

Engagement of Clergy – Representation of Options

	Traditional English law	Current position in Diocese of Melbourne	Future option if clergy not employees	Future option if clergy are employees
Status under the ordinal	Holder of spiritual office	Holder of spiritual office	Holder of spiritual office	Holder of spiritual office
Legal status	Office holder	Office holder (although courts may find otherwise)	Uncertain	Employee
Basis of enforceable rights against the church	None — there is a “consensual compact” that the courts will not enforce	Courts recognize that in principle some terms may be legally enforceable	Assume that some terms may be legally enforceable	Enterprise Agreement under <i>Fair Work Act 2009</i> (Cth)
Source of terms of the relationship	English legislation	Mix of Synod legislation, rules made under Synod legislation and Diocesan guidelines	Determinations made by Archbishop in Council under Synod legislation (plus law of contract)	Enterprise Agreement and employment law
Entity in legal relationship with clergy	N/A	Unclear	MADC (contract)	MADC (employer)