

GENERAL SYNOD**Removal of Divorce Impediment to Ordination****Summary**

The divorce impediment to ordination addressed in my Private Members Motion is contained in Canon C4 paragraphs 4 and 5. This provides for two circumstances in which a candidate may not be ordained without a faculty issued by the archbishop. The first is if the candidate is themselves divorced and remarried and has a former spouse still living. The second case is if the candidate has married a divorced person, again if the former spouse is still alive.

In current usage such faculties are granted much more regularly than was originally envisaged, with one in six ordinations requiring a faculty. It is no longer divorce per se, but rather behaviour, which is at the root of any refusal to ordain. Routine decisions are being made under a procedure designed for exceptional cases, and pastoral decisions are being made by people who do not know the whole history of the candidates involved.

A number of problems arise – as examples, priests who remarry after they have been ordained face no consequence. This has led to candidates being advised to defer marriage so as not to trigger the C4 faculty process, Also enquiries into previous abusive marriages may create a safeguarding risk for a candidate or their children (it is normal for a former spouse to be interviewed). Other examples are given below.

This motion opens a pathway to create a revised system for making the decisions we already make so that it better serves the mission and ministry of the church and avoids the unintended consequences of the Canon.

Introduction

1. Before I address the issues that I believe still require our attention, I want to acknowledge the hard work put in by those who advise our Archbishops to make the faculty system under the Canon work as well as it can. Even since I tabled my motion significant changes have been made in processes and rules to the benefit of future candidates for ordination.
2. I have also been greatly assisted by the Offices of the Archbishops to understand what they are able to do, and also to understand what cannot be done to improve things while the Canon remains as it does.
3. The overarching theme is that the Canon requires decisions to be made about one particular aspect of the conduct of candidates (though it may be their spouses who have been divorced and remarried) in isolation from other aspects which may be equally significant, or which would ideally be seen together to form a full picture. In giving the decision to the Archbishops the Canon puts it in the hands of people who are unlikely to know the candidates and have no real means to access that full wider context of a candidate's life.
4. This motion is not addressed to issues of principle about marriage, but rather is focussed on decisions that are actually being made some 80 times a year (see Annex 1 for detailed figures from 1993, when the first faculties were issued to 2023), and on making those decisions in a better way without the unintended consequences of the current system under the Canon.

How we got here

5. The provisions of Canon C4 paragraphs 4 and 5 were added in July 1991 by amending Canon no 9, at a time when remarriage following divorce was a heavily contested issue in the Church of England. The formalities of a reference to an archbishop and the requirement for a faculty would ensure that decisions were taken seriously, and ordinands and ordaining bishops would have protection against legal challenge. Even so the proposals were heavily resisted.
6. The relevant paragraphs of Canon C4 now read:
 4. *Subject to paragraph 5 of this Canon no person shall be admitted into holy orders who has remarried and, the other party to that marriage being alive, has a former spouse still living; or who is married to a person who has been previously married and whose former spouse is still living.*
 5. *The archbishop of the province, on an application made to him by the bishop of a diocese on behalf of a person who by reason of paragraph 4 of this Canon could not otherwise be admitted into holy orders, may grant a faculty for the removal of the impediment imposed by that paragraph to the admission of that person into holy orders, and any request made to a bishop for an application to be made on his behalf under this paragraph shall be made and considered, and any application made by the bishop to the archbishop shall be made and determined, in accordance with directions given from time to time by the Archbishops of Canterbury and York acting jointly.*
7. It was, of course, thought that these provisions would be rarely invoked – this was part of the case made in Parliament when the Amending Canon came to be considered by the Ecclesiastical Committee. Even from the start, though, numbers have been consistently higher than originally anticipated.
8. Even in the first year 75 faculties were granted and the annual average since 1993 is over 80. In the course of the 27 years where I have been able to match figures for ordinations and faculties, one in six ordinations has required a faculty (2,212/13,252 covering 1994 to 2020). More detail is contained in the table in Annex 1 to this paper.
9. One reason for the unexpectedly large numbers has been the fact that more older ordinands have taken up training – it is no longer the case that we mainly have a cohort of young ordinands who are unlikely to have married (or to have married someone who is divorced), yet alone to have been divorced and remarried. I have not researched how frequent divorce and remarriage is amongst those who are already ordained, but this circumstance is not caught by any canonical provision and is dealt with (if problematic) by the usual pastoral and disciplinary processes.
10. Older ordinands have more life experience behind them – that was one reason for suggesting to young enquirers that they should get more experience before testing a vocation (it was said to me). Experience, of course, includes adult relationships, including failed relationships.
11. The decisions being made are not now occasional and exceptional, and it is no longer assumed in practice that divorce and remarriage is a prima facie bar to ordination.

Why we have a problem

12. The Canon envisages a bar to ordination which no longer exists in practice. The main concern has always been to avoid scandal, and to filter out candidates whose manner

of life is inappropriate, rather than regarding the circumstance of remarriage as a prima facie bar to ordination.

