

Diocese of Melbourne

Report to Synod

**CLERGY LEGISLATION REVIEW**

## INTRODUCTION

This report is in four parts, with an appendix.

**Part 1** provides a background to the project and the relationship of the current report to the project as a whole.

**Part 2** sets out what is proposed for inclusion in the Clergy Bill 2022. The contents of this Part, when endorsed by the Synod, will constitute the instructions for the preparation of the Bill.

**Part 3** provides a more detailed discussion of some of the issues covered in Part 2. Where the rationale for something in Part 2 is straightforward, it is set out in a footnote in that Part. Part 3 deals with those issues in Part 2 requiring a more extended discussion.

**Part 4** sets out and discusses briefly those matters that have been considered in the course of the review but that will not be included in the Bill and which have therefore not resulted in a recommendation in Part 2.

The **Appendix** provides an overview in the form of a table of the current position and proposed position in relation to various topics. It is not intended as a substitute for the information in the other parts.

## Part 1: The Clergy Legislation Review

### BACKGROUND TO THE PROJECT

About 12 years ago the Diocese embarked on a systematic review of all its legislation. Many Acts dated from 1878, and other legislation had been developed incrementally but not rethought or rewritten.

As a result, in addition to various adjustments and the suite of new legislation relating to professional standards, we have enacted new legislation relating to the cathedral governance, parish governance (including Authorised Anglican Congregations<sup>1</sup>), financial governance, Synod standing orders, the Interpretation of Diocesan legislation, the Melbourne Anglican Diocesan Corporation, the Melbourne Anglican Trust Corporation and the Archbishop in Council.

Of the legislation not yet reviewed, reconsidered and freshly enacted, the largest area remaining relates to how clergy are appointed, licensed, remunerated, disciplined, removed, and allowed to continue in ministry after retirement.

This review is different from all others in at least one important respect. All the other reviews have largely involved the re-consideration of existing legislation, while in the case of the clergy there has never been a suite of legislation that covered all the relevant topics. While there is legislation relating to the appointment of incumbents, stipends, the breakdown of pastoral relations in parishes, and discipline, there is no legislation relating to licensing, or to retirement and ministry after retirement, and only rudimentary references to the employment of assistant clergy.

### ***Scope of the project***

The overall intention is twofold:

- (1) to bring into one Act all the different Synod legislation relevant to clergy, and
- (2) to cover all the relevant matters more systematically and evenly.

Certain matters either have never been or have been taken outside the scope of the project, including:

- (1) matters to do with the election and functioning of the Archbishop;
- (2) people who are in ministry but who are not in Holy Orders;
- (3) the Diocesan Tribunal;
- (4) breakdown in pastoral relations.

In addition, it was decided not to pursue the question of whether parish clergy already are, or should in future be considered to be, employees.

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<sup>1</sup> Authorised Anglican congregations are largely treated as parishes for the purposes of the diocesan legislation that relates to vicars and other clergy. They are usually mentioned together to be clear that they operate under the same rules.

## ***The process to date***

An initial paper covering some of these matters was provided to the 2019 Synod, which resolved as follows:

That Synod notes the discussion paper concerning legislation relating to the appointment of clergy and the Diocesan Tribunal, and the process for bringing legislation concerning these and other matters relating to clergy to the 2020 session of Synod.

Following this decision a consultation paper was prepared in the first half of 2020. This was seen and noted by the Archbishop in Council at its meeting on 25 June 2020 and published on the Diocesan website on 3 August 2020. An email was sent to all members of Synod informing them about the paper and the consultation process, and Synod members were directed to brief overview papers in relation to nine key topic areas and a dedicated webpage on the diocesan website.

Synod members were able to attend discussion sessions in relation to each of these topic areas. From late August until mid-September 2020 two sessions (each of 90 minutes in length) were conducted in relation to each topic (18 sessions in all). A further invitation was issued, and three further sessions were conducted, each of two hours. Two of these covered clusters of three topics, and one was a general discussion about the rationale for the project and anything else that people wanted to raise.

About 70 people responded to the email to Synod members. There are about 760 Synod members, meaning that (taking account of those who for various reasons will have input into this project in other ways) about 10% of the pool of Synod members participated.<sup>2</sup>

Written submissions were also sought, and at every consultation session participants were asked to use the session to assist them in providing submissions. Some of the 70 both attended sessions and provided written submissions; some did only one or the other; some were invited to sessions in which they had expressed interest but did not attend and did not subsequently communicate. Some emailed only for the purpose of objecting to the timing of the project or how it was being run. In all 30 Synod members provided submissions: these include brief emails regarding one matter of concern, multiple emails from the same person about topics of interest, and single submissions covering all or nearly all of the recommendations.

All these submissions were provided to the Archbishop in Council in a single document with standardized formatting.

Forty-nine of the 70 Synod members who responded attended at least one consultation session. In addition, about 10 others attended in various capacities, including Bp Barker (who attended all the sessions), Dr Jenny George (Chair of the People and Culture committee).

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<sup>2</sup> The percentage would be higher if the denominator was the number of Synod members who ever attend Synod.

## ***Report to the Archbishop in Council and establishment of a Reference Group***

A report on work in progress and the outcome of the consultations was provided to the Archbishop in Council in November 2020. A presentation was also given to the Provincial Council.

The Archbishop in Council decided to establish a Reference Group. Its terms of reference state:

The primary purpose of the reference group is to support the Archbishop and the Advocate in ensuring that the ideas, proposals, expert advice, papers and legislation provided to Synod members (with the endorsement of the Archbishop in Council) are properly considered, well-researched, and feasible, and that they take account fully and appropriately of the perspectives of all stakeholders (including, in addition to clergy in parishes, sector clergy, laity, and other Dioceses in the Province).

The Reference Group comprises The Rt Revd Alison Taylor (Chair), the Rt Revd Dr Paul Barker, Dr Leanne Beagley, the Revd Dr Craig D'Alton, Mr Michael Dowling, the Revd Helen Dwyer, Dr Ian Gibson, the Ven Jill McCoy, the Revd Rachel McDougall, the Revd Jess Naylor-Tatterson, the Ven Canon Heather Patacca, and the Revd Dr Chris Porter. It met for the first time on 22 February 2021.

While the Reference Group has considered and discussed many topics intensely, and has also read and helped to revise and improve this report, its role was not to approve the eventual proposals. In relation to a few matters it was impossible to arrive at a position with which every member of the Reference Group agreed.

### ***What will happen next***

The proposals in Part 2 are presented for the endorsement of the Synod. They have no effect until they are enacted as legislation by the Synod. Proposed legislation will accordingly be brought to the 2022 session of Synod (the final session of the current Synod).

The intention of this process is to allow the legislation to be prepared with a measure of confidence that, for the most part, it will be approved by the Synod. Of course, once the legislation is before the Synod anything in it can be debated and amended, and the passage of the Bill is also a question for the Synod.

The Reference Group will continue to function during that time. While the draft legislation must follow what has been endorsed, questions of detail will arise that need to be tested, and in some areas there are likely to be further developments during the intervening year—for example, in relation to mandatory continuing professional development and appraisal, and in relation to emerging models of cooperation between parishes.

It is expected that following this 2021 session of Synod a Bill will be drafted by Easter 2022, allowing for presentations and consultation during the middle of the year.

During that same time worked examples will be developed of what might be expected where there are new proposals, such as memoranda of expectations for part-time vicars and covenants with clergy who regularly worship in a parish.

## BACKGROUND TO THE LEGISLATION

The **Appointments Act 1971** is the primary piece of legislation in the diocese relating to parish clergy. The Appointments Act formed the basis for the review of clergy legislation and provides a framework, to an extent, for the new Bill. That is, the new Bill will also cover the appointment of clerks to parishes, new ministries (in the form of probation periods), and tenure.

There are other Acts relevant to the review and that will be affected in some way by this Bill.<sup>3</sup>

- ❖ The **Assistant Bishops Act 1985**. This Act repealed and re-enacted the **Coadjutor Bishop Act 1961-67**. It provides for the creation of the offices of up to six assistant bishops of the Diocese of Melbourne and how they are to be remunerated.
- ❖ The **Archdeacons (Qualification) Act 1994**, which serves only to allow a clerk who has been in Holy Orders for six years to be an archdeacon.
- ❖ The **Diocesan Stipends Act 1991** which establishes a Diocesan Stipends Committee to determine the remuneration of full-time parish clergy and (if so directed by the Archbishop in Council or the Synod) the remuneration of other clergy, and the working conditions of employees of MADC.
- ❖ The **Parish Governance Act 2013**, especially in relation to the appointment and removal of parish clergy other than the vicar.
- ❖ The **Superannuation of Clergy Act 2005** which sets out the arrangements for clergy superannuation operating within the Diocese.

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<sup>3</sup> This list does not include Acts in which there will be consequential amendments (for example, as a result of the use of different terms)

## Part 2: Matters for inclusion in the Clergy Bill 2022

### Part 1 - Preliminary

#### Purpose

The purpose of the Bill is to repeal and re-enact reconsidered policy positions in the **Appointments Act 1971** and the **Diocesan Stipends Act 1991**, to make consequential amendments to the **Parish Governance Act 2013**, and to repeal and incorporate into the Bill the **Assistant Bishops Act 1985**, the **Superannuation of Clergy Act 2005**, and the **Archdeacons (Qualification) Act 1994**.

#### Commencement

The Act should come into operation on 1 January 2023. The delayed commencement will allow the diocese two months to update any manuals, guidelines, human resources practices and so on necessary for implementing the new legislation.

#### Definitions

Many terms used in the Bill are already defined in the **Interpretation of Diocesan Legislation Act 2016**. The review of legislation provides an opportunity to update terms in use in the Diocese to better reflect their functions and purposes, and in the course of drafting the Bill attention should be given to the continuing accuracy of all these definitions.

These terms should be defined either in this Bill or in the **Interpretation of Diocesan Legislation Act 2016**. The choice should reflect the policy of having words and expressions defined in the Interpretation of Diocesan Legislation Act if they are used in multiple Acts

- assistant bishop. It is unnecessary to define "assistant bishop", but the Bill should provide that a reference to the "assistant bishop" in relation to a parish<sup>4</sup> should be defined as meaning a reference to the assistant bishop charged by the Archbishop with episcopal oversight of that parish. This definition needs to work with the provision that re-enacts section 5 of the **Assistant Bishops Act 1985**. The Bill should also provide that in the Act "assistant bishop" in relation to any function means a clerk appointed by the Archbishop to perform that function (or, in the absence of such an appointment, the Archbishop). The effect of these two definitions is that every parish would have an assigned assistant bishop, but that the Archbishop in a particular situation could appoint instead some other clerk to perform a particular role (such as chairing the committee to consider an extension). The term "regional bishop" should be replaced with "assistant bishop" in all Acts of the Synod.

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<sup>4</sup> or authorised Anglican congregation. For the remainder of this paper "parish" will be taken to include an authorised Anglican congregation unless the contrary is stated.

- intentional interim vicar. The definition will simply refer to an acting vicar licensed or otherwise appointed as an intentional interim vicar under the relevant provision of the Bill.
- parish nominations committee. This will be the parish nominations committee constituted under the relevant provision of the Bill.
- Diocesan consultant. This will be defined to mean the consultant on the panel of Diocesan consultants appointed by the Archbishop in Council who is assigned to a parish nominations committee. (Consultants may be clerical or lay.)
- parish nominator. The term "parish nominator" will have a variable meaning which needs to be reflected in any definition and in use in the Bill. It will generally mean a person who has been elected as a parish nominator under the Parish Governance Act (or a person on a reserve list that has replaced such a person) and a churchwarden nominated by the churchwardens to be a member of the parish nominations committee. In the drafting it will be necessary to guard against different meanings (such as if the term covers elected member of the parish nominations committee but not the churchwarden).

### **Application**

The Bill should not apply to the appointment, institution, term of office or tenure of a clerk appointed or instituted to the Cathedral Church of St Paul's. These matters are already covered in a separate Act, the Cathedral Act 2016.<sup>5</sup> As a precaution the Bill should make this general rule subject to any specific exception in the Bill.

The Act will generally apply to any person in Holy Orders resident in or exercising ministry in the Diocese of Melbourne.

A reference to the "assistant bishop" in relation to a parish should be defined as meaning a reference to the assistant bishop charged by the Archbishop with episcopal oversight of that parish.

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<sup>5</sup> cf Appointments Act 1971 s 3



## Part 2 – Assistant bishops

It is the intention that, so far as possible, the **Assistant Bishops Act 1985** be repealed and re-enacted in the new Clergy Act. In re-enacting the Act, new provisions should be drafted in line with modern drafting conventions and with any changes required to update provisions for the assistant bishops.

