

GENERAL SYNOD

DIOCESAN SYNOD MOTION: VACANCY IN SEE COMMITTEES

Background note from the Secretary General

Origins of the Present Requirements

1. The present form of the Vacancy in See Committees Regulation (an Act of Synod) is contained in the 'Briefing for Members of Vacancy in See Committees' available (under 'Resources') from this page on the Church of England website: www.churchofengland.org/clergy-office-holders/asa/senappt/dbnom.aspx
It resulted largely from substantial amendments made in 2003 to the Regulation of 1993. Further amendments were made in 2007 and 2008. The 2003 amendments were made as part of the process of implementing the recommendations of the report of the review of the *Crown Appointments Commission, Working with the Spirit: Choosing Diocesan Bishops* (GS 1405, 2001).
2. The report noted the following problem in para. 4.32-4.33:
'... Many – sometimes most – of the candidates are excluded by the drawing of lots or randomly by the computer. Such elections have been described as 'a lottery'.
'The problem appears to arise from a very widespread mistaken assumption that because all of the members of the Committee are entitled to stand for election, all of them are automatically candidates unless they positively withdraw. As a result it is very common for all or nearly all of the electors to be candidates. If each votes for him- or herself, the result is very likely to be a tie, necessitating the drawing of lots or random exclusion.'
3. The solution proposed was to limit the number of candidates to no more than half of the number of Vacancy in See Committee members, by requiring each candidate to be proposed and seconded, no member being allowed to propose or second more than one candidate. This solution was adopted in the amended Regulation. The consequences for the electoral process within the Vacancy in See Committee of the Synod's decision to increase the number of members of the Crown Nominations Commission from four (which *Working with the Spirit* recommended) to six were not considered when the Regulation was amended.

The Bradford Vacancy in See Committee

4. The Bradford Diocesan Synod motion arises from the election of six CNC members by the Bradford diocesan Vacancy in See Committee during the last vacancy in see. The core clergy membership of the Committee should have comprised:
 - The Dean of Bradford
 - The Archdeacons of Bradford and Craven
 - The three Proctors in Convocation
 - The Chairman of the House of Clergy
 - Not fewer than two clergy elected by the diocesan synod.

The core lay membership should have comprised:

The three lay members of the General Synod House of Laity
(one of whom was the Chairman of the House of Laity)
Not fewer than six lay members elected by the diocesan synod
(so as to ensure an equal number of lay members)

5. Thus, the minimum permitted size of the core membership of the Committee was **18** members, which would have enabled nine candidates to be nominated for the six places on the CNC. In the event there were only 14 members on the Committee at the time the vacancy was announced.
6. There is a further requirement, namely that the precise number of elected members be '*such as to ensure (having taken account of the place of residence of ex-officio members) that... every archdeaconry will be adequately represented*'. Of the ten ex-officio members, only the Archdeacon of Craven and two of the lay members resided in the Archdeaconry of Craven.
7. It could therefore have been concluded that more than two clergy members should have been elected. Providing for the election of two clergy from that Archdeaconry and one from the Bradford Archdeaconry would have meant that there would have been the Archdeacon and two parochial clergy from Craven – which might perhaps be regarded as a minimum for 'adequate' as distinct from 'equal' representation. That would have necessitated the election of an additional lay member, bringing the total membership to **20** and the total possible number of candidates to 10.
8. The Regulation further permits the nomination of four additional members '*who reflect a special interest in the diocese or whose nomination is... appropriate in order to secure a better reflection of the diocese as a whole.*' This could have increased the number to up to **24**, making the total possible number of candidates 12.
9. What this all means, as is acknowledged in the background paper from the Diocese of Bradford, is that fewer members were elected to the Committee than was required by the Regulation. In addition, had the provisions in the Regulation in relation to archdeaconries been observed there would in any event have had to be more members on the Committee than was in fact the case, and an even larger membership was permissible.
10. The Regulation gives the Archbishop of the Province power '*to give directions, in any case in which difficulties arise, which he may consider expedient for the purpose of removing the difficulties*'. He is, however, precluded from giving 'any direction that is contrary to any paragraph of this Regulation' and the Regulation precludes the filling of casual vacancies among the *elected* members after a vacancy is announced.
11. So, in summary, the difficulties that arose in Bradford were not the result of the way the present regulations are drafted nor of the size of the diocese but because the Vacancy in See Committee had not been constituted as it should and could have been. Given that some vacancies arise unexpectedly, all dioceses would be wise to ensure that their Committees are properly constituted at all times.

