

## **33/98 Establishment of Congregations as Parishes**

(A report from the Standing Committee.)

### **Reference**

1. By resolution 33/98 the Synod requested that Standing Committee bring to the 1st session of the 45th Synod legislation to enable the establishment of congregations as parishes without requiring them to own any property.
2. We asked that the Legal Officer, Mr Robert Wicks, prepare a report outlining the matters of principle to be considered in preparing the legislation requested by resolution 33/98. Upon receipt of that report, we appointed a committee comprising Mr Neil Cameron, Archdeacon Trevor Edwards, the Rev Phillip Jensen and Bishop Ray Smith to review the report and made recommendations (including from a practical and pastoral perspective) as to the principles on which the draft legislation should be prepared.
3. It was not possible for us to consider those principles or to review draft legislation, prior to the 1st session of the 45th Synod. Accordingly, we are not able to recommend any form of legislation to the forthcoming session of the Synod. However, to comply with the spirit of resolution 33/98, we agreed to report to the Synod the principles suggested by the committee as the basis for legislation and to circulate a draft ordinance prepared as an exposure draft for comment.
4. The balance of this report sets out the principles suggested by the committee. The draft ordinance will be available at the session of the Synod.

### **Approach**

5. In formulating principles for the legislation requested by resolution 33/98, the committee had regard to a variety of different scenarios in which congregations that fall outside traditional parish structures can come into existence. While recognising that formal recognition by the Diocese should not necessarily be extended to all conceivable types of congregations, the committee considered that draft legislation should provide a high degree of flexibility to ensure that possibilities for recognising ministry are opened rather than unnecessarily restricted.

### **Principles**

#### *Recognised church*

6. The committee considered that legislation should establish by way of separate ordinance a non-territorial unit called, say, the recognised church. Although Synod's resolution requests legislation for the establishment of congregations as parishes per se, the practical effect of Synod's resolution requires the creation of a non-territorial unit.

*Process for recognition*

7. The committee considered that the process to accord recognition to an established church should broadly parallel the process of forming a new ecclesiastical district under the Parishes Ordinance 1979. The regional council should however have the central role in the process of recognition as follows -

- (a) determining whether the criteria for recognition have been established; and
- (b) conferring recognition on a church if the criteria for recognition have been established; and
- (c) notifying the Synod and all parishes in the region of the recognition.

8. The committee carefully considered the argument that proposals for recognition should be debated at Synod before recognition is conferred. On balance the committee was not persuaded that this approach would be necessary or desirable for the following reasons -

- (a) a proposal for recognition of this type of church will not by definition require consideration of property matters which, in the committee's view, is a central issue associated with Synod's consideration of proposals to create new ecclesiastical districts;
- (b) the criteria for recognition, particularly those of distinctiveness and the appointment of a suitable minister of the church, contain safeguards which should minimise the possibility of inappropriate ministries being recognised;
- (c) the regional councils and regional bishops rather than Synod should have primary responsibility for integrating and encouraging new ministry initiatives within their region.

*Criteria for recognition*

9. The criteria for recognition are -

(a) **Financial viability**

Financial viability would include the ability to financially support the minister of the congregation and to pay assessments. Financial support of the minister would include providing housing arrangements acceptable to the minister. The committee considered that legislation recognising established churches should not include a concept of provisional parish or missionary district. To include either concept would imply, perhaps inconsistently, that a church need not be fully established prior to being recognised.

(b) **Minimum number of members**

It was suggested by one member of the committee that the minimum number should be between 80 and 120 members of which  $\frac{2}{3}$  should regularly attend services. One reason for requiring a minimum number of members over and above the

requirement of financial viability is to avoid a situation which would enable a small number of wealthy individuals to seek recognition for their own church.

(c) **Distinctiveness**

A third prerequisite should be an identifiable initial distinctiveness in the character of the congregation. Distinctiveness might be based on socio-economic, occupational, age, ethnicity, or other grounds. However the committee did not consider that theological distinctiveness should be an acceptable ground. One reason for requiring an element of distinctiveness is to address the pastoral implications of recognising independent ministries that will necessarily operate within areas traditionally viewed as the responsibility of the incumbent of the local parish.

(d) **Suitable minister**

The committee considered that the minister of a recognised church should be an ordained Anglican minister. Subject to appropriate theological training, it is envisaged that a person could be ordained for the purpose of leading a recognised church and licenced to act as minister of that church. However a person ordained in such circumstances would not generally expect to be licenced to minister in any other context. A licence to act as a minister of a recognised church should be drafted such that it expires upon the recognised church losing recognition. The committee noted that, as with any parish, the suitability of the person licensed as the minister of a recognised church would be the only real means by which the Diocese could regulate the theological soundness of the church.

*Governance*

10. The committee considered that governance of a recognised church should be based as far as possible on the procedures and offices established under the Church Administration Ordinance 1990 and related ordinances. So, for example, it is suggested that the office of churchwarden should be utilised and that a church council, modelled on the parish council, should be established.

*Mobility*

11. The committee recognised that a degree of flexibility must be given to a recognised church in respect of the location of its meeting place from time to time. The committee also recognised the undesirability of a recognised church moving its meeting place arbitrarily within the Diocese. The committee considered that any movement of a recognised church within the same region should be notified to the regional council and the parish into which or in which the recognised church is moving. Any movement of a recognised church across a regional boundary should be notified to both regional councils involved and the parish into which the recognised church is moving.

*Form of Services*

12. The committee considered that a recognised church should be under the same obligations to conform with authorised services as any other church.

*Dispute Resolution*

13. The committee acknowledged that the recognition of established churches may create new tensions with surrounding parishes. However, the committee considered that the traditional parish dispute resolution mechanism involving the pastoral role of the bishop would remain the most appropriate way of dealing with such tensions.

*Responsibilities*

14. The responsibilities of a recognised church should be the same as the responsibilities of a parish. However, the pastoral responsibilities of a minister of a recognised church would be limited to the members of the church.

*Benefits*

15. The benefits of a recognised church would be the same as the benefits of a parish.

*Process for de-recognition*

16. The committee considered that the following should be the bases upon which a recognised church should lose recognition -

- (a) a failure to have a minister appointed to the recognised church for a continuous period of 13 months;
- (b) a default by the recognised church in its financial obligations and a failure to remedy such default by the following financial year; and
- (c) upon application by the recognised church at any time.

17. The committee considered that it would be impractical to base de-recognition on a failure to maintain the minimum number of members or distinctiveness initially necessary for recognition.

18. Upon losing recognition, any money held by the former churchwardens should be made available for the use of the former recognised church.

For and on behalf of the Standing Committee

ROBERT WICKS  
*Legal Officer*

29 September 1999