The new Clergy Bill should essentially re-enact sections 4 and 6 of the Assistant Bishops Act so that:

- an appointment to a vacant office as an assistant bishop may be made only on the resolution of the Archbishop in Council—that is, the Archbishop in Council must agree to a vacancy being filled at all; and
- a majority of the voting members of the Archbishop in Council (other than the Archbishop) must concur with the Archbishop's nomination of a particular person to be an assistant bishop; and
- the Archbishop may determine the title and specific role of an assistant bishop during their time in office and vary the title or role from time to time.

The Bill should provide for the continuation in office of any bishop currently holding an appointment under the Assistant Bishops Act.

Section 5 makes it a responsibility of the Archbishop in Council to determine the stipend of an assistant bishop. However, as the Bill will give the Archbishop in Council responsibility for determining the stipends, allowances and other conditions for all clergy in the Diocese, it is unnecessary to provide specifically for assistant bishops.

### **Duties of assistant bishops**

The Bill will re-enact section 7 of the Assistant Bishops Act in providing that an assistant bishop may hold any additional office during their term as assistant bishop if the holding of that other office is approved by the Archbishop in Council. The Assistant Bishops Act is silent as to the meaning of "office". In the Bill "office" for the purpose of this section should mean any role, office or position to which the bishop is licensed by the Archbishop.<sup>6</sup>

That said, the Assistant Bishop must perform any Diocesan duties and exercise any episcopal authority in the Diocese as and when required by the Archbishop.

### **Confirmation of canonical fitness**

A priest appointed to the office of assistant bishop must not be consecrated unless the priest's canonical fitness under section 74(1) of the Constitution has been confirmed in writing by a majority of diocesan bishops of the province of Victoria. The majority must

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<sup>6</sup> Assistant bishops take up many other roles, including from serving as board members of Anglican schools and agencies, serving on ecumenical agencies, and taking up elected and appointed roles (For example, as members of General Synod and Chapter). It is also imaginable that an assistant bishop could also be part-time in that role and part-time in (say) an academic role. The definition would require the agreement of the Archbishop in Council only when the role was one to which clergy are licensed by the Archbishop.

include the Metropolitan of the Province of Victoria. The metropolitan has a casting vote in the confirmation of canonical fitness.

### **Retirement**

A person aged 70 years or over may not hold office as an assistant bishop. The effect will be that a person cannot be appointed as an assistant bishop after turning 70, and any assistant bishop who turns 70 must retire as an assistant bishop.

## Part 3 – Archdeacons

The Bill will re-enact the only operative provision in the Archdeacon (Qualifications) Act, which provides that a person who has been in Holy Orders for more than six years is qualified to be an archdeacon.

The Bill will include a provision that Archdeacons hold office for the term (defined by reference to a period of time or a specified event) specified in their licence.<sup>7,8</sup>

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<sup>7</sup> This was recommendation 6 in the Consultation Paper. It is necessary to give the fullest possible flexibility to the Archbishop. There have not been any submissions or comments against this recommendation.

<sup>8</sup> There was some suggestion in the consultation phase that there should be role statements for Archdeacons. This idea has not been pursued. Every Archbishop will have their own idea of how Archdeacons best contribute to their model for the leadership and administration of the Diocese, and it is unnecessarily rigid to make role statements mandatory in every case.

## Part 4 – Clergy generally

### Division 4.1 — Permission to function

#### **Status**

The legislation should include a provision to the effect that members of the clergy in parish ministry are not employees, but hold the office to which they are licensed, or which they otherwise hold with the permission of the Archbishop, on the terms established under this Act.<sup>9</sup>

#### **Clergy authorization**

The Bill will provide that a member of the clergy may perform a clerical office only if they have a clergy authorization (that is, a licence or other written instrument by which a person in Holy Orders is appointed, authorized, permitted or sanctioned by the Diocesan Bishop to exercise ministry as a person in Holy Orders).<sup>10</sup>

The Bill will provide that the Archbishop may give a member of the clergy permission to officiate generally, or on a single, specific occasion.<sup>11</sup>

The Bill will provide that subject to what follows and to other specific provisions relating to particular offices (such as assistant bishop), there is nothing in the legislation of this Diocese to prevent the Archbishop from licensing a person in Holy Orders of any age to a role within the Diocese.<sup>12</sup> A clerk may be licensed as an intentional interim vicar, but not as an acting vicar.<sup>13</sup>

The legislation will in some respects duplicate section 57(1) and (2) of the **Professional Standards Uniform Act 2016 (Diocese of Melbourne)**. The primary obligation to have a clergy authorization and to adhere to any conditions and restrictions in it should be found in this Bill, and not in the Professional Standards legislation.

#### **Resignation**

The Bill will provide that the way in which a member of the clergy may resign from a position to which they are licensed is in writing to the Archbishop.

#### **Retirement**

This provision will apply except where there is a specific provision in this Bill.

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<sup>9</sup> The legal status of clergy (as officeholders, independent contractors or employees) was fully discussed in the Consultation Paper and consultation sessions. The eventual decision was not to question the position as it is currently understood to be, as represented by this proposed provision.

<sup>10</sup> Note, however, that only "licensed clergy" are members of Synod under the **Church of England Act 1854**.

<sup>11</sup> The option of a PTO for a single, specific occasion leaves open the option of a parallel amendment to the Professional Standards Uniform Act to allow a cleric to officiate on such an occasion without a clearance for ministry.

<sup>12</sup> For the background to this recommendation, see Background Papers, item 4-1.

<sup>13</sup> For the background to this recommendation, see Background Papers, item 4-2.

All clergy who hold an office for a specified term would hold it until the end of that term, or that term as extended.<sup>14</sup>

Clergy holding an office for an indefinite term would cease to hold it on turning 70.<sup>15</sup>

#### *Continuing professional development*

The Bill should provide that a member of the clergy must comply with any requirements regarding professional supervision and development adopted by the Archbishop in Council for use in this Diocese.<sup>16</sup>

### Division 4.2 — Remuneration and working conditions

#### **Remuneration and working conditions of clergy<sup>17</sup>**

The Bill will provide for the Archbishop in Council to determine the remuneration, allowances and other conditions applying to clergy licensed by or functioning with the permission of the Archbishop, other than clergy employed by an entity such as a school or Anglican agency, or the Dean and other Cathedral clergy. Remuneration and allowances must be reviewed at least annually.

The Bill will further provide that the process leading to the making any such determination must include—

- advice from a person who provides specialist advice in professional remuneration and working conditions, including in the not-for-profit sector;
- advice from the MADC;
- the opportunity for input from stakeholders, including clergy and churchwardens.

The Bill will allow the Archbishop in Council to determine particular stipends, allowances and other benefits for assistant bishops, and also for archdeacons, area deans, canons to the ordinary<sup>18</sup> and others holding particular roles within the Diocese that attract stipends, allowances and other benefits different from those applying to clergy generally.

#### **Superannuation**

The provisions of the Superannuation Act are to be re-enacted in this Bill, and the Superannuation Act repealed.

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<sup>14</sup> For the background to this recommendation, see Background Papers, item 4-3.

<sup>15</sup> There is at present no mandatory retirement age for clergy, other than for vicars. This provision will make current practice explicit. See Consultation Paper, recommendation 12.

<sup>16</sup> As of mid-2021 the Standing Committee of General Synod is still considering and consulting on possible policies and protocols for the professional development and supervision of clergy. These will not be finally agreed in time for the Synod meeting in October 2021. The Diocese of Melbourne has meanwhile (in September 2021) adopted its own policy regarding the supervision of clergy. This proposed provision is therefore a placeholder, and may be developed during the period in which the Clergy Bill is being drafted.

<sup>17</sup> For the background to this recommendation, see Background Papers, item 4-4.

<sup>18</sup> "Canon to the ordinary" has been adopted as a term referring to a priest appointed to the staff of the Diocesan bishop to assist in performing the bishop's duties.

The definition of "minimum stipend" will refer to the annual stipend determined by the Archbishop in Council in accordance with this Act as the minimum stipend which is to be paid to a clerk of the standing of that clerk. The definition of "year" will refer to a year commencing on 1 October.

#### Division 4.3 — Removal on the grounds of unfitness

The new Clergy Bill should provide for a process to determine whether clergy holding licences that are not terminable at will by the Archbishop are temporarily or permanently unfit on the grounds of physical or mental incapacity.

The Bill will provide as follows.

In the case of a clerk engaged in parish ministry any two of the relevant assistant bishop, the relevant archdeacon and the CEO of the MADC may recommend to the Archbishop that a process be put in place to determine whether a clerk licensed by the Archbishop is by reason of physical or mental incapacity unable to perform the duties of the office, role or position to which they are licensed for more than six months. In the case of a clerk not in parish ministry any recommendation must be made by the CEO of the MADC.

The Archbishop may commence a process to determine whether the clerk is unable by reason of physical or mental incapacity to perform the role, or one or more of the roles, to which they are licensed. Where the recommendation provides sufficient evidence to warrant a temporary suspension of the licence, the Archbishop may suspend the clerk's licence for up to 30 days.

The process will then involve a medical report by both a medical practitioner appointed by the diocese and a medical practitioner nominated by the clerk or their representative. If they cannot agree then the opinion will be sought by a third medical practitioner nominated jointly by the diocese and the clerk or their representative.

If a majority of the medical practitioners consider that the clerk is by reason of physical or mental incapacity unable to perform the duties of their position or office for more than six months, the Archbishop may remove the clerk's licence or suspend it for a period of not more than 12 months, but in either case the clerk remains eligible to any outstanding sick leave.

## Part 5 - Clergy in parishes and authorised Anglican congregations

### Division 5.1 – Vicars

#### Sub-division 5.1.1 — Selecting priests for appointment

##### **Constitution of parish nominations committee<sup>19</sup>**

A parish nominations committee will comprise:

the assistant bishop

the parish nominators (including those elected and a churchwarden nominated by the churchwardens)

In addition, at any meeting of the parish nominations committee there must be a Diocesan consultant. The Diocesan consultant is a person on a panel of between 12 and 16 people established and maintained by the Archbishop in Council. The legislation will provide that Diocesan consultants may be clerical or lay. They should have a good knowledge of the church in the Diocese and have experience in selecting people for appointment. The panel is to operate across the whole of the Diocese, and consultants will be selected by rotation. A person cannot be a member of the panel for a continuous period of more than six years.<sup>20</sup>

The archdeacon is also entitled to be present and to participate fully in any deliberations but does not have a vote.

##### **Equal number of male and female in parish nominators<sup>21</sup>**

The Parish Governance Act is to be amended to achieve an equal number of males and females in the parish nominators and reserve parish nominators.<sup>22</sup>

In a single centre parish, there are to be separate elections for a female member and a male member of the parish nominations committee, and separate panels of female and male reserve members.

However,

(a) the Registrar may waive the requirement ahead of the annual meeting if the vicar certifies that there are no parishioners of a particular sex willing and competent to be elected as a parish nominator; and

(b) the Registrar may waive the requirement before a parish nominations committee is first convened if a parish nominator of one sex becomes unavailable and there is not a reserve member of that sex but there is a reserve member of the other sex.

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<sup>19</sup> See Background Paper 5.1

<sup>20</sup> Six years is the limit for both clerical consultants and lay facilitators under the Appointments Act: see ss 12(3) and 13(3).

<sup>21</sup> This proposal emerged from the consultations and was confirmed by the Reference Group.

<sup>22</sup> An issue that has been identified but not resolved is the implications of this policy for people who do not identify as either male or female.

In a multi-centre parish, the largest centre must elect a parish nominator of the opposite sex to the parish nominator elected by the annual meeting of the parish, and each of the reserve lists must comprise members only of the sex of the person elected. (That is, if the annual meeting elects a female then all the reserve list members must be female, and all the other centres must elect a male parish nominator and have reserve lists only of males.) The other centres would be free to elect parish nominator and members of the reserve list of either sex.

However, the Registrar may waive the requirement in relation to a centre following the annual meeting if the vicar certifies that there are no parishioners of the opposite sex to the parish nominator elected by the annual meeting willing and competent to be elected as a parish nominator by that centre, and in that case the reserve list must also have only members of that sex.

### **Parish nominations committee where there is a co-operative agreement under Division 2 of Part 6 of the Parish Governance Act 2013**

Section 57 of the Parish Governance Act provides for the possibility of a co-operative agreement between two or more parishes, and section 58 allows for such an agreement to provide for those parishes to come together as a ministry area with a team ministry and a team leader.

The Parish Governance Act is silent regarding what is to happen in these circumstances regarding the composition of the parish nominations committees of the participating parishes, although under s 57(2)(d)(xi) provision may be made for the specific arrangements and agreed expectations regarding licensed ministry and other clergy, including how they are to be appointed, supervised, evaluated and replaced.

The proper policy position may be different depending on whether the vicar who is the team leader is also the vicar of one of the other parishes (as permitted by section 59 of the Parish Governance Act), or whether the other parish continues to have its own vicar. In the latter situation there is no reason for each parish not to continue to have its own parish nominations committee for that parish. In the former situation, however, where the vicar who is the team leader is also the vicar of another parish, the principle should be that that other parish (or those other parishes) have the same opportunity to participate as members of the parish nominations committee as they would have if they were centres within a parish.

