



Trinity Edition: Editorial:

Apologies for the slightly longer than usual delay between editions of the newsletter due entirely to the intervention of an unexpected General Election and the editor's candidacy (see p.3 Church Times, 19.05.17 for details). And welcome to the new-look ELS newsletter, sporting our new logo, links to the new website and some changes to ordering of the content. So we begin with the Dates for the Diary, some short items and then on to the meat of General Synod's Agenda, items from the Consistory Courts and guidance for PCCs from various sources on Church Security, accounts and expenses.

DATES FOR THE DIARY:

Inter-Inn Mooting Competition 2017 – Thursday 6th July – Inner Temple – 6.30pm

For the past three years the ELS has sponsored the Inter-Inn Mooting Competition providing a cash prize of £500 for the winning team. This year's final will be held at Inner Temple on Thursday 6 July 2017 at 6.30 pm. Members of the Society would be welcome to attend the moot which will be followed by a reception. There is no charge but you are asked to take your seats by 6.20 pm.

London lectures 2017 - free of charge and open to members and non-members, but please book ahead (with admin@ecclawsoc.org.uk) as spaces are limited.

Lectures continue to be held at Winckworth Sherwood, Minerva House, 5 Montague Close, London SE1 9BB and begin at 5.30pm with refreshments available from 5pm.

11th October 2017 – Sir Mark Hedley DL, Deputy Chair and Deputy President of the Tribunals, *Practical Aspects of the Clergy Discipline Measure*

More details at: <https://ecclawsoc.org.uk/cdm-lecture/> and to book online.

Church Law: Carrot or Stick? - Following on from the successful training day held in London in November 2016 a further session of Training for the Trainers will be held on **30th October 2017, from 10.30am to 3.30pm at the Leeds Diocesan Offices, 17-19 York Place, Leeds, LS1 2EX**. The price for the day is £20 and includes lunch as well as training materials. Please see: <https://ecclawsoc.org.uk/events/training-for-the-trainers/> for more details and booking

Advance Notice:

Education on Canon Law - Day Conference & AGM – Saturday 17th March 2018 – at St Bride's Institute, Bride Lane (off Fleet Street) London EC4

Lyndwood Lecture 2018 – Professor Diarmaid MacCulloch on Richard Hooker; venue and date to be confirmed in due course

Save the Date: ELS Residential Conference 2019 – to be held at Cumberland Lodge, Windsor from 5th to 7th April 2019 – on the evolving nature of establishment.

Publications:

Ed. Mark Hill QC, Cardiff University & Richard H Helmholz, University of Chicago *Great Christian Jurists in English History* Cambridge, Cambridge University Press 2017

Go to: www.Cambridge.org/ChristianJurists Code JURISTS17 to claim a 20% discount

ELS EVENT Report:

London Lecture 21st June 2017 - "The Embassy to the Holy See: who, what, why?"

Nigel Baker OBE MVO was Her Majesty's Ambassador to the Holy See from 2011 to 2016. He braved one of the hottest days of the year to talk to the ELS in the (air conditioned) offices of Winckworth Sherwood, between the Thames and Southwark Cathedral, rather than the Tiber and St Peter's Basilica. Nigel, who had previously been in a more conventional appointment as Her Majesty's Ambassador to Bolivia, provided a fascinating and entertaining insight into one of the lesser known ambassadorial jobs in the Foreign and Commonwealth Office. Lesser known it might be, but we heard how the role is in fact a challenging and significant one, covering everything from intelligence gathering and influencing a huge multi-national organisation, through to facilitating Vatican/UK cricket matches and helping to ensure that UK ecclesiastical lawyers visiting Rome are well looked after.



SHORTS:

Peter Ball:

The Independent Review of the criminal activities of Bishop Peter Ball, led by Dame Moira Gibb reported on 22nd June 2017, under the title 'An abuse of faith'. The full report can be read at: <https://www.churchofengland.org/media/3999908/report-of-the-peter-ball-review-210617.pdf>

Subsequent to the publication of the Review Archbishop Justin Welby asked the former Archbishop of Canterbury, George Carey, to consider his position and Lord Carey has subsequently stood down from being an honorary assistant Bishop in Oxford.

The Online Faculty System: Are you a churchwarden or member of clergy who has used the Online Faculty System? Would you be willing to give some feedback about the experience to the User Group Committee?

Most Dioceses are now signed up to using the Online Faculty System and it seems to be bedding down well with most snags now resolved. The User-Group who have overseen the development of the programme and sorting out the snagging, would like to hear from users in parishes so that their perspective can also be considered.

If you would like to contribute some (polite) feedback please respond to the editor and your views will be passed on to the Group. The next meeting is in December so you have a few months in which to respond.

