they are to be ordained. Canon C21 currently provides for the ordination of deans and residentiaries but could be amended. As I read section 10 and 11, there is no requirement that the Dean or others be ordained, other than in Canon C21, though there is provision for their treatment if they are. The Dean of St Paul's speech in July helpfully paved the way for this greater openness to lay appointments. There would of course be consequential effects concerning e.g. office holding (probably affecting the whole church), the Church Representation Rules, lay incumbency (via parish church cathedrals) and therefore potentially lay presidency, canonical discipline and so on. I place no value judgment on this direction of travel but would ask for clearer drafting or explanatory notes so that Synod is aware that this, or is not, the intent of the Measure.

(4)(12) Where the constitution of a cathedral which is or part of which is a parish church provided, immediately before the commencement of this section, for the incumbent of the benefice which comprises the parish to be the dean, the constitution of the Chapter of the cathedral must continue so to provide.

This implies that the incumbent is the dean, rather than that the dean is the incumbent. Could the Measure or guidance clarify whether this reading is correct?

(4) The constitution of the Chapter of each cathedral must—

(a) provide for the appointment of canons in Holy Orders (including the manner of their appointment);

How does this sit with the appointments being the Bishop's set out at (7)(5) [(4) (11) also excepts the Crown]? It seems very comparable to e.g. (4)(d)-(g) where the appointment is for the Chapter.

7 The bishop

This section raises serious questions:

(7) (3) The bishop is entitled to attend meetings of the Chapter and must attend at least one of its meetings each year; and at any meeting which the bishop attends, the bishop may speak but may not vote.

(4) But the bishop may not attend a meeting of the Chapter for the discussion of a matter which the Chapter considers might give rise to a conflict of interest for the bishop, if at least three-quarters of those present and voting have voted to exclude the bishop from the discussion.

(3) It seems sensible that the Bishop must attend at least one meeting per year. However, I suggest inserting 'ordinary' before 'meeting' or similar wording which ensures that the Bishop seems how a usual meeting is run, the business discussed and so on.

(4) Delete this clause. The idea that the Bishop may attend all meetings puts unreasonable onus on a bishop's already overcrowded diary. The provision pays now attention to the 'role authority' of episcopacy and thus unbalances the interdependence of the Cathedral and the Diocese. The Measure as drafted does not specify if the Bishop is to be 'in attendance' (thus neither voting nor speaking) or, by attending, able to participate though presumably not vote. The following provision,

whereby the 75% of the Chapter may vote against the Bishop's attendance invites conflict within the Chapter and between the Chapter and the Bishop. It also paves the way for suspicion and lack of transparency.

8 The Visitor

(1) The constitution of the Chapter of each cathedral must continue to provide for the bishop to be the Visitor of the cathedral.

The independence of the Visitor is compromised if the Visitor is also able to attend all meetings of the institution. This provision should remain if (4) above is deleted. If (4) above remains, could the revision committee provide alternative suggestions for a Visitor.

18 (3) If the Chapter of a cathedral ceases to exist, the trusteeship conferred by this section is transferred to the diocesan board of finance.

For the avoidance of doubt, insert 'which continues to be bound by the provisions of this Measure until and unless such time as the Cathedral shall no longer be designated a Cathedral Church' – with possible cross reference to the provision and where written for designating a Cathedral something else: redundant, a parish/minster church etc.

40 Removal from office

(1) After section 3 of the Ecclesiastical Offices (Terms of Service) Measure 2009, insert—

“3A Removal from office following disqualification as charity trustee

(1) This section applies in the case of an office holder referred to in section 1(1)(d), (f) or (g) who—

(a) by virtue of that office, is a charity trustee either of the Chapter of a cathedral or of a parochial church council, but

(b) is disqualified from being a charity trustee under the Charities Act 2011.

(2) The bishop of the diocese must remove the person from the office.

This seems a sweeping provision. It includes every member of every PCC and every incumbent. Disqualification from being a charity trustee through e.g. undischarged bankruptcy may not be the result of personal fault. Yet the bishop has no choice but to remove the incumbent etc.

Delete (2) The bishop of the diocese must remove the person from the office.

Insert (2) The bishop of the diocese must, after consultation with the Charity Commissioners, either remove the person who is a charity trustee either of the Chapter of a cathedral or of a parochial church council of a parish church cathedral, or inhibit that person from participation in or attendance at such meetings as the bishop and Charity Commissioners must determine for such period as they also must agree.

This, or better, drafting gives the bishop some flexibility and does not require him to dismiss a guiltless party from office (and home). It does not limit her/him to the decision of the Charity Commission concerning waivers. It also limits the provision of the Measure to cathedrals.

If the intention of the Measure is to apply this to all churches, why not also to all BMOs whose leader may be similarly described? Again, if the intention is as wide as currently drafted, this should be more transparently effected e.g. by way of a Misc Prov Measure or (for clergy) amendment to the Ecclesiastical Offices (Terms of Service) Measure (2009).

14. Response from The Very Revd Tim Barker (236 – Winchester/Channel Islands):

Clause 3: The College of Canons

I appreciate that (a) the College of Canons will continue to exist in each cathedral and (b) the functions of the College of Canons will be determined by the Chapter. Presumably, although it is not explicitly stated in the draft Measure, the members of the College of Canons may be deemed to be members of the foundation of the ancient cathedrals: I suggest that it would be wise (for the avoidance of doubt) for this to be stated explicitly.

However, I regret any suggestion that the relationship between the Chapter and the College of Canons should be weakened or distanced. The members of the College of Canons include many of the most senior clergy and lay people in a diocese, whose relationship to the cathedral should be strengthened and not weakened – as appears to be the intention of this clause (or, if not the intention, could easily be a consequence). The Colleges of Canons already function in a different way in the various cathedrals; that is both understandable and proper. But the reporting back by the Chapter to the College of Canons seems to me to be both a useful part of the checks and balances and an appropriate way of allowing members of the College of Canons to hold the Chapter to account, whilst deepening the relationship between the cathedral and the wider diocese.

Whilst one might hope that this would happen naturally, there is no guarantee that a Chapter would welcome the views of the College of Canons. Therefore, the lack of clarity about the role of the College of Canons in Clause 3 is not helpful.

I suggest that weakening of the role of the College of Canons would be a retrograde step.

Schedule 1

Paragraphs 3 (3) and 5

I note that the appointment of all members of the Chapter, residentiary and non-residentiary, requires the consent of the bishop (except, perhaps, those appointed by the Crown; but even in these cases, I understand that it would be most unusual if the bishop were not to be consulted about the appointment). Notwithstanding this requirement, it is not unreasonable for the bishop to be able to appoint 'one of the non-executive members who is not a residentiary canon'.

However, I remain unconvinced that it is necessary for the person so appointed to be the vice-chair of the Chapter. At the very least, I believe it essential to clarify that any person so appointed acts fully in accordance with the expectations of any trustee – that he or she will act in the best interests of the trustee body concerned and is not influenced by prior allegiance to the bishop (if there were to be a divergence of views between the Chapter and the bishop).

I would be grateful for the opportunity to meet the Revision Committee to explain my concerns about these two points.

15. Response from The Ven Nikki Groarke (239 – Worcester):

Bishop to appoint one non-executive member who shall be Vice Chair (Schedule 1.3.3. and 1.5)

We welcome the proposal that the Bishop shall appoint one non-executive member as an appropriate way for the Bishop to help shape the composition of the Chapter. We do not think that that person should ex officio be Vice Chair. We think the role of Vice Chair should be one that each Chapter has the power to create and define, or not, within the Constitution and Statutes of each Cathedral, and that the Chapter should make that appointment.

Election of members of the Cathedral community to the Chapter (Schedule 1.3.2)

We are concerned that the Cathedral community is nowhere defined. We are concerned that the phrasing of the Draft Measure will encourage an irresistible expectation on the part of the congregation to elect 'their' representative to the Chapter, and we believe this cuts across the requirement to provide a balance and variety of skills, backgrounds and experience among the non-executive members. We believe that to say that the Chapter may ensure that a proportion of non-executive members to be 'drawn from the Cathedral community' will be more realistic and helpful rather than 'elected by and from' the Cathedral community.