The legislation should reflect that principle in some way, although the details of how this should be done are yet to be worked through.

### **Convening the parish nominations committee<sup>23</sup>**

The time at which it is possible for a parish nominations committee to be convened is:

- six months (but not more, except where so determined by the Archbishop) before the date on which the current vicar is expected to take their last service in the parish and be farewelled, whether or not later to that date they will be on leave or still occupying the vicarage (the date on which the vicar is expected to take their last service being on the basis of formal notice to the Archbishop or because the term of their appointment will expire and they have not indicated a wish for an extension); or

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<sup>23</sup> Regarding the operations generally of the parish nominations committee see Background Paper 5.2



- if there has been less than 6 months' notice, or no notice, immediately.

The assistant bishop, the archdeacon and the parish council (by a simple majority of all its lay members) may agree that the process of filling the vacancy be suspended for a period of time that is specifically agreed and set and notified to the Registrar.<sup>24</sup> Otherwise, within two months of the time at which it is possible for the committee to be convened, the assistant bishop must direct the Registrar to convene the first meeting of the parish nominations committee, and the Registrar must do so.<sup>25</sup>

Except in the specific circumstances referred to in the previous paragraph, there will always be a parish nominations committee when there is a vacancy, that is, not only for two out of three vacancies, and whether or not the appointment will be full-time or part-time.

### **Commitment to confidentiality<sup>26</sup>**

The new Bill should require members of the Diocesan panel of consultants to sign a commitment to confidentiality each time they are elected or appointed to the panel, and parish nominators to sign a commitment to confidentiality each time they are summoned to begin performing one of their statutory functions.

### **Option to give the right of appointment to the Archbishop<sup>27</sup>**

Giving the right of appointment to the Archbishop from the outset would be on the recommendation of the assistant bishop with the support of the parish council.

Section 29(4) of the Appointments Act allows the Archbishop in Council to deprive a parish of the right of appointment on the grounds set out in sub-section (5). It is not proposed to re-enact those provisions.<sup>28</sup>

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<sup>24</sup> Section 16(2) of the Appointments Act allows for the convening of the incumbency committee to be delayed by three months to allow a review of the parish. The approach proposed here is less prescriptive in the process leading to the delay, the period of delay, and what might happen during that period.

<sup>25</sup> These provisions broadly follow sections 16(1) and 20(1) of the Appointments Act. Section 16(1) requires the Regional Bishop to direct the Registrar to convene the incumbency committee as soon as there is a vacancy or there is about to be a vacancy or the vicar's term expire, and section 20(1) requires the Registrar to convene the incumbency committee when that direction is received. The legislation will provide more formal opportunities than at present for delay. The actual convening of the meeting continues to be an official act of the Diocese and not a function of the episcopate, and should remain with the Registrar.

<sup>26</sup> See Consultation Paper recommendation 23. Although this proposal attracted some discussion and questioning in the consultations, it was recognized that this reflects standard recruitment practice. In addition, demands for breaches of confidentiality can impede the work of a parish nominations committee, and breaches of confidentiality can be damaging and embarrassing to priests who have agreed to have their names considered. Having this requirement explicit in the legislation helps to establish this as a norm within the Diocese rather than as something left to admonition and good will. The legislation will need to allow for the situations where discussions may be necessary and reasonable, such as between the assistant bishop and the Archbishop, or for the purpose of seeking legal advice.

<sup>27</sup> Section 29(1) of the Appointments Act provides that an incumbency committee may at any time, by a resolution of a majority of the lay members and by the Regional Bishop, vest in the Archbishop the right to fill an existing or impending vacancy in the incumbency of the parish. This proposal retains that option, but requires the decision to be that of the parish council, rather than the parish nominators, in addition to the assistant bishop.

<sup>28</sup> The grounds essentially relate to the current viability of the parish based on mission and live giving. The various options in the Parish Governance Act mean that these matters are now addressed differently and at times other than when a parish is vacant.

## **Functioning of parish nominations committee**

The Bill will replicate section 20(2) of the Appointments Act so that parish nominations committee will consider for appointment as the vicar priests whose names are put forward by the assistant bishop, the Diocesan consultant or a member of the committee, and any priest whose name is proposed by the Archbishop.

## **Agreement by the parish nominations committee<sup>29</sup>**

The Bill should contain a clause based on section 22 of the Appointments Act setting out the actions to be taken once a parish nominations committee reaches agreement. The clause should require that, upon the incumbency committee reaching agreement, the assistant bishop report to the Archbishop:

- (a) the decision of the Parish Nominations Committee, and
- (b) the terms of the agreement.

When the appointment is less than full time, the terms of the agreement are to include the details of the proposed part-time arrangement.<sup>30</sup>

## **Archbishop's offer of appointment**

The Bill should replicate the policy in section 22 of the Appointments Act.

- When the assistant bishop has made their report to the Archbishop, the Archbishop must offer the appointment to the priest proposed by the parish nominations committee.
- If the parish nominations committee has selected more than one candidate, the Archbishop must make the offer in the order of preference put forward by the parish nominations committee.
- Before making an offer, the Archbishop must be satisfied of the priest's canonical fitness and that the person has satisfied all legal requirements. A note could be included under this section to explain what those legal requirements may be. For example, a working with children check under the law of Victoria.<sup>31</sup>
- The Archbishop may also decline to accept a recommendation and send the matter to the parish nominations committee for a further recommendation.

## **Where no recommendation within a certain time<sup>32</sup>**

The Bill will include provisions broadly following the Appointments Act.

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<sup>29</sup> See Consultation Paper recommendation 27.

<sup>30</sup> For the background to the recommendations in this section, see Background Paper 5-8

<sup>31</sup> See Consultation Paper recommendation 30.

<sup>32</sup> It is generally accepted that long vacancies are undesirable, and also that the lack of priests willing to become vicars (especially in smaller parishes and parishes not close to the Melbourne CBD) is making long vacancies more common. The approach now proposed is in essence that of the current Appointments Act, but with longer lead times, coupled with the right of early intervention at the Archbishop's discretion.

If an appointment is recommended but not accepted, the parish nominations committee must resume its work within a month. (See section 21)

If no appointment has been recommended within 12 months of the parish nominations committee being convened the Archbishop may, and if none has been recommended within 18 months the Archbishop must, meet with the full parish nominations committee. (See section 27.)

The Archbishop may then make this an Archbishop's appointment (*cf* section 28) and put in place related processes to advance the appointment process.

In addition, the Archbishop may at any time decide to meet with the assistant bishop and parish nominators.<sup>33</sup>

### Sub-division 5.1.2 — Appointment and institution

The Bill will re-enact (with whatever modifications are necessary to achieve consistency with contemporary drafting practice) sections 24, 25 and 26 of the Appointments Act.

The effect of these provisions is:

When a priest accepts the offer of an appointment, the Archbishop, if satisfied that due provision has been made or arranged in respect of superannuation (unless the need for superannuation has been dispensed with by Act) must institute the priest to the parish as soon as possible if the incumbency is already vacant or otherwise as soon as it becomes vacant.

Except where a priest is to be the vicar of more than one parish under section 59 of the Parish Governance Act, when a priest is instituted to a parish they cease to be the vicar of any other parish.

Before being instituted as a vicar, a clerk must take the oaths and make the declarations and subscription that are required by law and by the practice of the Anglican Church of Australia in Victoria in such a case.

### **Periods of appointment and extension<sup>34</sup>**

In the case of all vicars an appointment would be for a period of 10 years.

However, there would be a probationary period of 24 months for a priest ordained less than 5 years previously or being licensed in the Diocese for the first time, or where determined by the Archbishop on the recommendation of the parish nominations committee.<sup>35</sup> The legislation should allow for the Archbishop to bring make the probationary period shorter, either at the beginning of the appointment or during it.<sup>36</sup>

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<sup>33</sup> This is a new proposal. It allows the Archbishop to engage with just the assistant bishop and the parish nominators as soon as she or he becomes aware that particular issues are emerging or need to be considered.

<sup>34</sup> For the background to the recommendations in this section, see Background Papers 4-3

<sup>35</sup> The circumstances in which this might happen would not be specified in the Bill, but could include a priest who had not previously been a vicar, or a priest who had struggled in a previous appointment.

<sup>36</sup> Twenty-four months is much longer than would be considered right in contexts outside the church. Nonetheless, the Reference Group considered that this was the period that suited the realities of vicars and

A vicar could have their term extended for further periods of 5 years.

The same periods of appointment, probation and extension would apply to other parish clergy, but again with no probationary period for a priest who has at some point in the past served a probationary period in parish ministry in the Diocese of Melbourne.

The Bill should provide that a vicar who is subject to a probationary period and who is not confirmed ceases to be the vicar on the date 24 months from the date of their institution, and that a vicar who is not granted an extension ceases to be the vicar at the expiration of the term of their appointment. In other words, the default position is that, absent confirmation or extension, the period of appointment as vicar concludes on the expiration of the term.<sup>37</sup>

The Bill should provide an exception to this position, which is where there is a professional standards complaint or a charge before the Diocesan Tribunal. In that case the Archbishop will determine whether the process should be deferred until a specified time (not exceeding six months) following the outcome of the proceedings. (See below.)

### **Process of probationary review and extension**

The Bill should provide that the decision whether to confirm a vicar after a period of probation or extend their term is that of the Archbishop, having regard to the recommendation of an appointment continuation review committee.

The appointment continuation review committee in a parish will comprise the assistant bishop, the churchwardens and the parish nominators. A recommendation must be supported by the assistant bishop and by a majority of the churchwardens and the parish nominators (as one group).<sup>38</sup> The archdeacon has the right to be present and to participate in any deliberations but does not vote.

Before the process begins the vicar should be asked whether they want to continue.

The Bill should provide that the Archbishop in Council must prescribe systems and processes to enable balanced and fair assessments by appointments continuation review committees, including input from the vicar in relation to those assessments.<sup>39</sup>

There should be an opportunity for the vicar to engage with the appointment continuation review committee regarding their work to date in the parish and how that should be viewed in relation to their continuing in the role, but this should not extend to an opportunity for either the committee or the vicar to seek or draw on the opinions of other parishioners.

### **Review and consideration of extension where there are professional standards complaints or charges**

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parishes. The ability to bring the review forward goes some way to ameliorate the possible consequences of adopting such a long period.

<sup>37</sup> see Consultation Paper recommendation 33

<sup>38</sup> For the background to this recommendation, see Background Papers, item 5-4

<sup>39</sup> For the background to this recommendation, see Background Papers, item 5-5. The process of evaluation and appraisal should if at all possible dovetail with the processes for continuing professional development and appraisal being considered for adoption across the church nationally. It is not possible to indicate the details of how this will happen as these national requirements are still being developed.

Where there is a professional standards complaint or a charge before the Diocesan Tribunal, and the priest is suspended, it should not be possible to have a confirmation or extension process.

In other cases, the Archbishop will determine whether the process should go ahead when it otherwise would have, or should be deferred until a specified period (not exceeding six months) from the outcome of the proceedings.<sup>40</sup>

### Removal

The Bill will contain provisions similar in effect to sections 36 and 37 in the Appointments Act relating to removal of a vicar during a term and vacation of the parish.

It will provide that the vicar of a parish may not be removed as vicar during the term of their appointment against their will except in accordance with an Act of the Synod.<sup>41</sup>

Following section 36 of the Appointments Act, the Bill will provide that a priest ceases to be the vicar when—

- (a) the priest becomes the vicar of another parish (except where section 59 of the Parish Governance Act applies) or (in the case of a full-time vicar) takes up some other office as a priest for which a stipend or salary is paid;
- (b) the term of their appointment expires and they are not confirmed (in the case of a vicar subject to probation) or extended;
- (c) their resignation has effect;
- (d) they are removed under the provisions relating to unfitness; or
- (e) they become entitled to stipend continuance payments as a result of the acceptance of a claim under an approved stipend continuance policy.

For the purposes of (e), section 26(2) contains these definitions:

**approved stipend continuance policy** means an insurance policy, or a class of insurance policy, approved for the purposes of this section by Archbishop in Council for the time being that provides for stipend continuance payments;

**stipend continuance payments** means payments under an insurance policy, or class of insurance policy, to a priest during the temporary disability of the priest, being

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<sup>40</sup> See Consultation Paper recommendation 35. Various other options were raised in the consultations and considered by the Reference Group, but the variety of possible circumstances is so great as to make it impossible to make any approach the invariable one. For the background to this recommendation, see Background Papers, item 5-6

<sup>41</sup> The Appointments Act lists a number of particular Acts of Synod, but this approach is unnecessary and unhelpful. The names of these Acts change, and the various sanctions in them are also varied from time to time. The drafting approach here does not seek to describe what these other Acts do; rather, it simply relies on them. The importance of this provision, in any case, is that the vicar cannot be removed except in accordance with particular legislation—that is, that there is a right to tenure. The current legislation also provides for removal upon conviction by a competent tribunal of an offence legally sufficient to justify removal but it is proposed that this not be retained. If the current provision means conviction by a secular criminal court, then this Act should not implicitly by-pass the processes put in place by other Synod Acts for such situations; and if the "competent tribunal" is one created by Synod legislation, then this would be "in accordance with an Act of the Synod".

payments in lieu of stipend at a rate not less than 150% of the stipend of the priest as certified in the certificate last registered before the commencement of the disability in the Registry under section 73 of the **Trustees and Vestries Act 1910** or section 68 of the **Parishes Act 1987**.

