

FREEHOLD AND THE CHURCH OF ENGLAND PLC

David Phillips

Is clergy freehold on its last legs? A new report, ‘Clergy Terms of Service – Part 2’ has proposed its abolition. Whilst this may be just the latest in a series of reports proposing such a change, it comes on the back of an earlier report which will almost certainly be implemented in some form.

There are strong arguments for change. The idea that Christian ministry should be considered as a piece of property seems anachronistic. The concept of a so-called ‘job for life’ does not readily spring from the pages of the New Testament. It does sometimes protect incompetent clergy. In a shrinking church freehold frustrates plans for parish reorganization. It is too inflexible to meet the needs of the missionary situation of modern Britain. Despite these strong arguments it is not enough just to get rid of freehold, something must be put in its place. It is once we start asking what would replace freehold that the concerns become apparent, not simply about the role of clergy, but about the very nature of the Church of England. Such change must not be brought about through the back door; it must be faced up to and debated openly.

Clergy Terms of Service (part 2) contains four particular proposals.

- 1) Clergy freehold should be abolished gradually by appointing all clergy to posts under what is ‘common tenure’. This new concept was set out in ‘Clergy Terms of Service Part 1’ in relation to clergy who do not have freehold.
- 2) Clergy should be subject to a capability procedure. This includes mechanisms for review, evaluation, dismissal and redundancy.
- 3) A new Human Resources infrastructure, at an estimated cost of at least £1.3million (the equivalent of 30-40 clergy posts).
- 4) The transfer of the freehold of property (Church, Churchyard and Parsonage) so that it is vested in the Diocesan Board of Finance (DBF).

It is claimed that this does not affect patronage, but since patronage is so closely linked to freehold it will be affected.

Whilst these changes are dramatic, they could have been even more so. The review group chose not to propose making clergy employees of the DBF, which had been under discussion. Further, the proposal does not mean the building belongs to the DBF outright, they will hold it on trust for the parish. Nevertheless, the proposals as they stand will affect the nature of the Church. As with other changes in recent years this would be a series of further steps to becoming what is in effect the Church of England plc.

The establishment of the Church of England works at different levels. There are the obvious links between the Church, the monarchy and government, links that operate in both directions. But establishment, in particular our role as the national Church, is also worked out at the local level. The parish system is part of this, whereby the Church has, at least in theory, a duty to care for the spiritual wellbeing of the whole population. One result of this is that, within certain bounds, parishioners can avail themselves of the ministry of their parish church.

Clergy freehold and capability

The report proposes that all clergy eventually hold their office on the basis of ‘common tenure.’ This does not make them employees, but it changes the relationship with parish, Bishop and Diocese. This concept was introduced in the first report as a way of giving greater security to those

clergy (almost half) who do not have freehold. The Church was forced by the Government to look into some such provision and it is a welcome improvement. By piggy backing the two sets of proposals it makes it far more likely that freehold will be abolished this time.

Part of the problem is that common tenure is completely new, we have no idea how it will work in practice. Whilst no-one presently with freehold will be required to give it up those who would otherwise give it up will instead hold their office under an untried system which could easily work very differently in practice to what people anticipate. You only have to look at the Pastoral Measure and the present practices in regard to suspension of livings to see how Church legislation can end up being used in very different ways to what was intended.

The capability procedure is aimed at helping clergy better fulfil their role and to take action when they are incapable of doing so. There would be a need for this, but again we are already in untried territory. The new Clergy Discipline Measure, which can be used when there are various accusations against clergy, has been approved but not yet implemented. The code of practice is still being produced and again we have no clear way of knowing how this will work in practice. Furthermore, whilst there may well be incapable clergy, our greater problem is with clergy who do not believe the teaching of Scripture, yet the Synod rejected a new measure to discipline in respect of doctrine. (In February the House of Laity voted to bring back proposals for doctrinal discipline but we do not know where this will lead.) We are in a state of great flux and uncertainty and there is therefore a strong argument for letting the dust settle before stirring things up further.