Chapter member to chair each committee (Measure 15.3)

We agree that each formal committee of Chapter should be chaired by a member of Chapter. However we seek clarification that sub-committees of committees will not need to be chaired by a member of Chapter. E.g., the Social Sub-Committee of the Community Committee, or the Investment Sub-Committee of the Finance Committee.

Regulation (Measure 6)

We have a concern about dual regulation and believe that a single regulatory body, properly informed, resourced and staffed to carry out its responsibilities, is desirable.

Bishop's attendance at Chapter (Measure 7.6 and 9.2)

We do not believe that the Bishop should be entitled to attend all or any Chapter meeting, or that the onus should be on a majority of the Chapter to exclude the Bishop from any particular item. We agree that the Bishop should be entitled to attend once in the year. We further believe that there should be a meeting of the Bishop and the members of the Chapter at least once in the year when (a) the Chapter consult the Bishop on the general direction and mission of the Cathedral and (b) the Bishop may seek the advice of the Chapter on any particular matter.

Bishop's power to commission a review (Measure 7.7-9)

We have a concern that Bishops could resort to this too easily and too readily, as a way of dealing with any difficulty that arises. We therefore ask that the Measure makes clear who is to bear the cost of a review. We think that the word 'co-operate' is too vague. The issue is whether the Measure will bind the Chapter to follow any recommendations or directions made in a review. We believe that binding directions should only be made by the Bishop in the context of a formal visitation.

Deans' responsibilities (Measure 10.2)

We believe that safeguarding should be added to the itemized list of the specific responsibilities of the Dean.

16. Response from The Revd Canon Peter Moger (244 – York):

The following submission to the Revision Committee is made following the debate of the Draft Measure at the July 2019 Group of Sessions, and a subsequent discussion at a Chapter meeting in York.

- 1.1 I welcome many of the provisions of the new Draft Measure as they seek to provide structures and enable processes which guard against poor governance, and require greater accountability and transparency.

- 1.2 Parts of the measure reflect structures which have already been adopted by some cathedrals, and it is encouraging to see draft legislation which enshrines elements which have been found to be very helpful.
 - 1.2.1 Our experience at York of having had a Senior Leadership Team for the past six years has been extremely positive, not least in enabling the Chief Operating Officer (Chapter Steward) to chair meetings of the Team, thus freeing the Dean to contribute from around the table.

 - 1.2.2 Our Audit and Risk Committee has ensured a crucial economy of checks and balances which holds Chapter properly to account and ensures that it does not stray beyond what it is prudent.

- 2.1 All cathedrals are not the same: one size does not fit all. I am concerned, then, that, when the new legislation—and the associated guidance—finally appears, it allows *enough* latitude for individual cathedrals to put in place the structures and patterns most appropriate for them. There are welcome suggestions of this in the Draft Measure, but I would urge the Revision Committee to guard against legislation which creates too much of a straitjacket, and ends up being a hindrance to mission. The Church of England understands well the ecclesiological tension between catholic and local; it is vital that the Measure provides for local variety within universal good practice.

3.1 The Draft Measure makes sweeping changes around the relationship between Chapter and the Bishop. Bishops already appoint clerical and lay Chapter members and, under the 1999 Measure, some Bishops exercise to very good effect their right to attend and contribute to Cathedral Councils; they act there as critical friends to Chapter. This has been the pattern at York and, where it works well and relationships are good, the cathedral flourishes.

3.2 I fail to be convinced, though, that the provisions of the Draft Measure are quite what is needed. Visitors to York Minster often ask me ‘Where is the Archbishop’s Palace?’ and I explain that, for some centuries now, the Archbishops of York have lived three miles away at Bishopthorpe. That physical distance speaks symbolically of something more significant: that the bishop offers wisdom and counsel to Chapter from the vantage point of sitting *outside* the governance structure. The Bishop has a detachment which can enable her / him to see things which the Chapter has missed. And, if things do go seriously off piste, an episcopal visitation has value (and teeth) because of that distance.

3.3 I fear that two provisions of the Draft Measure could seriously skew the balance which is fundamental to a cathedral’s health.

3.3.1 One is the insistence upon an episcopally-appointed Vice-chair of Chapter.

3.3.2 the other is the *requirement* that a bishop attend annually one Chapter meeting alongside the right to attend all.

The Bishop of Exeter spoke eloquently on this subject at the July Synod, and I urge the Revision Committee to hear what is being said and to look carefully at the specifics of the Measure in this area.

4.1 The Draft Measure also proposes the disappearance of the Cathedral Council from the cathedral’s body corporate. Our experience at York is that, where there is a well-constituted and well-chaired Council, this can be an invaluable part of the economy of checks and

balances to enable wise governance by Chapter. We have found Council members to be helpful advocates, especially when Chapter has been required to make potentially unpopular decisions. I urge the Revision Committee to look carefully at how such advocacy will be provided for under the new Measure.

- 4.2 The other area of concern around the subject of Councils concerns the Chair. With a Chair of Council who sits *as a part of the governance structure*, such a person can be very helpful indeed to Chapter. On the one hand, s/he may act as a critical friend; and on the other, might on occasion represent Chapter to a particular constituency.

(As an example, in the aftermath of the York Chapter's decision to suspend bellringing for a period, the Chair of Council was invaluable in being able to represent the view of Chapter to concerned parties, without himself having been a part of the decision-making process, but nevertheless carrying the authority of his position.)

I urge the Revision Committee to consider who might fulfil such a role under the new legislation.

17. Response from Dr Christopher Angus (265 - Carlisle):

Dual regulation

1. There is concern about what dual regulation is going to involve, concern that is probably mainly driven by a lack of clarity or knowledge about how it will operate. The Annex to GS 2136X helpfully spells out the areas of activity to be regulated by the Church Commissioners, it may be that it would be useful to supplement this with an equivalent description of the spheres of activity to be regulated by the Charity Commission in a suitable document, possibly in the MOU (Memorandum of Understanding).

Bishop attending meetings of Chapter

2. Clause 7(3) "The bishop is entitled to attend meetings of the Chapter and must attend at least one of its meetings each year; and at any meeting which the bishop attends, the bishop may speak but not vote".

This gives rise to serious concern, particularly as it would seem to severely compromise the bishop's role as Visitor. It would seem more satisfactory to remove entirely the right of or the requirement that the bishop to attend meetings of the Chapter by removing paragraph (3) of clause 7.

This should not preclude the bishop meeting with Chapter should the bishop and Chapter so wish – it simply removes the bishop from involvement in the 'business meetings' of the Chapter.

Bishop attending meetings of Council

3. Bishops may already attend meetings of the Council. In many cases, following the abolition of Councils by clause 2(2), it would seem likely that the dean and Chapter will set up a largely equivalent advisory body under clause 15. Such a body might well allow for the attendance of the bishop. Consideration might be given to whether the Measure should make explicit reference to the ability to retain much of the functionality of the Council but in a newly created committee.

Status of Council (if equivalent body created)

4. The role of Council is seen as being an important one and there is a concern that when any successor body comes into existence it will not be formally part of the governance in the same way as is the case for the Council now. This loss of status of status for the Council would seem to be a clear disincentive for some key members of Council. This would seem to be a clear consequence of a change brought about by the Measure but cannot be considered as a sufficient reason to reverse the decision not to have a Council as a body corporate.

Vice-chair

5. We have concerns over the significance of the role of vice-chair and quite why this one member of the Chapter is in the gift of the bishop. The only role assigned to the vice-chair in the measure is to chair meetings of the Chapter in the absence of the dean (or interim dean). This gives rise to two questions: (1) why cannot Chapter be chaired by some other member in the absence of the dean (a vice dean, for example); and (2) what purpose is really served by having an appointee of the bishop who might be called on to chair Chapter in the absence of the dean.