These statutory references need to be updated.

#### Sub-division 5.1.3 — Acting and intentional interim vicars

The legislation will include the option of appointing a priest as the intentional interim vicar of a parish. An intentional interim vicar differs from a normal locum vicar in that they are expected to be actively involved in leading the parish through a period of change. The decision whether to have an intentional interim vicar will be made by the Archbishop on the recommendation of the assistant bishop and the parish council. An intentional interim vicar will be licensed by the Archbishop for a period of 18 months, and will function as the vicar during that time. A priest of any age can be appointed an intentional interim vicar.<sup>42</sup>

The Bill will re-enact section 30(1) of the Appointments Act, which gives the Archbishop a general power to appoint an acting vicar during a period of vacancy or when the vicar is suspended.

However, instead of section 30(2) of the Appointments Act, the Bill should provide that an acting or intentional interim vicar is entitled to the remuneration and other benefits agreed as between them, the churchwardens and the Archbishop at the time of their appointment, as varied with the agreement of all of them from time to time.<sup>43</sup>

#### Sub-division 5.1.4 — Particular arrangements

The Bill will provide that at the time when every part-time vicar is instituted, there must be a memorandum of expectations between the churchwardens and the vicar, countersigned by the assistant bishop. The memorandum should be reviewed, and if necessary updated, periodically and can be varied from time to time.<sup>44</sup>

### Division 5.2 — Clergy other than vicars in parishes

#### **Clergy in parishes who are appointees**

Section 28 in the Parish Governance Act will be moved into this Bill.<sup>45</sup>

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<sup>42</sup> For the background to this recommendation, see Background Papers, item 5-7.

<sup>43</sup> See Consultation Paper recommendation 19. The current Act entitles the acting vicar to everything to which a full time vicar would be entitled, even if the acting vicar is only part-time. The Archbishop (as the person making the appointment) and the churchwardens (as those responsible for meeting any obligations) should both be involved in determining what the benefits and remuneration should be.

<sup>44</sup> For the background to this recommendation, see Background Papers, item 5-8.

<sup>45</sup> **"28 Appointments of clerks and authorised lay ministers**

- (1) The Archbishop alone may appoint—
  - (a) a person in Holy Orders to a stipendiary role, office or position in a parish; and
  - (b) a stipendiary authorised lay minister in a parish—

The Bill should amend the Parish Governance Act in the following ways:

(1) to provide that the parish is liable to reimburse the MADC for any payments it is required to make, or reasonably makes, as a result of anything done by the vicar in managing anyone appointed to the parish under the reenacted section 28 of the Parish Governance Act or a layperson employed by MADC and working in the parish; and

(2) to require the vicar to consult with the churchwardens before taking any action to suspend or terminate a person working in the parish, or that could reasonably be anticipated to give rise to a possible claim against the MADC or the parish arising from the vicar's management of that person.<sup>46</sup>

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and alone may suspend or terminate that appointment.

- (2) An appointment under sub-section (1) is on the terms and conditions determined by the Archbishop.
- (3) The vicar is responsible for recommending to the Archbishop the appointment of a person under sub-section (1) and the terms and conditions of that appointment.
- (4) The Archbishop must consult with the vicar before exercising the power of appointment, suspension or termination unless it is impracticable to do so.
- (5) The vicar is responsible for supervising and managing a person appointed under this section.
- (6) Nothing in this section applies to the appointment of a person as the vicar or derogates from the inherent powers or authority of the Archbishop."

<sup>46</sup> See Consultation paper recommendation 15. For the background to this recommendation, see Background Papers, item 5-9.

## Part 3: Detailed background on certain matters

Background Paper 4.1: Licensing at any age	
<b>Topic</b>	(1) Mandatory age of retirement, and (2) prohibition on licensing over a certain age.
<b>Summary of issue</b>	<p>The current legislation currently provides that vicars and assistant bishops cease to hold their roles on turning 70.</p> <p>There is no legislative ban on licensing a cleric aged over 70 to any role. The practice has been never to do so.</p> <p>The first issue is whether there should be a mandatory retirement age, not only for vicars, but also for associate parish clergy; and if so, what should it be, and should there be any exceptions or exemptions?</p> <p>The second issue is whether to permit explicitly priests of any age to be licensed to an office (for example, as an intentional interim minister or to particular missional, academic or advisory roles).</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act:</b> section 37(1).
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 7:</b></p> <p>The current requirement that a priest cease to be vicar of a parish on attaining 70 years of age should continue, but with discretion in the Archbishop to extend the date for requirement for up to 6 months where this is appropriate having regard to local needs and circumstances.</p> <p><b>Recommendation 8:</b></p> <p>The current review should consider establishing 72 as the age of retirement of a vicar of a parish if they were aged 62 or more at the time of their first appointment as vicar of that parish.</p> <p><b>Recommendation 12:</b></p> <p>The new Bill should provide that all clergy licensed to an office are deemed to have relinquished that office on turning 70 (except in the case of vicars if specific rules apply).</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b></p> <ul style="list-style-type: none"> <li>A set retirement age might have implications in discrimination law and be unfair compared to other roles in the church where there is no retirement age. On the other hand, older priests</li> </ul>



	<p>might block younger clergy seeking promotion within the church.</p> <ul style="list-style-type: none"> <li>• General support for recommendation to allow priests to continue to 72, and some support for higher retirement age or none at all.</li> <li>• Processes such as annual reviews, or appointments for a limited number of years, were suggested as alternatives to set retirement age. However, reviews can't be left until just before retirement.</li> </ul> <p><b>Subsequent consideration:</b></p> <p>The Reference Group returned to a discussion of the retirement age on several occasions. There are a number of factors that make this a problem with no wholly satisfactory solution—or at least none that has yet been identified. These factors include:</p> <ul style="list-style-type: none"> <li>• any mandatory retirement age is both discriminatory and unsupported by any evidence that there is one age at which every person in Holy Orders becomes unsuited to continue in paid parish ministry—and therefore the starting point should be abolishing a nominated retirement age;</li> <li>• some clergy wish continue in their parish role past the time when they are able to perform it adequately;</li> <li>• having a single period of appointment (10 years is at present proposed) could operate perversely, in that parishes may be willing to appoint a priest aged 68 for (say) 5 years, but not for 10, or a priest aged 64 knowing that they would be retiring at 70 but not 74: this could mean that the current statutory discrimination was replaced with discrimination in practice;</li> <li>• special rules for appointments of priests in their sixties, or for priests when they reach a particular age, would be complex and difficult to administer, may still not produce good outcomes, and would still contain an element of discrimination.</li> </ul> <p>The three dominant objectives are to cease to discriminate on the grounds of age, to allow priests who are willing and able to offer effective parish ministry into their seventies to do so, and not to adopt rules that operate in practice to defeat the intention of the first two of these objectives.</p> <p>The position recommended is the one that comes closest to achieving these objectives, even if imperfectly.</p>
<p><b>Position recommended to the 2021 Synod</b></p>	<p>There should be no retirement age for parish clergy (both vicars and others), nor any maximum age for appointment, but all will be appointed a to fixed term that can be extended.</p>

Background Paper 4.2: Licensing intentional interim vicars but not acting vicars	
<b>Topic</b>	Whether to license priests to a parish during an extended interregnum (eg, more than 12 months) even though there is no intentional interim ministry.
<b>Summary of issue</b>	<p>Temporary and intentional appointments were discussed at item 4.4 in the August 2020 consultation paper.</p> <p>There are situations when it might be necessary or beneficial for there to be a space of time between the departure of one vicar and appointing another, and in those situations there could be an intentional interim ministry and a priest licensed to that role.</p> <p>However, in other cases the period of an interregnum with an acting vicar continue can for years, for no other reason than the inability to make the next appointment.</p> <p>The issue is whether in those situations also it should be possible to license the acting vicar.</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act</b> section 30
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 9.1:</b></p> <p>The Archbishop's ability to appoint an interim vicar should take two forms, one being to appoint for up to 15 months without any associated process.</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b> Very few thought intentional interim ministries should never happen; a small number said that they should <i>always</i> happen. People were clear on the distinction between a regular acting vicar, who simply keeps things going as is, and an intentional interim vicar. They also wanted this distinction clear in the legislation. There was also significant concern about the growing length of interregnum periods in the diocese, the negative impacts these can have on parishes, and the need to keep interregna as short as possible.</p> <p><b>Subsequent consideration:</b> The case for licensing priests who are acting vicars for an extended period is that it would allow them to sit with their parishioners in Synod, and better honour their role and responsibility in pastoring the parish. Against that it is said that licensing an acting vicar could create a conflict of interest by encouraging them to behave in a way that extends their time in the parish. There should be a clear choice between an intentional (that is, intended) period of interim ministry and a period of caretaking during a vacancy. Licensing the latter as well as the former would blur that distinction.</p>

**Position  
recommended to  
the 2021 Synod**

The Bill will provide that (except when they are instituted as the vicar) priests will only be licensed to a parish if they are appointed as an intentional interim vicar.

Background Paper 4.3: Clergy to hold office for specified terms	
<b>Topic</b>	Length of appointment
<b>Summary of issue</b>	<p>Vicars are currently appointed to a parish for 10 years with the option of further five-year extensions.</p> <p>There was a proposal for a simplified model where all priests would have 7-year terms (with the options of extensions).</p> <p>A second issue was whether to change the legislation to reflect the current practice of giving vicars whose appointment is confirmed after 3 years an overall term of 13 years.</p> <p>The initial paper to Synod in 2019 also raised the issue of the ongoing ability of parishes to pay a priest for 10 years. In a time when attendance in many churches is declining, it may be hard for a parish to know that they will be able to retain the vicar on the same pay for ten years.</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act:</b> sections 32, 33, 34, and 35(1)
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 31:</b></p> <p>The new Bill should continue to provide that all priests are instituted to a parish for a period of ten years (or five if a new approach to part-time incumbents is taken up), whether or not they are reviewed for transition to incumbency at the end of the first three years.</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b></p> <p>People questioned whether ten years reflects the true average duration of incumbencies.</p> <p>When the possibility of part-time incumbents was raised there was little understanding of the real differences between an incumbent and priest in charge. There was a preference for full-time priests, but the need to allow for part-time work was also recognized.</p> <p>Others referred to studies that showed that ministry grows after a certain number of years, and that reducing the duration of vicar would limit growth.</p> <p><b>Subsequent consideration</b></p> <p>There was general agreement about the desirability of a single period of appointment, regardless of variables such as whether the parish was full-time or part-time, the age of the appointee, or whether this was the vicar's first parish in the Diocese.</p>

	<p>It would seem that many vicars start looking for their next parish about 3 years before the end of their term in their current parish, meaning that 7-year terms would lead to undesirably short periods of appointment.</p> <p><i>A very closely related issue is that of whether there should be a retirement age, and the recommended position should be read in conjunction with the discussion and recommendation on that topic.</i></p>
<b>Position recommended to the 2021 Synod</b>	<p>In the case of all vicars an appointment would be for a period of 10 years (with the option of 5-year renewals).</p>

**Background Paper 4.4:  
Remuneration and working conditions of clergy**

<b>Topic</b>	This topic concerns the setting of remuneration and working conditions for clergy.
<b>Summary of issue</b>	<p>The <b>Diocesan Stipends Act 1991</b> requires the Diocesan Stipends Committee to determine the remuneration for full time clergy. It can also be asked to determine the remuneration for other clergy (which it has done without ever being asked) and the working conditions for clergy and other Diocesan staff, which it has never been asked to do and never done.</p> <p>The most pressing issue is to find a means to determine the working conditions of clergy. At present we have—</p> <p>(a) a "Manual for Clergy in the Anglican Diocese" which suggests how some matters should be approached, but which does not cover all relevant matters, and at any event has no legal status;</p> <p>(b) legal responsibility for the full range of OH&amp;S employer responsibilities with the MADC but no means for it to mandate associated behaviours; and</p> <p>(c) the potential for the Diocesan Stipends Committee to set working conditions, which has never been taken up.</p> <p>The key question, then, is how the working conditions of clergy should be determined, and following on from that, how that determination should be tied into determinations of remuneration (as the two are inevitably interdependent).</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Diocesan Stipends Committee Act 1991</b> <b>Parish Governance Act 2013:</b> section 23(2)
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 17:</b> The Diocesan Stipends Committee should be abolished, and the Archbishop in Council should have responsibility for determining the remuneration and other conditions of engagement or employment for all clergy who are not employees and who are paid through MADC, subject to principles set out in the legislation.</p> <p><b>Recommendation 18:</b> At the time of making any determination in relation to the remuneration and other conditions of engagement or employment for clergy, and at the time of considering the position of the Diocese in relation to industrial negotiations, the Archbishop in Council must have before it the written advice and recommendation of the MADC.</p>

## Discussion in consultations and submissions

### 2020 consultation/submissions:

There was general acceptance that it would be better for these powers to reside with the Archbishop in Council instead of the stipends committee. However, there was some concern about a loss of expertise from the committee, and some people indicated they would like a committee of Archbishop in Council to retain that expertise. The other concern raised was about the importance of the clergy being involved in the decision making about their pay and conditions.