12. Moreover, had the Diocese concluded before the vacancy arose that there would have been difficulties had it not increased the size of the Committee beyond what the Regulations prescribe it could have invited the Archbishop of York to consider giving directions, including by increasing the number of elected places.

Theoretical Difficulties

13. The background paper from the Diocese of Bradford posits a situation whereby Bradford or another diocese that has no suffragan or full-time stipendiary assistant bishop (whose ex-officio membership would, with a balancing lay member, increase the potential membership by two), would also have both an archdeacon and the Chairman of its House of Clergy among its three proctors, and have such adequate representation of both of its archdeaconries among the ex-officio members that only two clergy need be elected, bringing the total ex-officio or elected membership to fourteen.
14. For 14 to be the maximum number of members, it would also need to have been concluded that there was no 'special interest within the diocese' that was not already reflected among the 14 members, and no one not among the 14 whose nomination would be 'appropriate in order to secure a better reflection of the diocese as a whole'. The nomination of four such members would bring the membership up to **18** and the potential total number of candidates up to nine.

Choosing Representatives

15. The (non-statutory) Guidance Notes and Code of Practice drawn up by the Steering Group charged with following up the recommendations of *Working with the Spirit*, which have been updated in the light of subsequent amendments to the Regulation and evolving practice, comment on the election of CNC members as follows:

'Before candidates are nominated, the Committee should be encouraged to consider the need for a balance of interests and representation... among its representatives. Since at least three of the six representatives must be lay..., it is important to ensure that a sufficient number of lay candidates are nominated. However, it is highly unlikely that all aspects of the life of the diocese will be reflected directly in the members elected. It is therefore important above all that those who are elected are people of sound judgement who understand, and can be trusted to represent, the needs of the diocese and will also be sensitive to those of the wider Church. The task with which they are charged is an onerous one.'

16. It is envisaged that nominations will arise out of informal discussions among the members of the committee in the light of the guidance given above. On this understanding, the process of nominating candidates, whereby each candidate must enjoy the support of two other members of the Committee, is an important one – arguably, at least as important as the election of CNC members from among those nominated.
17. One possible outcome would be that there would only be as many nominations as there were places, if a majority of the members of the Committee considered that the six persons that were nominated in the light of its discussion would offer a good representation of the diocese. In the very unlikely event of a Committee only having 14

members because of the combination of circumstances outlined above and if each member nominated or seconded a candidate, there would be seven candidates for six places and only two members of the Committee would not have personally supported one of those elected. It is not clear why this might be thought incompatible with the underlying purpose of the exercise, namely to secure the choice of a team of six broadly representative members.

18. The diocese's background paper states that the aim of securing a minimum membership of 21 for the Committee is to ensure that any member elected by the Committee will have been supported in the election by two members other than the candidate. It is already the case, however, that a candidate must have been supported by two other members (one nominating and one seconding) in order to become a candidate at all

Conclusion

19. It is not clear that there will in practice be many – if any – cases where the membership of a diocesan Vacancy in See Committee, correctly appointed under the Regulation, will in future be smaller than the membership of 18 that the Bradford Vacancy in See Committee should, as a minimum, have had. In many cases it is likely to be somewhat larger (and in some it will be very considerably larger).
20. In the unlikely event that such situations were to arise there is also scope for the diocese to approach the Archbishop of the Province, given his power to give directions to resolve difficulties, though where the diocese has not already identified such issues before the vacancy has arisen his scope for action is much more limited.
21. If the Synod believes that the minimum size of a Vacancy in See Committee should in future be 21 in all cases then it will be necessary to prepare an amending the Regulation and re-proclaim it, as amended, as an Act of Synod.

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Secretary General
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