6. With the one exception of the vice-chair, non-executive members of Chapter are appointed with the approval of both members of the Chapter and the bishop. The appointment by the bishop

alone of a non-executive member of the Chapter that did not receive the approval of members of the Chapter would itself signal a breakdown in the relationship between Chapter and the bishop. What useful purpose can be served by such an appointment?

7. Clearly there was an underlying rationale behind the provisions in the measure for the role of vice-chair (in the sense that they are there to satisfy a need). We do not believe that the provisions in the draft measure provide a satisfactory way of addressing the perceived need (as set out in GS 2101A, the Final Report of the Cathedrals Working Group). We believe that the measure should:

a. give a clear view of the real purpose of the role (which cannot be simply just to chair Chapter meetings in the absence of the dean as that role might never be exercised);

b. provide for an appointment process which has a consultative element such that the appointee is not seen purely as the "bishop's man".

8. We believe that consideration should also be given as to whether vice-chair is the most appropriate title given our earlier remarks.

18. Response from Christina Baron (245 – Bath & Wells):

I attended the Cathedrals fringe meeting at York, studied the Measure and attended the debate in Synod. Nothing I heard or read provided justification for the Bishop's appointee to be vice-chair of the Chapter, rather than the Chapter electing its own vice-chair. In the absence of any justification (and I find it hard to see what justification there can be) I oppose this point and hope it will be removed.

19. Response from Anne Foreman (308 – Exeter):

Para 2 The Chapter of the Cathedral

2 (2). *“The Council.....is to cease to exist”*

It is hard to see how the abolition of Cathedral Councils, despite their relatively modest powers, will serve to make cathedral governance more secure. Existing Cathedral Councils are independent, have some members elected by their peers who come from the various praying communities connected with the Cathedral, and can ask for a report on any aspect of Cathedral Life. They act both as a critical friend to the Dean and Chapter, and a place where a measure of accountability is offered. In practical terms, in Exeter it was the Cathedral Council, working with the Chapter, that ensured the implementation of the Bishop’s Charge following the Visitation. Although the non executive members of the proposed reconstituted Chapter will have increased lay representation, the Revision Committee needs to spell out **how** the function of the existing Cathedral Councils (as indicated in para 11 of GS 2136X Explanatory Notes) will be carried out; how will they carry out the role of critical friend? The Draft Measure enables Chapters to create various additional groups/committees, but these will not be part of the Body Corporate and so will not have even the limited powers enjoyed by Cathedral Councils at the moment; they will be purposeless and pointless. It is a shame that because some, perhaps many, existing Cathedral Councils have failed to fully exercise their role and responsibilities, those Councils, such as Exeter who have, stand to lose out.

Para 7 Roles and responsibilities -The Bishop

7(3) *“The bishop is entitled to attend meetings of the Chapter.....may speak but not vote....”*

This appears to conflict with the bishop’s role as Visitor as set out in para 8. If the bishop chooses not to attend a meeting he will nevertheless have been seen to be complicit with any decisions taken. Where a decision has gone ‘pear shaped’ the absence of the bishop, with his ability to speak to any proposal, could be interpreted as negligent. Rather than the ‘right’ of the bishop to attend, Chapter should meet at the invitation of either the bishop or the dean.

7(7). *“The bishop may commission a review.....”*

Some clarification is needed to distinguish how such a review differs from the Quinquennial Review, or from being a 'mini visitation', or even how it sits with the more recently instigated Association of English Cathedrals Peer Review Process. Some terms of reference or guidelines for this review, in terms of regularity and what can be covered, are needed.

Para 28 Accounting Matters

28(1). The proposal that*"the Church Commissioners may from time to time specify by order the date on which the financial year for all cathedrals ends"*

is unhelpful, impractical, and should be resisted. Cathedrals **must** be free to determine the date of the end of their financial year in order to reflect their particular circumstances rather than to fit those of the Church Commissioners. A Practical example of such circumstances might be where a cathedral receives a third or a quarter of its annual income in the last month of the year; a possible decline in income would necessitate remedial action in the next couple of months, putting unnecessary pressure on personnel time to meet an externally imposed deadline.

Para 40 Removal from Office

40(2). *"The bishop of the diocese must remove the person from the office"*

The Draft Measure concerns the trustees who are office holders in any Cathedral Chapter. However, most Parochial Church Councils are also charities, as are Diocesan Boards of Finance and other organisations on which incumbents might serve. Does this requirement apply to all incumbents/office holders, or does the inclusion of this recommendation treat the office holders in cathedrals as different from those in parishes and/or serving on other bodies? There should surely be parity of expectation/treatment for all, whether bishop, dean, residentiary canon or incumbent?

20. Response from Canon Margaret Sheather (315 – Gloucester) and Revd Canon Richard Mitchell (121 – Gloucester):

General

This response is in the context of the Chapter being generally supportive of the proposed approach in the draft Measure, and its aim of balancing the establishment of strong contemporary governance with maintaining the ecclesial tradition of cathedral life – its praying heart. Remembering that there is guidance to come on many more detailed points we would encourage the Revision Committee to identify and address any serious anomalies that emerge in considering the current draft but not try to address every hypothetical issue that may be raised. Proposed revisions need to sustain the overall direction of the Working Group recommendations, avoiding the “cherry-picking” that is felt to have undermined the current Measure.

The Role of the Bishop

We think further thought needs to be given to the most effective way of ensuring that the Chapter and the Bishop do meet and engage on shared issues rather than the proposal for the bishop to have the right to attend Chapter meetings and be required to attend at least once a year. Apart from the potential for a conflict of interest for the Bishop that has been mooted, there is the practicality of the approach in promoting good relationships. If the relationship is working then there are likely to be many contacts, formal and informal between the Dean, Chapter and Bishop. If relationships are not in a good state then attendance at Chapter is not likely to address this.

We would welcome further exploration of the option of a regular (bi-annual?) but separate meeting of the Bishop and Chapter for discussion of shared issues and of the functioning of the relationship rather than the entitlement to attend. If the attendance of the Bishop at Chapter once a year was felt to be crucial then this could remain as well

Size of Chapter

There is some concern that Paragraph 1(4) of Schedule 1 will lead to a Chapter of unwieldy size.

Vice Chair

There does need to be a Vice Chair to cover for the chair in unavoidable absences, and they can also potentially take the chair if there is a particularly complex item of business that the Dean needs to lead, so freeing them to participate fully in the debate. However, it's not clear why the Vice Chair needs to be the bishop's nominee, and they could more appropriately be elected by Chapter from among the total membership.

Whatever the outcome about the Vice Chair role, Chapter needs to be consulted about the appointment of the Bishop's nominee as there need to be clear expectations about their skills and experience. This is particularly the case as Chapters will be auditing their range of skills and experience as the basis for making any new appointments.

Committees

Statutory Committees of Chapter should be chaired by the Chapter members but other committees and working groups can be chaired by appropriate others, though with a Chapter member on the committee /group.

Council

We agree that the chair of the successor body to the Council should not be a member of Chapter as it is more helpful to have a degree of independence in the role. We welcome the removal of the ambiguous status of the Council in the governance structure and would welcome more guidance in due course on the size and make-up of the future body e.g. possible minimum representation on core membership of.

Chief Operating Officer on Chapter

We feel strongly that the COO must have the right to attend Chapter and to speak as they carry out a crucial role in the leadership of the organisation and Chapter needs to call on their skills, advice and knowledge. However, we agree that they should not be a member of Chapter as this could present significant difficulties should issues arise about the Officer's performance.

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This is not a matter for revision of the measure, necessarily, but we would welcome clarification about the reason why this waiver is appropriate. We are aware it brings the measure into line with other relevant existing Measures but need to be reminded about why the waiver is required generally.