### Subsequent consideration:

There are two matters to be considered: which body should determine working conditions and remuneration, and whether it should cover all relevant matters and affected clergy or only some of each. This can be represented in this table.

	Final decision-maker	
	Independent statutory committee	Archbishop in Council
Partial coverage with patchy processes	Current	
Full coverage with complete processes		Recommended

Key issues were identified as the need for a single, comprehensive approach to working conditions and remuneration, and the need for better forms of input to the decision maker, including formal input from the MADC. One of the issues with the current system is that there is no provision for vicars to take certain types of leave.

The importance of clergy involvement and representation was again highlighted in subsequent consideration. It was suggested that if clergy representation was no longer provided for, there should at least be clergy advocacy.

Remuneration and working conditions and arrangements are different dimensions of the same relationship, and cannot be determined independently of each other. A move to determine them wholistically will require, especially initially, an injection of relevant skills and expertise that goes well beyond those needed to determine remuneration.

Consideration was given to whether any new body should be independent, but in some ways the current committee is too independent for its limited resourcing. At the moment it can make decisions even if the Archbishop in Council disagrees with them, and is weakly required to "have regard" to submissions from any of the parties affected (such as clergy, the Diocese or parishes). Even if

	<p>that independence were appropriate for the limited purpose of determining the remuneration of full-time clergy, it is not appropriate for the much larger responsibility of promulgating the working arrangements and conditions for all clergy.</p> <p>Whichever body has responsibility for determining working conditions and remuneration, it will need to have expert advice, input from the MADC and the Diocese, and contributions also from clergy and from those responsible for parish finances and administration. There should be no aspiration to find in the members of such a body all the necessary expertise and range of perspectives. As with all its responsibilities, the Archbishop in Council will be responsible for ensuring that it receives the right advice, based on the best processes, as the basis for its decisions, and (again as in its other work) it is to be expected that the Archbishop in Council will be assisted by a sub-committee.</p> <p>There was some concern about over-legislating, and whether it was necessary to require the input of MADC in legislation. However, it was recognized that the only way to mitigate risk for the MADC directors (who are legally liable) is to mandate that Archbishop in Council takes their advice.</p>
<b>Position recommended to the 2021 Synod</b>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• the Diocesan Stipends Committee be abolished;</li> <li>• decision-making be placed with the Archbishop in Council; and</li> <li>• the Archbishop in Council must be advised by- <ul style="list-style-type: none"> <li>○ the MADC;</li> <li>○ experts in the field of setting remuneration and working conditions and arrangements; and</li> <li>○ input from interested parties.</li> </ul> </li> </ul>



## Background Paper 5.1: Parish Nominations Committee – Composition

<b>Topic</b>	<p>The primary topic is the composition of parish nominations committee.</p> <p>Subsidiary topics are:</p> <ul style="list-style-type: none"> <li>• whether all parishes in a minster model should be represented on the parish nominations committee</li> <li>• parish nominators be communicant members of the church</li> <li>• wherever the primary responsibility for decisions rests with the assistant bishop and the parish nominators or churchwardens, it should be a requirement that the relevant archdeacon be present as well and contribute fully to the discussion</li> </ul>
<b>Summary of issue</b>	<p>The incumbency committee of a parish is currently convened for the purpose of finding a new incumbent or for deciding whether to extend the term of the existing incumbent. The 2020 consultation paper proposed a wider role for the incumbency committee and as a result it is suggested to change the name to ‘parish nominations committee’.<sup>47</sup></p> <p>The clergy legislation review has considered matters such as whether:</p> <ul style="list-style-type: none"> <li>• to continue to choose members of the committee in the same way they currently are,</li> <li>• whether all worship centres in a parish or parishes in a minster model agreement should be represented, and</li> <li>• what non-voting members should be included.</li> </ul> <p>The <i>Parish Governance Act 2013</i> currently provides for the composition of a parish nominations committee as comprising:</p> <ul style="list-style-type: none"> <li>• The Regional Bishop, who chairs the committee</li> <li>• A churchwarden</li> <li>• Two other parishioners, or if there is more than one worship centre, one parishioner plus one from each local worship centre</li> <li>• The archdeacon</li> <li>• The consultant appointed under the Appointments Act<sup>48</sup></li> </ul> <p>The composition of the parish nominations committee in Melbourne is different to that in other metropolitan Dioceses, and</p>

<sup>47</sup> The term ‘parish nominations committee’ is used throughout this document for convenience, even when referring to existing incumbency committees.

<sup>48</sup> Under section 19(2) of the Appointments Act, the lay facilitator is entitled to attend meetings but is not a member and is not entitled to vote.

	<p>consideration has been given to whether Melbourne should align with these other dioceses.</p> <p>The minster model is relatively new in the Diocese of Melbourne. Any consideration of how it would apply to situations arising under the Clergy Act has to take account of the fact that what it might and will mean in practice in this Diocese is still a work in progress. If it is an arrangement among viable parishes, then section 57, and potentially section 58, of the Parish Governance Act may be sufficient to cover all the possibilities. Importantly, if the agreement continues to be amongst <i>parishes</i>, then each will have the right to appoint a vicar for their own parish. If, however, if the minster model came to mean that the vicar of a central parish were to become also the vicar of subsidiary parishes, then the question would arise whether those subsidiary parishes should be involved in the choice of that vicar.</p> <p>There is currently no requirement for members of a parish nomination committee to be communicant members of the church. Since this is a requirement for other office holders (for example, churchwardens and parish council members) it should be required for members of the parish nominations committee.</p>
<b>Relevant provisions in current legislation (if any)</b>	<p><b>Appointments Act:</b> sections 17, 18, 19, 20.</p> <p><b>Parish Governance Act:</b> sections 19, 21, 57.</p>
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 21:</b> The new Bill should require that parish nominators be communicant members of the church.</p> <p><b>Recommendation 26:</b> OPTION A The parish nominations committee should comprise:</p> <ul style="list-style-type: none"> <li>• the designated bishop<sup>49</sup>,</li> <li>• the relevant archdeacon,</li> <li>• a clerical consultant (chosen by rotation from a panel elected by Synod),</li> <li>• a lay facilitator (chosen by rotation from a panel appointed by the Archbishop in Council) and</li> <li>• 3 parish nominators (plus any additional nominators for additional worship centres);</li> </ul> <p>and the recommendation of a parish nominations committee should be supported by the designated bishop and a majority of the parish nominators, but before agreeing on any recommendation each member of the parish nominations</p>

<sup>49</sup> This position is now referred to as Assistant Bishop

	<p>committee must be fully heard regarding what that recommendation should be.</p> <p>OPTION B</p> <p>The parish nominations committee should comprise:</p> <ul style="list-style-type: none"> <li>• the designated bishop,</li> <li>• the relevant archdeacon,</li> <li>• a clerical Diocesan nominator (chosen by rotation from a panel for the whole Diocese elected by Synod),</li> <li>• a lay Diocesan nominator (chosen by rotation from a panel for the whole Diocese elected by Synod) and</li> <li>• 3 parish nominators (plus any additional nominators for additional worship centres);</li> </ul> <p>each of whom has one vote.</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b></p> <p>There was a strong emphasis on the importance of parishes being heard when choosing their vicar, and therefore very little interest in allowing a greater voice for people outside the parish. It was clearly unacceptable to people that parish representatives could potentially be outvoted by non-parish members (ie the bishop, archdeacon, and clerical consultant). As a result, option B did not progress to further consideration.</p> <p>An important background factor is that the current legislation requires for an appointment only the agreement of the regional bishop and a majority of the parish members of the incumbency committee.</p> <p>There was a lack of clarity about the exact roles of the clerical consultant and the lay facilitator.<sup>50</sup> It was suggested that it might not be necessary to have both, although people also noted that the lay and clerical consultants clergy bring different but important viewpoints to the discussion.</p> <p>On the matter of these consultants and facilitators, various options were considered. The general consensus seemed to be that expertise was the highest consideration, and that that was most likely to be achieved by having consultants appointed by Archbishop in Council rather than elected by the Synod. However, there was no support for the Archbishop in Council appointing voting members of the parish nominations committee, and once it was accepted that expertise was the most important consideration there seemed to be no reason to have an ordained expert and a lay expert. The result became the view that the Archbishop in Council should appoint a panel of consultants with the requisite expertise,</p>

<sup>50</sup> Section 20(3) of the Appointments Act refers to the incumbency committee ‘taking into account the advice and counsel of the lay facilitator’ before seeking to agree on who to propose as incumbent.

who could be lay or clerical, and who would be non-voting members of the parish nominations committee.

There were also differing opinions about the role of the archdeacon and how well they know the parishes in their area. Some thought they would bring valuable insights into the parishes in their area, others that they know very little about them. This is one of the reasons why there were differing opinions about whether they should have a vote.

Some people had concerns about the laity being overwhelmed by the clergy.

One topic that was considered very important by several people, despite it not being raised in the consultation paper, was equal representation of men and women on the committee. As a similar requirement is now enshrined for Archbishop in Council it was considered a logical step for parish nominations committees as well.

After the consultations, a new recommendation on composition emerged:

The parish nominations committee will comprise as voting members the assistant bishop and the parish nominators.

The assistant bishop and a majority of parish nominators must agree on any recommendation.

Also present and entitled to participate fully will be the archdeacon and a consultant (clerical or lay) chosen by the voting members of the parish nominations committee from a panel appointed by the Archbishop in Council.

Parishes with more than 80 parishioners should be required to have one female and one male elected parish nominator, with separate reserve lists for each position.

Representation under the minster model had not been raised as an issue in the original consultation paper.

There was minimal discussion around the requirement for members to be communicant members.

#### **Subsequent consideration:**

There is agreement that parish nominations committees should be required to have broadly equal representation of men and women, and that all worship centres and parishes should be represented. However, there should be exemptions available:

- An exemption could be granted regarding gender equality only if there are no available and suitably qualified men or women in the parish.

	<ul style="list-style-type: none"> <li>• An exemption to the requirement to have every worship centre represented if one centre cannot provide a representative. This is necessary so that the entire process is not invalidated due to one centre not providing a representative.</li> </ul> <p>Regarding the minster model, there was a feeling that no worship centre should be deprived of having an input into the choice of vicar. If the vicar of the minster parish were to become the vicar of other parishes, then those other parishes should contribute to the parish nominations committee in a way similar to centres within a multi-centre parish. This has only been discussed at an in-principle level.</p> <p>There was no disagreement that the relevant Archdeacon should be involved in the parish nominations committee. There was agreement that it would be better to give them the right to attend and participate, rather than making it a requirement. If it was a requirement this could invalidate decisions or require meetings to be cancelled if the Archdeacon was for any reason unable to attend.</p>
<b>Position recommended to the 2021 Synod</b>	<p>That the Parish Governance Act be amended to provide that the parish nominations committee consist of:</p> <ul style="list-style-type: none"> <li>• the assistant bishop</li> <li>• one churchwarden</li> <li>• two other parishioners (or one for the parish and one for each worship centre in a multi-centre parish)</li> </ul> <p>In addition, there would be two non-voting members normally present:</p> <ul style="list-style-type: none"> <li>• a Diocesan consultant (appointed by the Archbishop in Council) and</li> <li>• the archdeacon.</li> </ul> <p>Decisions will require a majority of parish nominators plus the Assistant Bishop to agree. Neither the consultant nor the Archdeacon will have a vote.</p> <p>Every parish, regardless of size, should be required to have a balance of male and female representatives. The only exemption should be if there are no eligible parishioners of one gender.</p> <p>It should be a requirement to have one representative from each local worship centre, however, an exemption would be allowed if a centre cannot provide a representative.</p> <p>That all members of the committee be required to be communicant members of the church.</p>

**Background Paper 5.2:  
Parish Nominations Committee - operations**

<b>Topic</b>	Convening the parish nominations committee and delays in its work; commitment by members of the parish nominations committee to confidentiality
<b>Summary of issue</b>	<p>The issue of convening and delays has arisen because (a) there has been some lack of clarity about whether the current legislation allows regional bishops to defer the convening of the incumbency committee; and (b) under the current legislation the timeframes in the Appointments Act are no longer realistic.</p> <p>Section 16 of the Appointments Act requires the Regional Bishop to direct the Registrar to convene the incumbency committee. Some have interpreted the fact that the Regional Bishop is obliged to direct the Registrar as meaning that the Regional Bishop has a discretion not to direct the Registrar, thereby causing the incumbency committee not to be convened.</p> <p>Section 20(1) then requires the Registrar to summon the committee with all convenient speed.</p> <p>Section 27(1) requires a special meeting if no offer has been made and accepted six months after the committee has been summoned. Section 28 allows the Archbishop to fill the vacancy three months after the special meeting. Consultation has been undertaken on what are realistic timeframes.</p> <p>The current process also provides that the Regional Bishop will no longer preside at the meetings, which implies that it is the fault of the regional bishop if an offer and acceptance haven't been made on time. It is now recognized that delays can be caused for many reasons, for example, insufficient supply of clergy, or members of the committee other than the bishop not working together.</p> <p>The intention behind a requirement for confidentiality is that this should be the same as for any selection panel outside the church.</p>
<b>Relevant provisions in current legislation (if any)</b>	<p><b>Appointments Act:</b> sections 16, 20, 21, 22, 23, 27, 28, 29</p> <p><b>Parish Governance Act:</b> section 20</p>
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 22:</b></p> <p>In order to avoid doubt, the new legislation should provide that the designated bishop must, with all convenient speed, and at any event within two months, after the relevant circumstances have occurred, direct the Registrar to summon the parish nominations committee and the Registrar must do so.</p>

**Recommendation 23:**

The summoning of the parish nominations committee may be suspended for a period not exceeding 12 months in any case where the designated bishop, the archdeacon and the parish council consider it to be in the interests of the parish and the Diocese to do so.