SYNOD PAPERS: JULY GROUP OF SESSIONS 2017

The legislative business is listed below; full details of items on the Agenda can be found at:

<https://www.churchofengland.org/media/3996908/gs-2059-agenda-for-the-july-2017-group-of-sessions.pdf> - Legislative Business is found at Special Agenda I

Friday 7 July 2017

GS 2060 - Report by the Business Committee [item 3] – Summaries of the Legislative Business can be found at pages 6 and 8

GS 2029B - Draft Amending Canon No.36 for final approval [item 507]

Saturday 8 July 2017

GS 2063 - Presence and Engagement [item 9]

GS 2027B - Draft Legislative Reform Measure [items 500-501]

GS 2030B - Draft Statute Law (repeals) Measure [items 502-503]

GS 2032B - Draft Pension (Pre-consolidation) Measure [items 504-505]

GS 2027Z/2030Z/2032Z - Report by the Steering Committee [items 500-505]

GS 2029Z - Report by the Steering Committee [items 506-510]

GS 2064 - Draft Church of England (Miscellaneous Provisions) Measure [Legislative Business]

GS 2065 - Payments to the Churches Conservation Trust Order 2017 [Legislative Business]

GS 2066 - Legal Officers (Annual Fees) Order 2017 [Legislative Business]

GS 2067 - Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2017
[Legislative Business]

Sunday 9 July 2017

GS 2072 - Clergy Wellbeing [item 15]

GS 2073A - Schools Admissions Code, A note from The Revd Tiffer Robinson [item 16]

GS 2073B - Schools Admissions Code, A note from The Secretary General [item 16]

Monday 10 July 2017

GS 2075 - The work of the General Elections Review Group [item 18]

GS 2029C - Draft Petition for Her Majesty's Royal Assent and Licence [item 508]

GS 2029BB - Draft Amending Canon No.37 for final Approval [item 509]

GS 2029CC - Draft Petition for Her Majesty's Royal Assent and Licence [item 510]

CONSISTORY COURT JUDGEMENTS – SOME MORE BURIALS...

Exhumation, Errors in burial and “coffin sliding”- McGregor Ch

Re Fairmile Cemetery Lower Assendon [2017] ECC Oxf 2 The petitioner sought permission to exhume and re-inter a body mistakenly (thanks to Administrative errors at Henley-on-Thames Town Council) buried in a plot reserved for the Petitioners family. It transpired that the Council had engaged in a practice of “sliding” coffins to neighbouring plots to remedy mistaken burials in the wrong plot. It was suspected that the practice was not confined to this particular Council. The wrongful burial in the family plot was made worse by a second incorrect burial, though not relevant to the consistory court matter.

The Chancellor refused a faculty, finding that the distress of exhumation and disruption of the permanence of burial likely to be caused to the family of the incorrectly buried deceased outweighed the petitioner’s ‘personal preference’ for a family burial plot. The burial authority was willing to remedy the situation by granting an exclusive right of burial in an adjacent plot for the petitioner’s family. The year’s delay between the erroneous burial and the lodging of a petition was also a factor in the decision.

The Chancellor also made clear that ‘sliding coffins’ (excavation of ground and sideways movement of the coffin) as a means of informal relocating of erroneously buried bodies was an ‘interference with human remains’, which if buried in consecrated ground and removed without faculty, would be unlawful by ecclesiastical law. Such unlawful action would lead to reports to the Registrar to refer the matter to the Archdeacon so as to take steps to enforce ecclesiastical law. In addition, if such action amounts to remains being “removed” it should be reported to the police to investigate whether a criminal offence has been committed. .

Re St. John the Baptist Hillmorton [2017] ECC Cov 1 – Eyre Ch – Collective Memorials

Although the Grade II* listed church and many of the churchyard memorials were of sandstone the priest-in-charge, churchwardens and PCC as petitioners sought a faculty for a polished granite collective memorial for remains in the Memorial Garden. It was held that the collective memorial would be positioned at a distance from individual memorials and neither equitable interment nor individual preference was an issue for collective memorials. Accordingly, as a reflection of the decision of the PCC, wardens and priest-in-charge which would not adversely impact on the churchyard a faculty was granted.

SAFETY AND SECURITY IN CHURCH BUILDINGS:

Although the likelihood of an attack upon churches remains low, in the wake of the recent terrorist attacks in Manchester and London the Church of England has produced some guidance about taking precautions and what to do in the event of what may look like a terrorist attack or similar emergency. The advice includes a Blog by John Hall, Dean of Westminster following the Westminster Bridge attack information from Citizen Aid and the National Counter-Terrorism Security Office. It can be found at:

<https://www.churchofengland.org/about-us/our-buildings/safety-and-security-in-church-buildings.aspx>

In the wake of the **Grenfell Tower fire**, the spotlight is on fire safety. Concerns have been raised in parishes about fire precautions taken in churches. The context is rather different; apart from the exceptional all-night prayer vigil and Midnight Mass people are not likely to be in Church overnight or asleep. Church buildings are a good deal lower and in most cases made of far less flammable material. Having said which all churches should carry out fire related risk assessments and evacuation procedures. In addition, as places open to the public adequate and functioning fire safety equipment, eg extinguishers need to be available.