The concerns about change are exacerbated by the breakdown of trust within the Church. Doctrinal innovation and the response of revisionists to those who have resisted them has been part of the reason for this. Moreover declining numbers and widespread pastoral reorganizations, often dictated from the centre, have irritated many in parishes and even driven people away from churches. Clergy have valued freehold because it gives them freedom to preach the gospel even if this is unpopular. The fear many have is that under the new proposals it will be far easier to get rid of those whose message does not fit with what people want.

The proposals in relation to redundancy are also of great concern. Because the clergy numbers are falling there is clearly a need for a reduction in the number of posts and freehold is seen as a major barrier to change. Many Dioceses seem to see their role as shuffling pieces around the board. The new proposals whilst not making clergy employees which change the relationship with the Diocese, making them much more like contractors working for a big corporation whose management make the decisions where they can best be deployed. But where is the evidence that this approach is actually working? As has been said many times before, this is just managing decline. On the contrary, there is reason to think that churches with a strong sense of purpose, and a strong and consistent ministry, without outside threats, are more likely to be the foundation for any reversal of the spiritual and numerical decline of the Church of England. If freehold goes these very churches will also be under threat.

The other side of all this is that there are places where there is real Church growth including church planting and other initiatives that do not fit comfortably within the present structure. Part of the purpose of the proposals is to allow for this sort of flexibility and in particular for new posts to be created more easily. There is certainly sense in this and it is true that freehold can sometimes stand in the way of such dynamic change.

Human Resources infrastructure

In order to implement the capability procedures it will be necessary to pump a lot of money into the infrastructure to make this happen. I think people are going to balk at the cost of this when many

already feel we have too many Diocesan posts and are constantly having to cut parish ministry. But I am also concerned that, as necessary as this may appear, it is also part of the drift towards the big corporation model of Church. We are moving away from seeing the minister's primary reference point as being the local fellowship that they serve. Clergy are not employees of the national Church, they are given a stipend in order to set them free to minister in a local congregation. Whilst there are times when external help is required (as patrons we sometimes get involved in this) the clergyman should relate first and foremost to the co-leadership in the local church and to other clergy in their area rather than to a Diocesan human resources department.

Who owns the property?

The properties, that is the Church, Churchyard and Parsonage, are not owned by the corporate or central body of the Church of England, nor by the Diocese, nor by the PCC. With few exceptions they are held in trust by the incumbent for the parish (not the congregation). The parish can use the properties, albeit with certain strings attached; they can only be used in accordance with the rules of the Church of England by law established. The incumbent and others should ensure that the properties are used rightly (in some instances this might mean incumbents locking themselves out, so that they don't preach their errors from the pulpit!) Because the buildings are held on behalf of the people the disposal and transfer of those buildings has to be regulated by the representatives of the people, that is parliament. There are very strict rules under which Churches can and cannot be transferred or disposed of and these are all laid down in Parliamentary Measures. The parishioners can't just vote to sell their Church, or change it into a bingo hall. Nor can the incumbent do anything other than allowed by Measure.

If the freehold of office is to be abolished the Clergy Terms of Service report therefore argues that the freehold of property cannot rest with the minister. It would be possible for the minister to continue to hold the freehold of property by warrant of their office. The report seems to sidestep this, but it is possible because Churchwardens hold in trust the moveable bits of the Church by warrant of their office. Instead, what the report proposes is that the Diocesan Board of Finance would become the custodians of the properties although they too would hold it on behalf of the parish. There was understandably a lot of resistance to this in the Synod debate and every indication that those proposing it recognise that they will not get this proposal through as it is. Not even all DBFs are keen since it would be perfectly possible for a PCC to say that since the DBF were the trustees they should maintain the building.

The spectre this change presents, is what we now witness in the USA, where congregations in dispute with their Bishop have been thrown out of their buildings which they paid for and built. Whilst the proposals in the report have safeguards, they are comparable to those in relation to pastoral reorganization and, as many will know, these do not amount to much of a safeguard at all.

What is at stake in these proposals is not just the way in which clergy hold their office, but the very nature of the Church of England.