**Recommendation 24:**

The new Bill should require that a parish nominations committee be convened if (amongst other things) the Archbishop has notice that a parish is about to become vacant or the term of office of the vicar is about to expire.

**Recommendation 25:**

The new Bill should require members of the Diocesan panels of consultants and facilitators to sign a commitment to confidentiality each time they are elected or appointed to the panel, and parish nominators to sign a commitment to confidentiality each time they are summoned to begin performing one of their statutory functions.

**Recommendation 27:**

The re-enacted section 22 of the Appointments Act should require that the designated bishop report to the Archbishop the decision of the parish nominations committee.

**Recommendation 28:**

The new Clergy Bill should provide that if the parish nominations committee is to be reconvened in the circumstances currently described in section 23 or 27 of the Appointments Act, it should meet again within one month.

**Recommendation 29:**

The new Clergy Bill should provide that if a parish nominations committee has not made a recommendation, the Archbishop may appoint a new chair following the first 8 months from the date on which it could first have been convened, and must do so following 12 months from that date.

**Recommendation 37:**

Wherever the primary responsibility for decisions rests with the designated bishop and the parish nominators, it should be a requirement that the relevant archdeacon be present as well and contribute fully to the discussion.

<p><b>Discussion in consultations and submissions</b></p>	<p><b>2020 consultations/submissions:</b></p> <p>There was agreement that the committee shouldn't meet too early, for example, as soon as the vicar has given six months' notice of their intention to leave. It was also agreed that long delays are unhealthy for parishes.</p> <p>Several people objected to the proposed commitment to confidentiality. Their reasons included a feeling that secrecy is not healthy or that it might prevent legitimate discussions between people who should be able to discuss the matter.</p> <p>Some people suggested there could be alternatives to replacing the bishop in cases of delay. None of the bishops are happy about being replaced, and it was felt that a better option is to discuss why the delay is happening and address the cause.</p> <p><b>Subsequent consideration:</b></p> <p>There was unanimous agreement that members of the parish nominations committee sign a confidentiality agreement. Such an agreement should not be seen as preventing the members from having legitimate conversations in confidence. For example, the assistant bishop would be entitled to discuss with the Archbishop.</p> <p>There was some uncertainty about why it matters whether the Registrar or the relevant assistant bishop convenes the committee. There was a feeling that in some cases it is the assistant bishop who will be driving the process. However, as the convening is both an administrative action and a matter of record, the registrar is more appropriate. Some saw the fact that assistant bishops sometimes fail to convene the committee even when the legislation requires that they should as not to be a real or recognised problem.</p> <p>As to delays in the work of the committee, in most cases the process goes smoothly, but the need to provide a circuit breaker for a parish nominations committee was recognised. Instead of requiring the replacement of the bishop, it is now proposed that the Archbishop be given a right and responsibility to intervene in a way they think appropriate.</p> <p>The new timeframes for such an intervention are 12 months and 18 months.</p>
<p><b>Position recommended to the 2021 Synod</b></p>	<p>That all members of the parish nominations committee be required to sign a confidentiality agreement upon the convening of the committee.</p> <p>That the relevant Assistant Bishop convene the parish nominations committee and must copy in the Registrar when doing so.</p>



	That the Bill provide that the Archbishop may intervene in a parish nominations committee after 12 months without an appointment, and must intervene after 18 months. However, it will also provide that the Archbishop may intervene earlier at their discretion.
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Background Paper 5.3: Simplified model of appointments	
<b>Topic</b>	Appointment and tenure of parish priests
<b>Summary of issue</b>	<p>Whether to retain the current range of rules, titles and practices that vary according to whether the appointment is—</p> <ul style="list-style-type: none"> <li>• full-time or part-time</li> <li>• the 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> in a cycle</li> <li>• the priest's first in the Diocese</li> </ul>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act:</b> sections 29(2), 32, 33, 34 and 35.
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 10:</b> The new Clergy Bill should provide for the possibility of clergy licensed to parishes less than full time to be licensed as incumbents, for a period of 5 years with the possibility of extension for further periods of 5 years.</p> <p><b>Recommendation 31:</b> The new Bill should continue to provide that all priests are instituted to a parish for a period of ten years (or five if a new approach to part-time incumbents is taken up), whether or not they are reviewed for transition to incumbency at the end of the first three years.</p> <p><b>Recommendation 36:</b> The new Bill should continue to provide that on every third successive occasion on which the incumbency is vacant (not counting an extension) the choice vests in the Archbishop, but should also provide that the first appointment to a newly established parish should also vest in the Archbishop and that on the amalgamation or separation of parishes the Archbishop in Council determines whether the next succeeding vacancy or vacancies is the first, second or third appointment.</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b> There was some support for the sole term for vicars being "vicar", that is, dropping the current subdivision of vicars into priests-in-charge and incumbents. Some people felt did not like the resulting stigmatization of priests who chose part-time ministry. No-one argued strenuously for the retention of the three terms.</p> <p>Giving the Archbishop every third appointment was questioned in the consultations, even though it had not been included in the consultation paper as a matter for review. It may have been necessary at a time when some priests struggled to find their next</p>

appointment. That is not now as much the case, and in any case it is now proposed that the right of appointment pass to the Archbishop in an appointment has not been made in 12-18 months. In addition, some people are concerned about retaining the right of the Archbishop to impose clergy who are unsympathetic to the culture and traditions of the parish.

It was generally accepted that there was no reason to retain the practice of convening a parish nominations committee for a full-time appointment but vesting part-time appointments in the Archbishop. This practice (which sits outside the legislation) did not seem to be generally supported.

The proposal to distinguish between the length of full-time and part-time appointments received no support and was not pursued. In fact, throughout the period of consultation and subsequent discussion there has been little appetite for incorporating small distinctions and differences into legal rules.

**Subsequent consideration:**

Given the reservations from a few about giving up the right of the Archbishop to make every third appointment, this aspect of the matter was further discussed and explored.

Until 1971 under the **Patronage Act 1878** all vicars were appointed using a process not very different from what is again being proposed, that is, by a committee comprising the Bishop or his nominee, a clerk elected by Synod and three Parish Nominators. It is possible that the approach of having the Archbishop fill every third vacancy was introduced in 1971 to provide reassurance to clergy concerned that the abolition of life-time tenure (replaced with appointments for 10 years) would leave some without a parish.

Since 1971 the situation has changed, in that there is a shortage of parish priests. In addition, an Archbishop's appointment is usually preceded by a process involving the assistant bishop and the lay members of the incumbency committee, and in many cases this is not much different from what will be involved in the parish nominations process now proposed. The right of appointment will pass to the Archbishop if an appointment has not been made in 12-18 months.

A possible consequence to be considered, however, is whether discontinuing the Archbishop's right to make every third appointment will reduce the ability to address discrimination against potential appointees, for example on the basis of ethnicity, sex, age or disability.

**Position  
recommended to  
the 2021 Synod**

In the case of every vacancy a parish nominations committee should be convened, and the priest instituted to the parish should be termed "vicar".

Background Paper 5.4: Confirmation by and function of appointments continuation review committee	
<b>Topic</b>	Who conducts the review of a vicar for continuation at the end of term or probation period. <sup>51</sup>
<b>Summary of issue</b>	<p>The issue is what to retain and what to change in the current process to have the current vicar continue in the parish at the end of their initial period as priest in charge, and when there is the option for an extension.</p> <p>The current law is that whether a priest-in-charge should continue as the incumbent after (usually) an initial three years is made 'as determined by the Archbishop' with the potential assistance of the lay members of the parish incumbency committee. In practice, the decision is made by the regional bishop, the archdeacon and the lay members of the incumbency committee.</p> <p>Decisions about extensions are made by the incumbency committee, as the commencement of a process to fill the "vacancy" (which only exists if the current vicar is not appointed to fill that vacancy).<sup>52</sup></p> <p>During consultations, a number of people questioned whether the people on the incumbency committee/parish nominations committee are the best placed to decide on the suitability of the vicar to continue. Options put forward instead were the churchwardens, the parish council, or the parish members of the parish nominations committee.</p> <p>The focus of this background paper is to consider who should make the decision and whether it should be possible or mandatory to involve others in the decision?</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act:</b> sections 20, 34 and 35.
<b>Recommendation/s in August 2020 consultation paper</b>	While not a recommendation in its own right, the 2020 consultation paper noted that "there is no proposal to change the basic and familiar elements of the appointments process, but various specific matters need to be considered." Consequently, both of the following recommendations were made on the assumption that reviews and decisions would be made by the parish nominators.

<sup>51</sup> A probation period is recommended to replace the existing process of a priest in charge being assessed as suitable to become incumbent.

<sup>52</sup> Note that this review project makes a number of changes to the existing system, including removal of distinction between priest in charge and incumbent, replacing the 3-year period as a priest in charge with a two-year probation period, and a standardized appointments process.

	<p><b>Recommendation 32:</b> The review of a priest in their first parish in the Diocese for transition to incumbency should take place between 6 and 4 months before the 3<sup>rd</sup> anniversary of their appointment and should always be assisted by the parish nominators in a manner determined by the Archbishop.</p> <p><b>Recommendation 34:</b> The current process for deciding whether to extend an existing incumbency should be replaced with a process where the designated bishop and the parish nominators meet four months before the date on which the incumbency will otherwise end and the incumbency is extended if so agreed by the designated bishop and a majority of the parish nominators (with the involvement of the Archdeacon – see recommendation 37).</p>
<p><b>Discussion in consultations and submissions</b></p>	<p><b>2020 consultations/submissions:</b> Despite the consultation paper noting that there was no suggestion to create major change, the 2020 consultations and submissions raised issues about whether members of the incumbency committee/parish nominations committee were best placed to make these decisions.</p> <p>It was felt by some that either the churchwardens or parish council would be better placed than the parish nominators to make the decision as they are the people working with the vicar on a regular basis. However, opening it up to the parish council (rather than restricting it to just the wardens) would involve far more people and potentially lead to breaches of confidentiality or politicizing members as for or against the vicar.</p> <p>Most support was for churchwardens to be the parishioners involved in making the decision.</p> <p>The proposal that parish nominators<sup>53</sup> alone could make the decision led some people to query whether a factor in the choice of parish nominators at the preceding annual parish meeting would be whether they would support the vicar continuing, or not continuing.</p> <p><b>Subsequent consideration:</b> Following the initial discussion in 2020, three options were considered in further detail: churchwardens alone, parish nominators alone, or churchwardens and parish nominators. It was recognized that the churchwardens have ongoing and direct</p>

<sup>53</sup> Parish nominators refers to the parishioners who are on the parish nominations committee (ie one churchwarden and, generally, two others elected by the parish). It does not refer to the committee as a whole.