CLERGY WORKING EXPENSES (WITH THANKS TO LAW AND RELIGION UK)

Following changes in tax legislation, the working expenses agreement between the Church Commissioners and HM Revenue & Customs regarding reimbursement of certain expenses is no longer in force. The following **document** is now available in the Church of England Document Library, and more detailed information on reimbursement of expenses for clergy and their tax advisor can be found **here**.

Working Expenses: Exempted items Information

Due to changes in tax legislation the working expenses agreement between the Commissioners and HM Revenue & Customs regarding reimbursement of certain expenses is no longer in force. An exemption for reporting information on the tax return in respect of paid or reimbursed expenses does apply so long as the reimbursement is for costs wholly, exclusively and necessarily incurred in the performance of duties.

Items under the exemption:

- stationery, postage, use of telephone, etc., where incurred in connection with the minister's duties;
- secretarial assistance, where necessarily incurred in the performance of the minister's duties;
- expenses necessarily incurred in connection with an unpaid ecclesiastical appointment, for example rural dean, honorary canon or proctor in convocation;

- books purchased for use in the conduct of services or preparation of sermons
- travelling expenses, where necessarily incurred in the performance of the minister's duties;
- repair or replacement of robes worn in the conduct of church services in accordance with Church Law or by custom in the particular church;
- provision of a *locum tenens*;
- provision of reasonable entertainment on official occasions to visiting ministers, officers of the church or members of church organisations;
- communion expenses, for example supply of wine;
- one-quarter of the expenditure on the maintenance, repair, insurance or management of any accommodation that is made available to the minister.

Full information on reimbursement of expenses for clergy and their tax advisor can be found at <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim60046>.

NB HM Treasury currently has an open **call for evidence on taxation of employee expenses**. Its main objectives are to understand:

- if the current rules or their administration can be clearer and simpler;
- whether the tax rules for expenses are fit for purpose in the modern economy; and
- why the cost to the Exchequer of the tax relief for expenses which are not reimbursed has increased.

The consultation closes on **10 July**: submissions should be made to

Email: employeebenefitsandexpenses@hmtreasury.gsi.gov.uk.

David Pocklington, "Clergy working expenses" in *Law & Religion UK*, 21 June 2017, <http://www.lawandreligionuk.com/2017/06/21/clergy-working-expenses/>

SOME UPDATED CHARITY COMMISSION GUIDANCE:

Guidance for Auditors and Independent Examiners for accounts to May 2017

<https://www.gov.uk/government/publications/guidance-for-auditors-and-independent-examiners-of-charities/guidance-for-auditors-and-independent-examiners>

Accountants and auditors have a duty to report to the Charity Commission anything arising in the accounts that is of 'material significance'. This duty is independent of and additional to any duty on the trustees to make serious incident reports. Matters of 'material significance' include:

- matters suggesting dishonesty or fraud involving a significant loss of, or a major risk to, charitable funds or assets;
- failure(s) of internal controls, including failure(s) in charity governance, that resulted in a significant loss or misappropriation of charitable funds, or which leads to significant charitable funds being put at major risk;
- matters leading to the knowledge or suspicion that the charity or charitable funds have been used for money laundering or such funds are the proceeds of serious organised crime or that the charity is a conduit for criminal activity;
- matters leading to the belief or suspicion that the charity, its trustees, employees or assets, have been involved in or used to support terrorism or proscribed organisations in the UK or outside of the UK;
- evidence suggesting that in the way the charity carries out its work relating to the care and welfare of beneficiaries, the charity's beneficiaries have been or were put at significant risk of abuse or mistreatment;

- significant or recurring breach(es) of either a legislative requirement or of the charity's trusts;
- a deliberate or significant breach of an order or direction made by a charity regulator under statutory powers including suspending a charity trustee, prohibiting a particular transaction or activity or granting consent on particular terms involving significant charitable assets or liabilities; and
- the notification on ceasing to hold office or resigning from office, of those matters reported to the charity's trustees.

These matters are considered central to the integrity of a charity and as such will require evaluation and where appropriate investigation by the regulators. The Charity Commission and OSCR consider all such reports to have a very high intelligence value. Both take a risk based and proportionate approach to inquiry work when deciding whether to open an inquiry. The duty to report applies to the auditor who must make a report whether or not the matter has already been notified to other regulators or agencies and whether or not the trustees have already advised the charity regulators, for example by making a serious incident report to the Charity Commission under separate requirements applying to trustees.

And a reminder that guidance about PCC reports and accountability can be found at:

<https://www.churchofengland.org/clergy-office-holders/pcc-information/pcc-accountability.aspx>