21. Response from Jonathan Cryer (334 – Leicester):

Submitted for and on behalf of the Diocese and Cathedral of Leicester:

1. We do **not** support the proposal that the Bishop should appoint a non-executive member of Chapter, who thereby becomes vice-chair of Chapter. We **do** support the idea that the Bishop may nominate a non-executive member of Chapter, but we think that the Chapter should have the right to appoint a vice-chair itself from amongst its members. In other words, in Schedule 1, we **support** item 3 (3) but **not** 5(1). However, there needs to be some explanation of what the role of vice-chair is to be – is it merely to deputise (as we would hope)? Or if some wider role is envisaged, that should usefully be spelt out.
2. In item 6(5) of Schedule 1 there is mention of the Dean’s casting vote by virtue of the Dean being chair of Chapter. There is no mention of a vice-chair’s casting vote. We think therefore that this creates uncertainty about what would happen if the dean is absent and the vice-chair is ‘Chair of the Chapter’. Indeed there is some lack of clarity between 6(1) and 6(5) in use of the term ‘Chair of the Chapter’. Our submission would be that, in the event of a tied vote in the absence of the dean, there is no casting vote and the matter falls and, if still relevant, is adjourned to a future meeting.
3. We are happy with the proposals in Section 13 of the Measure for a ‘Nominations and Development Committee (sic)’, but we do not think that the name is helpful; ‘Development’ is more generally used in the context of fundraising and the development of funding streams – it is confusing to use the word in the context of a committee dealing with appointments and the training of people in governance roles. Therefore we request that a better name be found for this committee.

21. Response from Muriel Robinson (343 – Lincoln):

Whilst I welcome much of what is in the draft Cathedrals Measure, I would also like to suggest some ways in which it could be strengthened:

1. The outworking of the ecclesiastical purpose set out in Clause 1, as expressed in 10.2.e, would be much strengthened by an amendment to read ‘The Dean must in particular secure the pastoral AND SPIRITUAL care of all members of the cathedral community.

Whilst it would be inappropriate to go into any more detail in the Measure itself, the non-statutory guidance which I understand is being developed could usefully explore further the duty of such care to regular and visiting worshippers and volunteers as well as staff.

2. I believe that more work could usefully be done on the way in which the Vice Chair of Chapter is appointed. Whilst I can see the value of the Bishop having one nominated place on Chapter, there is a real risk of such a person being, or being perceived to be, the Bishop’s eyes and ears in an unhealthy way. Decoupling this appointment from the Vice Chair role would allow the more normal practice in such Boards of Trustees of the Vice Chair being appointed for a fixed term by Chapter as a whole. This would not preclude restricting the post to one of the lay non-executive members and would be in line with practice which would be recognisable to the Charity Commission.

3. Whilst I personally do not see the problem with removing Cathedral Councils from the governance structure, it is clear that others feel this as a loss. It might be worth looking at the common practice in universities of having a Chancellor (obviously this name would be no good!) who is a figurehead with no real statutory power. A similar role might be attractive to the kind of high level people currently acting as Chairs of Cathedral Councils so that their wisdom continued to be available to Chapter without a confusion of governance. This could be an option rather than a requirement and might be explored in the non statutory guidance.

4. Finally, although as an ex vice chancellor I recognise the line management model being developed for residentiary Canons, there remains anxiety among this group about the loss of autonomy and some wider anxiety that this might make recruitment harder. There do need to be safeguards so that residentiary roles are given sufficient autonomy within the reporting structure to enable the post holders to flourish, and to prevent micro-management by Deans, and there need to be proper processes in place to address grievances within the new structure.

22. Response from Clive Scowen (358 – London):

1. Clause 1 should recognise that the Cathedral is the principal or mother church of the diocese, and so central to the life of the diocese. **I propose that “, the principal church of the diocese” be inserted after “seat of the bishop”.**
2. Clause 2(2) provides for the abolition of the Council. While I support the removal of the requirement to have a Council, and the clarity provided by this clause that the Chapter is the sole body corporate of the Cathedral, some Cathedrals clearly value their Councils and would not wish to lose them. **I propose that there should be a permissive power to establish an advisory Council, with membership similar to that of the existing Council, if the Chapter so wish.**
3. Clause 3(6) and Schedule 2 (also clauses 12(9) and 26(9)). Why is this specific to the Diocese of Leeds? Currently it is the only diocese with more than one Cathedral, but that may not be so in the future. **I propose that instead of applying only to Leeds the subsection and Schedule should apply to any diocese which has more than one Cathedral; likewise clauses 12(9) and 26(9).**
4. Clause 4(4). Since Schedule 1 makes it clear that there have to be lay canons, should that not be reflected in this subsection? **I propose that paragraph (b) should be in the same terms as (a), so that it would read : “provide for the appointment of lay canons (including the manner of their appointment”. It is not clear (so far as I can see) whether “residential canons” can be lay. It is plainly desirable that that should be possible. So I propose that either here on in the definition in section 42(1) it should be made clear on the face of the Measure that residential canons can be lay.**
5. Clause 7(3)(4). The culture should promote unity and collaboration between bishop and cathedral, to ensure that the Cathedral serves its diocese as its mother church. To that end the bishop should routinely attend Chapter and take part in its deliberations, and it should not be possible for the Chapter to exclude him or her. **I propose that clause 7(4) should be deleted; and that “the bishop” in relation to Canterbury Cathedral should be the Bishop of Dover, as de facto diocesan.**
6. Clause 8. The historic role of the bishop as Visitor conflicts with a collaborative approach between bishop and chapter and promotes division; also the right of the bishop to attend Chapter is likely to create a conflict of interest with his or her role as Visitor. **I propose that the role of Visitor should be transferred to the archbishop (or in the case of York Minister, the Archbishop of Canterbury).**
7. Clauses 48 and 49. It is time to grasp the nettle of the absurdity of Oxford Cathedral being excluded from this legislation. If the University of Oxford/Christ Church College will not countenance it another seat needs to be found for the Diocese of Oxford. There should be no exceptions. While I appreciate that Tynwald has final authority over Peel Cathedral, which is this Measure not extendable to the Isle of Man, with the consent of Tynwald, in the usual way?

23. Response from Tim Fleming (396 – St Albans):

The following points are set out in the numerical order of sections in the draft measure rather than in any sense of priority.

This submission is made in my own name and represents my own views. Given potential conflicts of interest, perceived or actual, arising from my role as part-time Head of Finance and Development at St Albans Cathedral, I have purposefully not submitted the formal responses from St Albans Cathedral Chapter or any wider cathedral-related bodies such as the Cathedrals Administration and Finance Association. Other Synod members will submit representations from these bodies.

4 (4) (d) provide for the appointment of persons to undertake the administration of the cathedral through the carrying out of the role of a chief operating officer and the role of a chief finance officer

I suggest the inclusion of “the administration of the cathedral” unnecessarily narrows the intention of these two roles. Although the measure is looking to clearly delineate between roles that have a governance role and those that have a management role, I am not sure using administration as a proxy for management is right. The roles of a chief operating officer and chief finance officer go beyond administration and readily include being a trusted advisor and strategic partner to governing bodies. Narrowing the scope to administration could compromise the helpful influence of these individuals and narrow the search for good candidates. I therefore recommend deleting “to undertake the administration of the cathedral”.

4 (5) The same person may be appointed to carry out each of the roles referred to in subsection (4) (d), if each role is to be carried out on a part-time basis

The explanatory notes explain this section provides for flexibility in the appointment of these roles so that cathedrals can appoint one person to undertake two part-time roles where it is appropriate to do so. This makes sense, particularly in resource-constrained cathedrals, or where the particular experience of individuals or cathedral contexts means it is appropriate to do so. But it is important that cathedrals do not use this section as a way of restricting, either intentionally or inadvertently, access to Chapter by the most senior finance-skilled person in the organisation. Where the roles are combined, Chapters need to be confident that the individual performing the combined role is able to represent satisfactorily to Chapter all of the activities expected of each of the roles, especially those of a chief finance officer. It may be this section needs further expanding in terms of its desired intention in any associated guidance supporting the measure.

4 (10) The constitution of the Chapter of each cathedral must include provision to exclude the power conferred by section 292B of the Charities Act 2011 (social investment power)

It is my understanding that section 292B of the Charities Act 2011 already includes provision to

exclude cathedrals from social investment powers by virtue of section 292B (4) (a) (charities established by, or whose purposes and functions are set out in, legislation). There may come a time in the future when it is desired for cathedrals to be able to avail themselves of social investment powers. Although this would of course require legislation in its own right, the inclusion of this section means any changes to the current prohibition on social investment powers would also require cathedrals to amend their constitutions as well, which is a complex process. Surely far better to rely on the existing exclusion through section 292B (4) (a) and then allow flexibility for change in the future that doesn't in turn require changes to cathedrals' constitutions. I therefore recommend deleting this section.