	<p>knowledge of the vicar's circumstances, achievements and challenges. On the other hand, the parish nominators may have been involved in the original decision to appoint the vicar, although after 10 or 15 years this cannot be assumed.</p> <p>It was generally agreed that the only people who should be involved in reviewing the vicar should be the people who make the final decision. For example, the parishioners in general should not be invited to participate as they do not make the decision.</p> <p>A possible consideration also is that the legislation will require that there are both male and female parish nominators, but not male and female churchwardens, so that only by involving parish nominators can representation of both sexes be guaranteed.</p> <p>Another possibility, at least in theory, is that the churchwardens acting along could decide that a vicar not continue, only for the parish nominations committee to reappoint that same person.</p>
<b>Position recommended to the 2021 Synod</b>	<p>The Bill will provide that the decision whether the vicar should continue at the end of a probation period or the end of their term should be undertaken by a committee comprising the churchwardens and the parish nominators, in addition to the assistant bishop (and with the archdeacon having the right to be present and contribute).</p> <p>There should be no legislative requirement to involve either the parish council or other parishioners in the process.</p>

**Background Paper 5.5:**  
**Processes to support continuation of appointments**

<b>Topic</b>	What systems and processes should be required to support the appointments continuation process
<b>Summary of issue</b>	<p>This issue assumes that the current legislative options be continued that provide for—</p> <ul style="list-style-type: none"> <li>- vicars in their first parish in the Diocese to be reviewed at the end of a probation period (currently 3 years, to be reduced to 2 year), and</li> <li>- extension for further periods of 5 years after their initial 10-year term.</li> </ul> <p>The current legislation does not support these two important processes with any requirements about the bases for these decisions, the criteria to be applied or the opportunity for the vicar to contribute to the forming of any judgment. That leaves open the possibility of decisions being based on impressions, anecdote and incomplete information.</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act:</b> sections 20(5) and 34
<b>Recommendation/s in August 2020 consultation paper</b>	(None)
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b></p> <p>This topic emerged in its own right from the discussions in the consultation phase. Some participants were interested not only in <i>who</i> constituted an appointments continuation review committee, but also the basis on which it made its decision. Concerns in particular were uncertainty about the criteria being used, and the vicar's lack of involvement in determining the criteria against which they were being considered and in providing information relevant to that consideration.</p> <p>At the same time, some clergy thought that the processes that are used to achieve fairness in the contemporary world outside the church would be <i>unfair</i> if used in relation to them.</p> <p><b>Subsequent consideration:</b></p> <p>Unsurprisingly, this creates something of a dilemma. To summarize, there are these factors in play:</p> <ul style="list-style-type: none"> <li>• there will continue to be appointment continuation reviews at 2 years and 10 years (and at 5 year intervals thereafter)</li> <li>• there is at present no required or suggested process or basis for that review;</li> </ul>



	<ul style="list-style-type: none"> <li>• there is therefore a risk of unfairness (in various ways);</li> <li>• the national church is considering adopting formal processes for clergy development and appraisal—these may or may not be relevant;</li> <li>• in the secular workforce there are standard and well-known processes to allow fair appraisal;</li> <li>• normal practice would be to have the same person or group (i) setting the goals or criteria for appraisal; (ii) working with the person and providing regular feedback and support; (iii) conducting the eventual appraisal.</li> </ul> <p>Right now, the best way to reconcile these factors might be to require that there be <i>some</i> process (perhaps determined by the Archbishop in Council in parallel with its roles in setting remuneration and working conditions, and in implementing any nationally-agreed approach to development and appraisal) without attempt to stipulate what that process is to be.</p>
<b>Position recommended to the 2021 Synod</b>	<p>The Clergy Act should require that there are systems and processes in place determined by the Archbishop in Council to enable the work of the appointments continuation review committee to enable balanced and fair assessments, that also take into account the input of the vicar, but should not go any further towards mandating what those systems and processes should be.</p>

<b>Background Paper 5.6</b> <b>Confirmation and extension where there is an outstanding matter</b>	
<b>Topic</b>	This issue is concerned with what to do when for consider whether to consider confirming or extending the vicar, a complaint has been made against them, or a charge brought against them, and the matter is unresolved at the time of decision making.
<b>Summary of issue</b>	<p>The overarching problem is that no two cases are the same.</p> <p>Where the matter is not serious and does not relate to the vicar's current role, it seems unfair to prevent the appointment review process from proceeding and taking its course (noting the risk that the vicar's licence might subsequently be withdrawn), or at least being delayed until the outcome of the complaint or charge is know.</p> <p>On the other hand, where the matter is serious and bears directly on the vicar's suitability as a vicar, the continuation process cannot reasonably or fairly proceed, nor can it be right for a vicar to continue past the end of their term when accused of conduct that would make them unsuitable for the role.</p>
<b>Relevant provisions in current legislation (if any)</b>	(None)
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 35:</b></p> <p>In a situation where at the time for the review of a priest in charge or the extension of the term of an incumbent that priest is the subject of a professional standards complaint or a charge before the Diocesan Tribunal, the Archbishop, following consultation with the designated bishop and parish nominators, should determine whether the review or consideration of an extension should proceed or be deferred.</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations and submissions:</b></p> <p>These observations were offered:</p> <ul style="list-style-type: none"> <li>• General support for solution in paper re extensions where there's a professional standards issue. Some suggestion designated bishop could make the call instead of the Archbishop who has too much work already.</li> <li>• Alternatively, seek to resolve professional standards very quickly and then look at extension question.</li> <li>• If parish has already decided they don't want to keep the vicar, extending the incumbency because of unrelated professional standards matter is unhelpful.</li> </ul>

	<ul style="list-style-type: none"> <li>• Should breakdowns in pastoral relationships also be factored into this topic?</li> </ul> <p>At the same time, no-one could propose an approach that would always be fair and appropriate, regardless of the circumstances.</p> <p><b>Subsequent consideration</b></p> <p>The approach that emerged from the consultation process seemed the best that was available—see recommendation.</p>
<b>Position recommended to the 2021 Synod</b>	<p>Where at the time of considering a vicar's end-of-probation confirmation or extension there is a professional standards complaint or charge against them—</p> <ul style="list-style-type: none"> <li>(1) if they are suspended, the confirmation or extension process must proceed; and</li> <li>(2) in other cases, whether the process proceeds or not is at the discretion of the Archbishop, but a postponement cannot be for more than 6 months.</li> </ul>

## Background Paper 5.7 Intentional interim ministry

<b>Topic</b>	Whether to appoint, and possibly license, priests to a parish during a vacancy in the parish when specific work is required to determine some aspect of the future of the parish.
<b>Summary of issue</b>	<p>When a parish becomes vacant, or when a vicar is away from their parish on leave, an acting vicar is usually appointed to run the parish until a new vicar is appointed or until the current vicar returns from leave.</p> <p>In both instances the role of the acting vicar has traditionally been treated the same, regardless of whether they are in the parish for a couple of weeks, many months, or even years. This role would include taking services, chairing parish council meetings, and generally maintaining the status quo. The acting vicar does not make any substantial changes in the parish and does not get involved in matters such as planning the future direction of the parish.</p> <p>This is appropriate where, for example, the vicar is on short-term leave, or when there is nothing about the parish that would militate against moving quickly to appointing a new vicar.</p> <p>However, there are some situations where it may be beneficial to allow a different sort of ministry. This could be where a vicar has retired, and it is known that the parish will need to be restructured before work commences on finding a new vicar. In this instance, a locum vicar could keep services and meetings running, but could not assist in the parish's discernment of their future.</p> <p>The legislation currently provides no distinction between short-term and extended periods of acting appointments.</p> <p>For these reasons it is proposed that the new legislation provide for the option of an intentional interim vicar if a period of review or discernment is required before the appointments process for a new vicar commences. The appointment of an intentional interim vicar should only be made with the consent, or at the request of, the parish council.</p>
<b>Relevant provisions in current legislation (if any)</b>	<b>Appointments Act</b> section 16, 29, and 30.
<b>Recommendation/s in August 2020 consultation paper</b>	<p><b>Recommendation 9.2:</b></p> <p>The Archbishop's ability to appoint an interim vicar should take two forms:</p> <ol style="list-style-type: none"> <li>1. For up to 15 months without any associated process;</li> </ol>

	<p>2. For any period up to two years following a declaration by the Archbishop in Council of suitability for an intentional interim vicar, in which case—</p> <ol style="list-style-type: none"> <li>The Archbishop may appoint an intentional interim vicar;</li> <li>The designated bishop and parish nominators must be consulted regarding the priest to be appointed;</li> <li>The Archbishop may, at the Archbishop's discretion, licence the priest as an intentional interim vicar (revocable at will);</li> <li>The incumbency process is suspended until 6 months before the expiration of that period;</li> </ol> <p>The priest is appointed as intentional interim vicar may be aged 70 or more.</p>
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations/submissions:</b></p> <p>There was general support for the introduction of intentional interim ministry in the Diocese. Some did not support it, and a small number of people thought it should happen whenever there was a vacancy.</p> <p>People were clear on the distinction between a regular acting vicar and an intentional interim vicar. They also wanted this distinction clear in the legislation.</p> <p>It was noted that there are only a very small number of people qualified for this role, and some suggestion there be a pool of qualified intentional interim vicars.</p> <p>The process in the recommendation was felt to be too complex, and it has since been simplified.</p> <p><b>Subsequent consideration:</b> There continues to be support for intentional interim ministry in the diocese. The importance of distinguishing between intentional interim ministry and caretaking remains. Licensing both types of locum vicar would blur that distinction.</p> <p>There is general agreement that there should not be any legislated qualifications for intentional interim ministry.</p>
<b>Position recommended to the 2021 Synod</b>	<p>That the legislation allow a period of intentional interim ministry for 18 months, but without legislating any qualifications for the role.</p> <p>The priest should be licensed to the role and is vicar for the period of ministry.</p>

	The decision to have an intentional interim vicar should be made by the Archbishop on the recommendation of the assistant bishop and the parish council.
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## Background Paper 5.8: Memoranda of Expectation with part-time vicars

<b>Topic</b>	How to anticipate and manage the possibility of divergent expectations in the case of part-time appointments.
<b>Summary of issue</b>	<p>During the review discussion at different times turned to different part-time arrangements, ranging from vicars who undertake general work but at a fraction of the normal time, to those asked to focus on very particular areas of mission or growth, to those who may be in a "house for duty" arrangement, where the only remuneration is the vicarage.</p> <p>There are at least two reasons why it would not be reasonably possible to introduce comprehensive legislation to cover all situations:</p> <ul style="list-style-type: none"> <li>(1) the possible situations are too varied; and</li> <li>(2) we are still a long way from know what all the arrangements are that might be taken up in the future.</li> </ul>
<b>Relevant provisions in current legislation (if any)</b>	N/A
<b>Recommendation/s in August 2020 consultation paper</b>	N/A
<b>Discussion in consultations and submissions</b>	<p>As an alternative to legislating for different types of arrangement, a memorandum of expectations was seen as a way to cover every situation, but without requiring any particular arrangement. The legislation would require that there be a memorandum of expectations with every part-time vicar, but not stipulate what had to be in it. The parties would be the vicar and churchwardens, and it would be countersigned by the assistant bishop.</p> <p>The legislation could provide a checklist of matters to be considered, or covered, in a way similar to that in the Parish Governance Act. It could be reviewed and updated periodically. Such a memorandum could cover matters such as missional objectives, but could also deal with very practical matters such as accommodation and ancillary benefits.</p>
<b>Position recommended to the 2021 Synod</b>	The legislation should provide that at the time when every part-time vicar is instituted, there must be a memorandum of expectations between the churchwardens and the vicar, countersigned by the assistant bishop. The memorandum should be reviewed, and if necessary updated, periodically.