13. It is normally only when the review of a candidate's circumstances reveals unresolved or unacknowledged issues of poor conduct that a faculty is refused. It is **conduct** rather than **divorce** or **remarriage** which is in practice the bar to ordination. So one presenting question is why this particular issue of conduct should be singled out for special treatment in the Canon. This special treatment leads to some uncomfortable anomalies and a range of unintended consequences.
14. The fact that our archbishops are routinely involved in the pastoral assessment of one sixth of ordination candidates is surely unintended. Other pastoral issues in candidates' lives are routinely investigated and assessed by those who know them best.
15. A second issue in practice is the impact of the process on candidates. In cases where domestic abuse and violence was involved in the divorce, enquiries of a former spouse may involve a safeguarding risk (potentially to the candidate and to children). Digging into the history of abuse may also trigger flashbacks. Enquiries made by people the candidates do not know may be particularly risky and require considerable care. Some candidates have even faced panel interviews. In these circumstances candidates will seriously consider withdrawing from the process.
16. Of course it may be the candidate's spouse who is divorced. A case I know involves the husband of a candidate who had a youthful overseas marriage while serving in the armed forces, long before he met the candidate in question. The sense that enquiries may be made into the personal history of a spouse often causes concern and anxiety amongst candidates. The suggestion that such enquiries must be made can come as a shock.
17. Another impact on candidates is delay. It inevitably takes time for enquiries to be made, and it can feel that a major uncertainty is hanging over the decision, sometimes for an extended period. In addition, candidates contemplating marriage in circumstances that would require a faculty have been advised to delay marriage until after ordination, because there will then be no consequence and no delay to ordination. The consequences of this choice between delayed ordination and delayed marriage have been severe for candidates. This the precise opposite of the Church of England valuing marriage.
18. I am pleased to say that some significant steps have already been taken to mitigate some of the largest causes of delay, but those mitigations will not be able to address the whole issue.
19. The third issue we face is that there are some serious anomalies in the treatment of the different kinds of relationships which involve the formation of families and the care of children. The history of a candidate's relationships is clearly important in assessing suitability for public ministry. Making that assessment requires each aspect to be seen in the context of the whole. Taking out one specific element risks addressing issues in an unbalanced and inconsistent way.
20. Another obvious source of anomaly is the difference in treatment of remarriage pre- and post-ordination.
21. To give just a few examples of these anomalies:
 - a) There is one recent and widely reported case that many will remember in Oxford Diocese where a Deacon (who had therefore already been ordained Deacon) married a divorced Priest. The Deacon's ordination as Priest was deferred and a Canon C4

faculty was required. The Priest's ministry was not affected or inhibited (example shared with permission).

b) Those ordained younger are less likely to have been married and divorced than older candidates for ministry. If a candidate's life history involves an early marriage, a divorce and a second marriage, they will be treated differently depending on when in that history they happen to be ordained. If they are ordained before their second marriage they may well be subject to no inhibition of ministry or disciplinary process. The same candidate ordained later in life with remarriage already behind them will be subject to the Canon C4 process.

c) A remarried candidate who has had a brief youthful marriage before they became a Christian is subject to the full C4 process. A candidate who has lived with a partner for many years without marrying them – they may have had children together – is not subject to this process. And of course many relationships which would have been marriages in previous generations are no longer solemnized as marriages.

d) If a candidate has had many previous relationships, only one of which was a marriage, the concern of the C4 process is only with the marriage. It would be possible for a faculty to be granted in a case where conduct around other previous relationships gave serious cause for concern, and thus confuse the decision making in a particular case.

22. Of course some of these anomalies are handled pastorally and appropriate enquiries are made by those who already know the candidates – the DDO, the Bishop and the Training institution – as part of the general assessment for suitability. The discharge of that responsibility includes a range of reports and culminates in the ordination service itself, when the Bishop asks, "Have those whose duty it is to know these ordinands and examine them found them to be of godly life and sound learning?"

What we need to do about it

23. The impediment to ordination envisaged in Canon C4 paragraphs 4 and 5 no longer exists in practice. It is not divorce and remarriage that is the effective impediment in those cases where a faculty may be refused, but rather conduct which is evidence of unsuitability for ordination or a cause of scandal.

24. The number of cases (one in six ordinations) is far more than is appropriate for an exceptional process under the Canon. Routine decisions (even those that carry significant weight) are best conducted by those who know the candidates best. This will also reduce the risk of harm through inappropriate enquiries when safeguarding issues are involved.

25. So the provisions of the Canon provide a framework which inhibits the development of good practice and overburdens a procedure designed for exceptional cases. The provisions of Canon C4 paragraphs 4 and 5 no longer serve the church well and should be removed.

26. My motion does not give details of how the canonical provisions are to be replaced. My strong preference would be for routine decisions to be covered by appropriate guidance and to be made by those who know the candidates best in the context of a fuller picture of the candidate's life. The circumstances in which it is appropriate to make enquiries into the history of a spouse will also have to be considered. Legal advice may be required on the relevance of equalities legislation to a revised system. And consideration will have to be given to whether there may be occasions when routine enquiry identifies a potentially exceptional case.

27. If this motion is passed, that work can begin. The brief stories I have told indicate that the territory is complex and easily open to unintended consequence. The wisdom of those who have been operating the present system needs to be fed in to any replacement. If this is done, we will be making the same decisions as are made in the current system, but making them in a much better way.

Revd Canon Mark Bennet, Oxford 184

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ANNEX 1

Table of ordinations and Canon C4 Faculties

Year	Ordinations	C4 Faculties
1993		75
1994	405	82
1995	382	55
1996	373	66
1997	379	74
1998	468	70
1999	481	81
2000	569	90
2001	482	93
2002	530	74
2003	493	78
2004	469	89
2005	505	63
2006	475	109
2007	549	63
2008	560	83
2009	558	96
2010	555	97
2011	503	70
2012	494	102
2013	484	61
2014	500	83
2015	504	82
2016	484	74
2017	390	92
2018	500	105
2019	580	87
2020	580	93
2021		65
2022		86
2023		61
Total 1994-2020	13,252	2,212
Total 1993-2023		2,499

Sources:

Ordinations – the Church of England Ministry Statistics publications (figures rounded since 2017)

C4 faculties – the offices of the Archbishops of Canterbury and York (with thanks)