5 (1) (c) if the cathedral is a parish church, provision that part of the cathedral is to be the parish church; and

5 (1) (d) if part of the cathedral is a parish church, provision that the cathedral or another part of it is to be the parish church

I know this comes direct from the Cathedrals Measure 1999 but I don't understand the wording. In (c), where I am assuming the cathedral in its entirety is coterminous with the parish church, why would you then need to provide for only part of the cathedral to be the parish church? And in (d), where only part of the cathedral is defined as the parish church, why would you then need to extend the parish church to the cathedral in its entirety or move it to another part of the cathedral? I am clearly missing something!

7 (3) The bishop is entitled to attend meetings of the Chapter and must attend at least one of its meetings each year, and at any meeting which the bishop attends, the bishop may speak but may not vote

This section compromises both the governance position of the bishop and of Chapter. In the mere act of being entitled to attend, combined with the nature of a bishop's position, the bishop is taking on a governance role within the cathedral that cannot easily be separated or delineated from the governance role played by members of Chapter. In being entitled to attend, it then follows that bishops would necessarily receive all Chapter papers so they can form a judgement as to whether to attend. These factors, in combination with their other powers in this measure and outside of it, result in bishops effectively becoming 'shadow-trustees', putting them in a vulnerable and sub-optimal position with regard to their role in wider cathedral accountability, including that of visitor. The implied position in this section of an acceptable minimum involvement of attending Chapter once a year heightens this problem. I suggest there are other more appropriate mechanisms for bishops to connect with Chapters, including perhaps an annual meeting/structured conversation with Chapter members and of course ongoing dialogue between bishop and dean. I therefore recommend deleting this section.

7 (4) But the bishop may not attend a meeting of the Chapter for the discussion of a matter which the Chapter considers might give rise to a conflict of interest for the bishop, if at least three-quarters of those present and voting have voted to exclude the bishop from the discussion

In line with my submission on section 7 (3) above I recommend consequential deletion of this section. Notwithstanding this consequential recommendation, I additionally recommend this section is deleted in its own right. It is not for Chapter on its own to consider what might or might not be a conflict of interest for someone who has an entitlement to attend a meeting; a member of Chapter (acting corporately or individually) can legitimately suggest to the person attending that they might have a conflict of interest, but this must not abrogate the responsibility of each and every person attending to be on the watch for their own conflicts of interest. Conflicts of interest, either potential or actual, do not necessarily mean someone should exclude themselves; instead they should be managed appropriately according to the specific situation. Although the clause does not necessarily result in exclusion as it is dependent on a vote, it does imply this is the recommended course of action. Also, is there relevance of using 'may' rather than 'must'? By using 'may', is it intended the bishop could still attend of their own volition? Taken together this section feels like it inhibits trust-led governance.

13(3) The Committee has the function of advising the Chapter on
(a) the recruitment of non-executive members,
(b) the recruitment of members of committees of the Chapter, and
(c) the training needs of members of the Chapter.

As this section stands it is missing a key function of any Nominations and Development Committee. I therefore recommend the addition of "keeping under review the skills, knowledge, experience and diversity of the Chapter, making recommendations to the Chapter with regard to any gaps or changes".

14 (2) The chair of the committee or, where there are two, of each committee must be a nonexecutive member of the Chapter who has financial expertise which is relevant to the affairs of a cathedral

The words "relevant to the affairs of a cathedral" imply some sort of narrowing of what is needed from the chair of a Finance, Audit and Risk Committee (or as separate committees), as if only someone with financial expertise connected to the activities of cathedrals is appropriate for the role. I therefore recommend deleting "financial expertise which is relevant to the affairs of a cathedral", replacing it with "relevant financial expertise".

14 (3) Where there are two committees, the same person may not be the chair of both

This seems without justification. Why force separate chairs simply because the activities of a committee are split across two committees? I accept that in specific contexts it may be useful or beneficial to have separate chairs, but this should not be a requirement. In addition, the

requirement to have separate chairs may also hinder the formation of two committees, even when this is in the best interests of the cathedral, because two different individuals cannot be found to perform the role of chairs. I therefore recommend deleting this section.

14 (4) The committee or, where there are two, each committee must keep under review the activities of the cathedral and its management in relation to such matters as the Chapter may specify in terms of reference for the committee

It is not clear whether “in relation to such matters as the Chapter may specify” applies to just the cathedral’s management or also the cathedral’s activities, i.e. over what sections of the sentence does Chapter’s specification apply? Notwithstanding this clarificatory point, the section remains very broad-based. Keeping under review the activities of a cathedral is far-reaching. I sense there is a good reason for this section’s inclusion, but it is important its outworking doesn’t create a governance impasse between Chapter and the committee(s). It may be this section needs further expanding in terms of its desired intention in any associated guidance supporting the measure.

14 Other committees: Potential new section allowing advisory bodies to Chapter

Organisations, particularly those with significant stakeholder groups such as cathedrals, often find it useful to establish advisory bodies to inform their governing body. These are not part of the formal governance structures, and so are not committees or sub-committees of the governing body, but can play a useful role in helping the governing body achieve its stated purpose and vision. They are typically formed of individuals who are not members of the governing body, and chaired by someone outside the governing body. Examples would be a fundraising advisory body, a stakeholder group established for a particular change project, or a group comprising individuals with expertise in a particular field connected to the organisation’s values or priorities. The measure is silent on such bodies, potentially meaning they are not to be encouraged or allowed. I wonder whether a new section would be beneficial along the lines of “The statutes of the Chapter of each cathedral may make provision for the establishment of any advisory bodies to Chapter, the purpose of which would be to aid Chapter in its overall ecclesiastical purpose and related objects. Such bodies sit outside the formal governance of the cathedral and Chapter need not have due regard to their advice”.

15 (2) The constitution of the Chapter of each cathedral must provide that any committee or sub-committee of the Chapter established by virtue of subsection (1) may include persons who are not members of the Chapter but must be chaired by a person who is; and

15 (3) The statutes of the Chapter of each cathedral must include provision as to the composition, functions and proceedings of committees or sub-committees of the Chapter established by virtue of subsection (1)

For the avoidance of doubt I think the part of section 15 (2) that allows persons who are not members of Chapter to be members of committees needs to be inserted into sections 13 and 14 to cover the Nominations and Development Committee and the Finance, Audit and Risk Committee.

Similarly I think the wording of section 15 (3) relating to the statutes containing provisions as to the “composition, functions and proceedings” should be replicated in sections 13 and 14 on similar grounds (it is already part replicated in section 13 (4) but not in section 14).

18 Property held by Chapter as trustee: Potential new section to put balance sheet valuation of cathedral church building and outstanding inventory objects beyond doubt

I recommend the measure includes a section that puts beyond doubt that nil value should be ascribed in cathedrals’ balance sheets to the cathedral church building and any outstanding inventory objects. Section 18 (2) (b) refers to the fact these items are inalienable, but this is insufficient to then conclude nil value should be placed on them for accounting purposes. It is not uncommon for additions to be made to a cathedral church building over time or, perhaps more rarely, for an outstanding inventory object to be purchased or constructed following a fundraising initiative or individual donation. Both of these will have an attributable cost in accounting terms and therefore, in the absence of a specific instruction not to capitalise, may require capitalisation on the balance sheet. I don’t think this is desirable given the inalienable nature of the assets and the accounting treatment currently adopted by cathedrals of ascribing nil value to such assets. An accounting argument can be made that such additions are in substance the continual evolution/maintenance/alteration of an existing historic asset of nil cost, rather than a capital enhancement that will deliver new income flows, and therefore such additions would in any case have a nil capitalisable cost in accounting terms, but this argument is nuanced and not without challenge.