Background Paper 5.9: Risk from vicars' management decisions	
<b>Topic</b>	Allocation of risk arising from decisions at a parish level.
<b>Summary of issue</b>	This topic addresses an issue that has arisen regarding lay people employed in parishes, and what happens if they are dismissed or otherwise dealt with by the vicar in ways that could entitle them to compensation. The problem to be addressed is that the MADC is currently financially and legally liable for decisions made at a parish level in which it has no say.
<b>Relevant provisions in current legislation (if any)</b>	<b>Parish Governance Act:</b> sections 27, 28, 29, 33(1), and 35(1). <b>Melbourne Anglican Diocesan Corporation Act:</b> sections 9 and 10.
<b>Recommendation/s in August 2020 consultation paper</b>	<b>Recommendation 15:</b> The new Bill should provide that the parish from its funds indemnifies the MADC against any costs incurred by it arising from a decision made by the vicar in relation to the direction, supervision or management of a member of the clergy employed in the parish.
<b>Discussion in consultations and submissions</b>	<p><b>2020 consultations and submissions:</b></p> <p>People were initially wary of the recommendation, but once the issue was explained in more detail they recognised it was a genuine problem and suggested the recommendation could be reworded to make the issues clearer.</p> <p>There was concern that the recommendation might inhibit the engagement of additional clergy or staff, or that members of the parish council would become personally liable and would need to take out insurance.</p> <p>Some people took the view that because we are one diocese, the risk should be evenly spread out across all parishes. However, people from smaller parishes questioned why they should contribute to underwriting the decisions of large parishes when they can't afford anyone other than a vicar.</p> <p>A proposed alternative solution was put forward, which would require larger parishes to pay a contribution every time they hire clergy or staff, and this would compensate for smaller parishes who wouldn't be required to contribute. This would prevent a situation where individual parishes were individually liable, but wouldn't create an unfair burden on smaller parishes.</p> <p>Another consideration was that the churchwardens have no control over the decision of the vicar that will give rise to the parish's liability.</p>



	<p><b>Subsequent consideration:</b></p> <p>Following the 2020 consultations, three options for where risk should lie were put forward:</p> <ul style="list-style-type: none"> <li>• The parish; or</li> <li>• The MADC; or</li> <li>• A common fund.</li> </ul> <p>No one thought that risk should lie with the MADC. Some thought it should lie with the parish alone, but others had some concerns about this. For example, why should the parish have to pay for a decision made by the vicar alone?</p> <p>People questioned why the vicar by themselves can remove an employee and create such a risk, and why more people aren't involved in the decision – the answer is that this is currently permitted under section 29 of the Parish Governance Act. It was noted that vicars should undergo training to mitigate these risks.</p> <p>It was thought that in practice, it would be very unusual for a vicar to make these decisions alone, and that there would usually be some consultation with the wardens. It was therefore suggested that such consultation be mandated to minimise risk.</p> <p>If the recommendation is followed, the MADC would still be legally liable, but would have the right to be reimbursed by a parish.</p>
<p><b>Position recommended to the 2021 Synod</b></p>	<p>It is recommended that:</p> <ul style="list-style-type: none"> <li>• The parish should be liable for its own decisions; and</li> <li>• The Parish Governance Act should be amended to require the vicar to consult with the churchwardens before altering or terminating a lay appointment.</li> </ul>

## **Part 4: Matters where there is no recommendation for legislation in the Clergy Bill**

### Clergy as employees

- Extensive consideration was given to the possibility of making clergy employees of the diocese but following significant concerns from the clergy it was decided not to pursue this option further.
- The existing position that clergy are office holders will continue.

### Breakdown of pastoral relations

- Legislating processes for dealing with breakdown in pastoral relations was supported.
- However, including such provisions in the Clergy Bill was thought to suggest that the clergy are always the ones at fault. In reality, anyone or any group of people in the parish could be the cause, or there could be fault on all sides.
- Further work will be done on this topic and it will eventually come to synod as a separate Bill.

### Joint vicars

- At present there are two priests who are priests in charge (not rectors) in the Diocese of Gippsland. There are no other joint parish priests in Australia, although there may have been in the past in the Northern Territory and Brisbane.
- There appears to be no legislative provision for joint parish priests (priests in charge or rectors) in any of these three Dioceses.
- There was some support for flexibility in ministry arrangements, but very little support for joint vicars specifically, especially in the case of married clergy where the possibility of male dominance, or a perception of it, may emerge as an issue.
- It proved hard to describe a model in which each priest was equally and fully responsible and accountable for discharging all the responsibilities of the vicar.
- It was therefore decided not to pursue this topic in the Clergy Bill.

### Diocesan Tribunal

- Following the 2020 consultation process it was decided that matters relating to the Diocesan Tribunal would be more appropriate in a stand-alone Bill.
- A Diocesan Tribunal Bill is being prepared and will be presented at the 2021 Synod.

## Melbourne Archdiocesan Act 1980

- Recommendations 1 and 2 of the August consultation paper suggested the Melbourne Archdiocesan Act be re-enacted in the Clergy Bill. Following consultations it was determined that the Archbishop is a unique case and shouldn't be included in legislation with other bishops and clergy. It was also noted there is already a project to review the Archbishop Election Act.

The new Bill should not reenact the provisions of the Appointments Act relating to new areas parishes.

- The recommendation in the 2020 paper was that these provision should not be reenacted as they have not been used in living memory and the diocese now has other ways of achieving similar outcomes.
- There has been essentially no discussion or argument against this proposal (one written submission raised concerns about the loss of this particular option for church expansion) so it will proceed as planned.

The new Bill should not reenact the provision of the Appointments Act relating to the recovery of property from a former vicar.

- Provisions providing for recovery of property do not add any rights to the church that would not already exist in civil or criminal law.
- There was no discussion or argument against this proposal so it will proceed as planned.

## Abandonment

- This issue was raised in the 2019 paper. However, in 4.7 of the 2020 paper it was noted that abandonment could be covered by existing offences under the Offences Canon. That paper also suggested that consideration could be given to creating an additional offence for circumstances that fell short of 'habitual or wilful neglect of ministerial duty after written admonition in respect thereof by the archbishop'.
- Despite this suggestion it was not brought up in consultations and there is no need to consider additional legislation.

## Appendix – Overview comparison

Topic	Current position	Recommendation
Meaning of "assistant bishop" in relation to a parish	—	in relation to a parish the assistant bishop charged by the Archbishop with episcopal oversight of that parish
Term for search and appointments committee for vicar	incumbency committee	parish nominations committee
Term for appointed and elected members of search and appointments committee	incumbency committee members	parish nominators
Term for priest during an vacancy	<i>locum tenens</i>	acting vicar
Term for bishop in relation to parishes	Regional bishop	assistant bishop
Term for priest instituted to a parish	vicar, priest-in-charge, incumbent	vicar
application of Act	does not apply to the Cathedral	does not apply to the Cathedral
application	—	apply to any person in Holy Orders resident in or exercising ministry in the Diocese of Melbourne
legislation relating to assistant bishops	<b>Assistant Bishops Act 1985</b>	incorporate provisions of the current <b>Assistant Bishops Act 1985</b> in the new Act
additional offices of assistant bishops requiring Archbishop in Council approval	"any additional office" (s 7)	"any role, office or position to which the bishop is licensed by the Archbishop"
retirement age of assistant bishops	70	70
archdeacons - qualification	in Holy Orders for more than six years	in Holy Orders for more than six years
archdeacons – term of office	set term or until the next vacancy in the See	the term (defined by reference to a period of time or a specified event) specified in their licence
status of clergy	—	not employees, and hold office or on the terms established by this Act
requirement for licence	(no legislation, except under Professional Standards Uniform Act)	a member of the clergy may perform a clerical office only if licensed to do so by the Archbishop or if the holder of a permission to officiate
scope of permission to officiate	—	may be general or for a single occasion
possibility of licensing a person of any age	legally possible, but not so stated in legislation	explicit provision that there is nothing in the legislation of this Diocese to prevent the Archbishop from licensing

Topic	Current position	Recommendation
		a person in Holy Orders of any age to a role within the Diocese
licensing of acting vicars	—	a clerk may be licensed as an intentional interim vicar, but not as an acting vicar
means of resignation	—	in writing to the Archbishop
retirement	incumbents at 70; otherwise no provision	specified term—at the end of the term indefinite term—on turning 70
professional development	—	clergy must comply with any requirements adopted by the Archbishop in Council
determining remuneration and working conditions	determined partly by the Diocesan Stipends Committee, partly as guidelines by the episcopate, partly by local custom and practice or not at all	Archbishop in Council to determine remuneration, allowances and other conditions (except for clergy in employment and the Cathedral). To be reviewed annually.
coverage of determination	full-time vicars, and potentially part-time clergy, acting vicars, and other staff	all clergy, including assistant bishops, and those with particular or additional roles (eg archdeacons)
process leading to determination of remuneration and working conditions	Where Diocesan Stipends Committee, must take certain matters into account; otherwise no process	Archbishop in Council must have advice from a qualified specialist, and the MADC, and input from stakeholders.
superannuation	as in Superannuation Act	as in Superannuation Act
removal on the grounds of physical or mental incapacity	(no provision, unless first accused of misconduct)	a process of independent medical assessment which could lead to a licence being withdrawn
constitution of parish nominations committee	assistant bishop + parish nominators (elected and churchwarden) (must support recommendation) archdeacon and clerical consultant elected by Synod (must support recommendation if it is unanimous) lay facilitator (appointed by Archbishop in Council) – non-voting	assistant bishop + parish nominators (elected and churchwarden) (voting)  archdeacon (present as of right, non-voting)  consultant (appointed by Archbishop in Council, non-voting)
equality in male and females parish nominators	—	processes to achieve equality where possible
participation of parishes in parish nominations process where co-operative agreements in place between parishes	This may be covered, but does not have to be	legislation should be more explicit, and reflect the principle that every parish should be able to have input to the choice of its vicar
trigger for convening the parish nominations committee	when the parish becomes vacant or the regional bishop has notice that it is about to become vacant or the term of office of the incumbent is about to expire	6 months before the known date of the vicar's last service (or sooner, if so decided by the Archbishop); as soon as date of vicar's last service is known, if less than 6 months hence

<b>Topic</b>	<b>Current position</b>	<b>Recommendation</b>
who convenes the parish nominations committee and when	the Registrar with all convenient speed	the Registrar within two months
postponing the convening of the parish nominations committee	the regional bishop with the formal consent of the parish council can delay convening for 3 months to permit an externally facilitated review of the parish	The assistant bishop, the archdeacon and the parish council (by a simple majority of all its lay members) may agree that the process of filling the vacancy be suspended for a period of time that is specifically agreed and set and notified to the Registrar
for what appointments is a parish nominations committee convened?	Under the Act: all except each 3 <sup>rd</sup> appointment, or if the Archbishop in Council declares that a parish does not have the right of appointment In practice: also unless it is a part-time parish	All vacancies; but assistant bishop and parish council can agree to give the Archbishop the right of appointment
commitment of parish nomination committee members to confidentiality	(no requirement)	All members to sign a commitment to confidentiality
responsibilities of parish nominations committee	to consider names and make recommendation to the Archbishop	to consider names and make recommendation to the Archbishop, including regarding the terms of the agreement
terms of agreement for part-time vicars	—	When the appointment is less than full time, the terms of the agreement are to include the details of the proposed part-time arrangement
Archbishop's role following recommendation	Archbishop to offer appointment in order recommended once satisfied as to canonical fitness, subject to the Archbishop's right to reject recommendations and remit matter to committee	Archbishop to offer appointment in order recommended once satisfied as to canonical fitness and other legal requirements, subject to the Archbishop's right to reject recommendations and remit matter to committee
delays in making a recommendation	Archbishop must meet with committee if no appointment accepted within 6 months, and may make appointment if no appointment within the subsequent 3 months	Archbishop may meet with the assistant bishop and parish nominators at any time. The Archbishop may meet with the full committee after 12 months and must after 18 months, and may then make it an Archbishop's appointment.
period of appointment (unless first parish, etc)	10 years	10 years
probation period	maximum of 3 years	2 years, but right to bring forward a review
when probations period applies	the first parish to which the priest is licensed in the Diocese (unless otherwise determined by the Archbishop)	ordained less than 5 years, first licence in the Diocese, or where recommended by the parish

<b>Topic</b>	<b>Current position</b>	<b>Recommendation</b>
		nominations committee and agreed by the Archbishop.
period of possible extension after 10 years	5 years	5 years
periods of appointment, probation and extension for other parish clergy	—	as for vicars
when term of appointment ends when appointment not confirmed	after the review that takes place at the end of 3 years	2 years from institution
confirmations / extension – who makes decision	Confirmation: Archbishop with potential assistance of the lay members of the incumbency committee Extension: incumbency committee	assistant bishop, churchwardens and parish nominators (archdeacon has right to be present and contribute)
confirmations / extensions — where charge or professional standards complaint	—	vicar suspended: process proceeds vicar not suspended: Archbishop determines whether process should proceed, but cannot postpone for more than 6 months
confirmations / extension – required systems and processes	—	to be prescribed by Archbishop in Council; with an opportunity for the vicar to be engaged in some way
removal of vicar	Only in accordance with an Act of the Synod	Only in accordance with an Act of the Synod
acting vicars	appointed by Archbishop	appointed by Archbishop
acting vicars – terms of appointment	with the same rights as a full time incumbent	as agreed between the acting vicar, the churchwardens and the Archbishop
intentional interim vicar	(not an option)	decision will be made by the Archbishop on the recommendation of the assistant bishop and the parish council
part-time vicars – written memorandum of expectations	(possible, but not recognized in legislation)	For every part-time vicar there must be a written agreement setting out expectations between the wardens and vicar, countersigned by the assistant bishop
liability for employment decisions in relation to lay staff	—	Amend the Parish Governance Act to make parishes liable for a vicar's decisions in relation to employed lay staff that would otherwise be a liability of MADC; and to require vicar to consult churchwardens before making such decisions

<b>Topic</b>	<b>Current position</b>	<b>Recommendation</b>
breakdown in pastoral relations	detailed process in Part 5 of the Appointments Act	replacement process still being developed
recovery of property from former vicar	legislative right to recover	do not re-enact: the legislation does create rights additional to those at law