I suggest it would be counter-intuitive for cathedrals to find themselves in a position whereby they had to hold only parts of their cathedral church building or outstanding inventory objects on their balance sheets at cost, purely based on whether such additions were recent and therefore had a potential attributable and capitalisable cost. Over time the balance sheet value of such additions would trend to nil given the in-perpetuity nature of the assets.

I therefore recommend the addition of a new section (appropriately worded for a cathedral context) similar to that used by the National Trust in its own legislation covering its accounts as set out in The National Trust Act 1971:

- “(i) it shall not be necessary to place any value on inalienable property or on other property or personal chattels held in trust, or acquired by the National Trust for preservation;
- (ii) it shall not be necessary to take account of any obligation for the future maintenance of property held by the National Trust for preservation.”

25 (1) (a) to carry out an inspection of all property (other than the cathedral itself), and any ancillary building, which the Chapter is liable to repair and maintain

I believe the inspection of ancillary buildings is covered by section 26 (1) (a) of the Care of Cathedrals Measure 2011 and therefore does not need to be repeated in this measure. I therefore recommend deleting “and any ancillary building”.

For clarity is it better to say “cathedral church building” rather than just “cathedral” to maintain consistency with the rest of the measure and a link to the interpretation section 42?

28 (1) The Church Commissioners may from time to time specify by order the date on which the financial year for all cathedrals ends

This paves the way for an unnecessarily prescriptive order. Cathedrals should be able to maintain flexibility in their choice of financial year-ends, based on their specific context and situation. An order that mandates identical year-ends is unlikely to achieve much benefit. Removing this section does not prohibit a future order of the kind envisaged, but it does signal that it is not a priority. I therefore recommend deleting this section.

28 (3) The Chapter of each cathedral must provide the Church Commissioners with such other financial information, and do so within such period, as the Church Commissioners may from time to time specify by order

This has the potential to become a wide-ranging set of specifications from the Church Commissioners. Given this, I recommend reference is also made to the requirement to perform relevant consultation. I therefore recommend the addition of something along the lines similar to section 14 (6).

40 Removal from office

It is not clear whether section 40 removes the ability for individuals to apply to the Charity Commission for a waiver under the automatic disqualification rules for trustees. This type of waiver process would ordinarily apply to charities under the regulation of the Charity Commission.

Additionally, section 34 (4) allows bishops to give a waiver separate to the Charity Commission process for safeguarding disqualifications, but this is not repeated in section 40?

Schedule 1: 2 (5) At least one non-executive member must have financial expertise which is relevant to the affairs of a cathedral

See comments on section 14 (2).

Schedule 1: 3 (2) If the constitution of the Chapter so provides, up to one-third of the non-executive members of the Chapter (other than the residentiary canons) may be elected by and from the members of the cathedral community; and, where the constitution so provides, the election is to be held in accordance with the statutes of the Chapter.

I ask the revision committee to consider whether it is necessary to restrict elected non-executive members to one-third, and to consider whether, rather than election, some form of affirmation of non-executive members (apart from the bishop-appointed non-executive member) may be more appropriate. A number of one-third seems arbitrary. The new Nominations and Development Committee provides a safety-net to ensure proposed members have the right skills and experience.

Schedule 1:5 (1) The non-executive member appointed by the bishop under paragraph 3(3) is, by virtue of that appointment, the vice-chair of the Chapter; and

Schedule 1:6(1) The chair of the Chapter is (a) the dean, or (b) if the dean is absent, the vice-chair

These two sections conflate two distinct roles, that of a senior non-executive trustee (as envisaged by the Cathedrals Working Group report) and that of a deputy to the chair of a governing body if that person is absent. I recommend the measure is clear in that what is intended of this role is that of a senior non-executive trustee, be that called a vice-chair or something else. If the dean is absent it should not necessarily be the vice-chair (as defined in these paragraphs) that assumes the chair. This would not only potentially undermine their intended role, but it would also compromise those cathedrals where one of the residentiary canons has the role of sub-dean. I therefore recommend deletion of Schedule 1: (6) (1) (b) and ask the revision committee to consider whether the term vice-chair is the best one for the intended role.

24. Response from Adrian Greenwood (411 – Southwark):

SPECIFIC PROPOSALS

13 CLAUSE 1 – add the end add ‘for the Diocese.’

14 CLAUSE 4 (1) (a) – line 1 – please insert ‘, doctrine’ after ‘faith’

15 CLAUSE 4 (1) (a) – line 3 – at the end, after ‘Church of England’ add the words ‘within its Diocese’.

16 CLAUSE 9 (1) (b) – at the end add ‘within the Diocese’

17 CLAUSE 28 (2) – line 3 – after ‘Commissioners’ insert ‘, the Diocesan Board of Finance, Diocesan Synod’

18 SCHEDULE 1, PARA 3 – I would like to propose that a new para 3 (3) is created which replicates para 3(2) save that in line 3 the words ‘cathedral community’ are deleted and replaced by ‘Diocesan Synod’. If accepted, existing paras 3(3) and 3 (4) would need to be re-numbered accordingly.

25. Response from Alison Coulter (425 – Winchester):

Winchester Cathedral Chapter

DRAFT CATHEDRALS MEASURE, JULY 2019:

MAIN POINTS OF CONCERN AND SUGGESTED ALTERNATIVES

1. INTRODUCTION

This note outlines our main points of concern about the draft Cathedrals Measure, and suggests some alternative arrangements which we hope may provide some practical solutions.

The topics on which we focus are:

- Bishops in Chapter
- Vice-Chair
- Cathedral administrators
- Financial concerns
- Future of Council

2. BISHOPS IN CHAPTER

The draft Measure

The draft Measure provides that Bishops may attend Chapter meetings (section 7(3)). They must attend at least one meeting each year, and although they may speak, they may not vote. We understand that provision is required to ensure that Bishops are consulted as they are now via Council meetings, given that Councils will cease to have their current statutory role.

The problem

The Bishops will remain Visitors of their Cathedrals. In order to be able to carry out this role properly, they will need to remain sufficiently independent. If they are conflicted, they will not be able to act as Visitor. They could be conflicted if, for example, they are present when a decision is made which is later challenged. They would be “implicated” in the decision and “tainted” with knowledge which would make it unlawful for them to be able to exercise their rights as Visitor.

Given their status and influence, Bishops would have this difficulty even if they did not vote, and whether or not they spoke. In the employment law context, where a manager is a witness to the facts to be investigated, that person cannot fairly carry out the investigation. Further, the person in ultimate authority has to remain separate from the investigation process, in order to be able to pass judgment at the end of it. The draft Measure does not address this potentially major difficulty.

The draft Measure provides that Chapters can exclude a Bishop from a meeting because of conflict issues, with a 75% majority (section 7(4)). This cannot work in practice. It will not be possible to know, in advance, which decision or decisions could be challenged. Chapter discussions can range across a wide range of issues, from finance to safeguarding. In theory, any or all decision/s could become the subject of review, thus potentially excluding a Bishop from all discussions, a situation which no one is seeking.

Furthermore, there may also be a legal liability risk for Bishops, in that they may be regarded as a trustee by customarily behaving as one, for example by attending all meetings: there is no limit specified to the number of meetings a year which Bishops may attend. In a company, a person who is not appointed as a director but who behaves like one is called a “shadow director”, and has all the liabilities of a director. An additional concern, if the Bishop routinely attends Chapter meetings, is the potential undermining of the Dean’s authority.

At the same time, Bishops clearly need to be informed about the strategic direction of their Cathedral, and proposals, and have the right to input – just as they do now via the Councils, and informally in discussions with Deans. It is important to be clear that we support the continuation of the requirement for consultation between Bishops and Chapters.

Suggested alternative arrangement:

- There should instead be a requirement for periodic special high level meetings between Bishop and Chapter, to replicate the current regime of Council meetings. This would provide Bishops with the two-way consultation mechanism which they need, without involving them in ordinary Chapter discussions to a degree which would prevent them later from carrying out a Visitation.
- There would then be two different types of Chapter meeting: “ordinary” meetings, as now, which Bishops would not attend, and “special” meetings, which they would attend. These meetings would have a special and different agenda from “ordinary” meetings. At these “special” consultation meetings, Chapters and their Bishops would consult on issues of mutual interest and concern, e.g. mission plans, major projects, high-level overall financial position. (It would be possible for Bishops to become too closely involved to be able to carry out a Visitation, even via the consultation process, but this risk would be less than if they were routinely attending “ordinary” Chapter meetings and becoming “implicated” in Chapter decisions.)

3. VICE-CHAIR

The draft Measure

The proposal is that (a) the Bishop is to have the sole power to appoint one of the non-executive members of the Chapter (lay or clerical), without the agreement of the Dean and consultation with Chapter, and (b) this individual will automatically be Vice-Chair of the Chapter. The relevant provisions are in section 2(3), and Schedule 1, paras 3(3) and 5.

The CWG FAQs of July 2019 explain that the Vice Chair will be expected to provide a link between diocese and Chapter and keep the bishop informed about the work of the Chapter. The Vice Chair will also be expected to lead the non-executive Chapter members in questioning and improving strategy, and ensuring it is carried out, acting as a critical friend.

The problems

There are a number of concerns:

- (a) The historic relationship between Bishop and Dean is overlooked and undermined by the proposed Vice-Chair function of keeping the Bishop informed about the work of the Chapter. Bishops and Deans generally meet, as a regular matter, and it would be preferable to deploy these periodic meetings to supplement the Bishops’ meetings with Chapter mentioned above. In our view, relationships and information flow would be structurally enhanced by

consultation at two levels – between Bishop and Dean, and between Bishop and Chapter (the latter as mentioned under 2 above). The appointment of the Vice-Chair as is proposed is liable to sow distrust.

- (b) We are therefore not in favour of the new post of Vice-Chair, on the basis proposed. If however there is to be a Chapter post nominated by the Bishop, the individual should not be appointed without the agreement of the Dean and consultation with the Chapter. Currently, the mechanism for Chapter appointments is contained in the Cathedral’s Constitution, and in the case of Winchester Cathedral this means appointment by the Bishop with the agreement of the Dean in consultation with the Chapter. The proposal is that under the new Cathedrals Measure, Residentiary Canons are to be appointed by the Bishop with the approval of the Dean (section 7(5)), and all non-executive members of Chapter, apart from the Vice-Chair, are to be appointed by the Chapter with the approval of the Bishop (Schedule 1, para 3). The possibility of a new member being imposed on a Dean and Chapter is not in tune with the collegiate way in which Cathedrals and Bishops have operated historically. It is not likely to enhance governance and has the potential to create unwanted conflict.
- (c) If there is to be a Chapter position nominated by the Bishop, it should not automatically be Vice-Chair.
- (d) A further difficulty is that the Vice Dean usually acts as Vice-Chair. The proposal undermines the role of anyone in this position, in both a titular and a practical sense.

Suggested alternative arrangements:

- In addition to the routine special meetings with Chapter suggested above, Bishop and Dean should meet periodically as a matter of course. These meetings will provide Bishops with a good level of additional information and will give Deans the opportunity to obtain the advice of their Bishops privately as well as via the formal consultation mechanism involving Chapter.
- This mechanism would make it unnecessary to continue with the proposed Vice-Chair role.
- All non-executive members of Chapter should be approved by the Chapter and appointed by the Bishop (subject to the possibility of the Constitution providing for election from community members, as per Schedule 1, para 3(2)).
- Chapters should elect their own Vice-Chair, subject to the approval of the Bishop.
- One non-executive member of Chapter could be nominated or elected as the “senior” non-executive.

4. CATHEDRAL ADMINISTRATORS

The proposal

Under the draft Measure, each Cathedral is to have a COO and CFO, though the job titles may be different. The roles may be carried out by the same person, if each is to be part-time. Individuals in these roles will attend Chapter meetings but may not be members of Chapter. The relevant provisions are in sections 4-5 and Schedule 1 paras 2(3) and 6.

The problems

The principle of separating governance and management is advisable, but the draft Measure goes too far in prohibiting a person who is the COO/CFO of a Cathedral from being a member of Chapter *in any circumstances*.

The CWG FAQs of July 2019 explain that the reasoning behind this proposal is the Charity Commission view that trustees must generally not be remunerated, unless consent is given because a “sound reason” is provided and the remunerated trustees are in a minority. The CWG concluded that there is a sound reason for the Dean and Residentiary Canons to be both trustees and remunerated, namely their historic ecclesiological role and the fact that they are not employees.

At Winchester, the role of Receiver General (administrator) carries with it full membership of Chapter, and in our view this is essential: it would be difficult in future to recruit the high calibre of person that the role in Winchester requires if Chapter membership were to be removed. Changing the current arrangements would substantially impair both the current and the future operation of the Cathedral, and present an unwelcome financial risk.

In Winchester, the role involves strategic leadership in relation to all Cathedral matters, particularly in relation to the Cathedral fabric and finances. In relation to matters other than mission/ministry, the role could be seen as more akin to CEO than COO, while the role of the Dean could be seen as chair rather than CEO. (In relation to matters of mission/ministry, the role of Receiver General might be said to be COO while the Dean’s role is both chair and CEO).

It is the strategic leadership required of the role of administrator in Winchester that provides the “sound reason” justifying this executive role being a trustee as well as remunerated, alongside the Dean and Residentiary Canons. We are confident that this should be acceptable to the Charity Commission.

By way of context, we would draw attention to the many successful organisations in which the main executive roles have places on the supervisory board, with numerous examples in the university and corporate sectors. The key to good governance is to ensure that the executive roles are in a minority to the non-executives, and the draft Measure achieves this. The requirement that 2/3 of the non-executives must be lay should further strengthen the governance structure.

Furthermore, it would be a retrograde step effectively to demote all administrators, at the same time as pressure increases for Cathedrals to secure their financial sustainability.

However, we appreciate that the position is different in some other Cathedrals. We therefore suggest that there needs to be greater recognition in the draft Measure that the role of administrator varies from one Cathedral to another, and flexibility for administrators to be Chapter members where their role includes leadership.

Suggested alternative arrangements:

- *Chapter discretion to appoint the COO/CFO as a member:* The new Measure should allow Chapter the discretion to appoint the COO/CFO as a member, where the role involves leadership, with the Bishop’s approval, as for other Chapter appointments. In some Cathedrals, the Chapter appointment may be made at the outset, while in others, where there is not a tradition or expectation of Chapter membership, it might happen at a later date or not at all. With the appointment of an additional executive Chapter member, in some circumstances it might be necessary for additional non-executives to be appointed to achieve a non-executive majority in Chapter.
- *“Grandfathering”:* the position of individuals who are currently administrators/COO/CFOs and who are currently members of Chapter should not be altered for as long as they remain in office, ie they should be “grandfathered” by transitional provisions, so that the new provisions impact on their successors, not them.

5. FINANCIAL CONCERNS

YEAR END

Proposal

Section 28 of the draft Measure provides that the Church Commissioners may specify by order the date on which the financial year for all cathedrals ends.

Problem

The original proposal, that all cathedrals should have a financial year end of 31 December, would have been impracticable in Winchester, due to the Christmas Market on which a significant proportion of income depends.

The new proposal presents a different challenge. While we understand the desirability of financial year ends being the same in all cathedrals, we are concerned that it is proposed that the Church Commissioners are to have a power to impose an obligation on us with which we cannot in practice comply, and this is therefore unacceptable.

Suggestion

The power to set a date by order should not be exercised without first consulting with all cathedrals.

FARC CHAIR

Problem

Section 15 (2) states that committees should be chaired by members of Chapter. In the case of FARC this is to be achieved by appointing the Chair as a non-Exec member of Chapter, Ss.14 (2 & 3). However, there are difficulties in finding a candidate who can commit to coming to no less than eight meetings a year (four of FARC and at least four of Chapter), and appointing a member of Chapter who is not a financial expert as Chair would grossly impair the effectiveness of a committee whose recommendations are binding on Chapter.

Suggestion

We propose that the Chair of FARC need not be a member of Chapter; as FARC is a sub-committee of Chapter, the Chair could exercise delegated responsibility under the Dean who is by Constitution a member of the committee.

6. FUTURE OF COUNCIL

ADVISORY COUNCIL

Problem

Section 15 (1) confers the power on Chapter to provide for the establishment of a stakeholder group, which could be known as the Chapter's advisory council. However, a stakeholder group with no real powers may not attract the calibre of person needed to constitute an effective group. This is against the spirit of the Measure, which seeks to bring about greater accountability for Chapter.

Suggestion

We propose that the Measure gives stronger advice about the terms and scope of such a group and makes provision for Chapters in their Statues to ensure that the advice given by such an advisory council is given due weight in decision-making or strategy-setting.

We propose that the purpose of the stakeholder group in 15 (1) is strengthened: 'to seek counsel and support from significant regional partners and persons who bring fresh perspectives and critical thinking to the mission and affairs of the cathedral.'

DEVELOPING A NEW CONSTITUTION AND STATUTES

Problem

The existing Council is expected in Section 42 to work on the documents which will lead to its own cessation. This is a considerable and thankless task, which at the least will deter any new membership and may cause resignations in the interim.

Suggestion

We propose that help is given to Chapters in the form of loose frameworks or models for local Constitutions and Statues.

We propose that central support is offered by a person nominated by the Archbishops' Council who is expert in this process.

Alison, separately, outlines:

I would also like to add and to reiterate the point that I made during the debate at General Synod. I am concerned that in seeking to meet Charity Commission advice on best practice, the measure is suggesting one rule for ordained members of Chapter and another for Lay which I do not support. Under the measure, the lay members of chapter would all be 'non-executive' while the ordained members would include the Residentiary Canons of the Cathedral. Under Schedule 1 point 2 'Eligibility', it states that officers of the Cathedral would not be able to be members of Chapter. The attached paper from the Dean and Chapter at Winchester suggests why they find it essential to have the COO / CFO as a full member of Chapter. I am concerned that having one rule for clergy and one for laity is not right and not in the interests of good lay / ordained working relationships. It was explained to me the reason why it was considered appropriate for ordained members of chapter to be trustees, because their salaries are not set by the Cathedral, but to me that sounds a bit of a fudge (to use a technical term!). Both lay and ordained receive money from the Church – one is a stipend and one is a salary, but I would suggest that this is not really a valid or a good enough reason to exclude lay officers from Chapter.

26. Response from The Rt Worshipful Charles George (454 – Dean of the Arches):

I have two concerns:

a. It is surely wholly inappropriate to include within legislation relating to cathedrals a provision which represents a marked incursion into the security of tenure enjoyed by incumbents and those clergy licenced to parishes. This is particularly so when some of the reasons for disqualification from acting as a charitable trustee (for example undischarged bankruptcy) fall short of clerical misconduct. I consider it highly unlikely that many members of General Synod appreciated the broad extent of clause 40.

b. If it is considered appropriate to retain clause 40 (whether in respect of the Chapter of a cathedral or more extensively), please consider whether the removal from office should be automatic as presently proposed (the bishop of a diocese must remove...."), by which the only appeal is (a) not against removal, but against disqualification from being a charitable trustee; and (b) only to the charity commission and not to any church-body with primary responsibility for the well-being of the clergy concerned; and whether there should not be included a provision for the diocesan bishop to waive removal from office in appropriate circumstances, despite any problems there might be regarding role(s) on parochial church councils. It appears anomalous that there is to be a power of episcopal waiver from disqualification for office in respect of criminal convictions under the CYPA 1933 (see proposed clause 34(4)), but not in respect of the lesser matters the subject of clause 40.

27. Response from Mary Chapman (463 – Archbishops’ Council):

I write to propose a change to Clauses S.4(4)(i) and 14 of the Draft Cathedrals Measure in regard to what is currently defined as the Finance, Audit and Risk Committee.

My fundamental reason for the proposed change is that this clause in the Measure, as currently drafted, fails to meet the standard of good governance around charity financial matters. I make this proposal based on my experience of charity and Church of England governance over more than twelve years, the fact that I am a qualified Chartered Director and that I have served as a non-executive director in a wide range of public and third sector organisations, including as Chair of the Audit Committee of the Archbishops’ Council.

The primary intention behind this Measure is to strengthen the governance of Cathedrals in a way that enhances their sustainability and fits them better for their mission. It is the opportunity to incorporate into legislation those things which are essential to that objective and which may be relevant for some considerable period of time. It would, I suggest, be unfortunate to enshrine into legislation a requirement which weakens governance oversight by confusing the roles of a Finance Committee and an Audit Committee.

A Finance Committee, regardless of whether or not it is chaired by a non-executive, is essentially a committee **making decisions** (if it has delegated powers from the governing body) or **recommendations** on matters to do with the **raising and spending of money**. Depending on the specific terms of reference, it is either an **advisory committee to the executive team and the Board of trustees** or, in cases where its powers are widely drawn or in a small charity with no finance staff, may take on the execution of finance functions. Large charities with strong executive finance teams do not necessarily have a Finance Committee. Authority is delegated through the Chief Executive to the staff teams who take responsibility for delivering results against all aspects of the agreed strategy and business plan. The Chief Executive has clear accountability for the performance of the charity.

An Audit, or Audit and Risk Assurance, Committee has a totally different function. It plays an entirely **non-executive role of scrutiny and oversight to enable it to provide assurance to the Trustee body**. Working with External as well as Internal Auditors, the Committee seeks assurance that the charity is compliant with all laws and regulations (particularly those relating to financial reporting), that internal controls are effective in preventing fraud and error, that the execution of policies and programmes is in line with agreed plans and that the charity has risk management policy and processes that are effective in identifying and mitigating strategic and operational risks. Some Audit committees have an additional function of oversight for value for money evaluation.

Paragraph 41 of GS 2136X states that S.4(4)(i) of the draft Measure requires the Chapter’s constitution to establish a Finance, Audit and Risk Committee (**FARC**), which *may (my italics)* be constituted as two separate committees, if the Cathedral wishes to do so. From the above definitions of function it should be clear that a single committee would not provide the Cathedral Chapter, as Board of Trustees, the assurance it should expect from an Audit Committee. An appropriate level of scrutiny of work on financial matters could not be provided from within the FARC itself. “Marking one’s own homework” is an expression which comes to mind.

I **strongly recommend** that this requirement of the Chapter’s constitution should be redrafted to require two separate committees: a Finance Committee and an Audit and Risk Committee. Both should be chaired by a non-executive Chapter member.

In addition, I propose that Clause S.14(4) should be carefully reviewed to ensure that the Measure includes only essential elements and likely long term requirements for the Terms of Reference of the two committees. Church of England committee constitutions tend to be long on composition, meeting frequency, meeting process etc. (Those elements that relate to the representational requirements of Church governance). They are however weak on purpose, functions, delegated powers and accountability which are the aspects that have real impact on the effectiveness of the committee. It is important that, over time, Chapters should be able to redefine Terms of Reference of their committees to reflect changing circumstances and/or altered requirements from either of the two regulators.

As an aside, I am sure it will not have escaped the Revision Committee's attention that the change I recommend will also have the happy consequence of avoiding naming a Church of England committee after the Revolutionary Armed Forces of Columbia.

I would be happy to provide further clarification on the central issue, should that be needed.

28. Response from Annika Mathews (481 - Church of England Youth Council):

Is anything going to be written on the role of cathedrals in linking with schools and in education, and their relationship with families, teachers, children and young people? Focusing on safeguarding (I know there is a bit on it already), those appointed by the cathedral to work within education, use of buildings etc.

29. Response from The Very Revd Andrew Tremlett (not a synod member - Dean of Durham Cathedral):

At its meeting on 16 July 2019, the Chapter of Durham Cathedral noted, under the new requirements, two thirds of the non-executive Chapter members would be required to be Lay Members. It was considered important that the voice of Lay Chapter Members was sufficiently attended to.