

**The legal framework governing music within the Church of
England parish churches, cathedrals and college chapels**

Charlotte Lynne Wright

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Summary

This thesis explains and evaluates the legal framework governing music within Church of England parish churches, cathedrals and college chapels considering the following questions:

Chapter 1 considers the theological reasons underpinning the legal regulation of music in the liturgy, looking at the close inter-relationship between music, theology and church law as these three areas inter-act within the liturgy and Church worship. Chapter 2 reviews the historical development of the *regulation* of Church music. These two chapters prepare the reader for the later chapters addressing the current legal position of the Church of England regarding the use of music in Church worship.

The second part reviews, analyses and evaluates the current law as it relates to the parish churches, cathedrals and college chapels. Chapter 3 reviews the legal framework relating to music in the parish churches, looking at the regulation of music within church liturgies, followed by an analysis of the law relating to parish church musicians: their appointment, their duties and rights, how a position may be terminated and on what basis. Chapter 4 reviews the legal framework for music in cathedrals: considering the extent to which the legal instruments recognise music's importance in cathedrals; how national law and cathedral domestic laws govern the individuals involved in cathedral musical life; and the ways that national law and the cathedral legal instruments govern bodies involved in cathedral musical life. Chapter 5 reviews the regulation of music in the Oxford and Cambridge college chapels. It considers how the college statutes provide for divine service and the maintenance of a chapel choir and how music's importance is reflected in the college objects; how the college legal instruments govern the individuals involved in the college chapel musical life; and how chapel music is influenced by different bodies which are involved in chapel music. Chapter 6 addresses two topics central to church musicians: safeguarding and dispute resolution, and their impact on church musicians and those involved in music.

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Wyndham v Cole (1875) 1 P.D. 130

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INTRODUCTION

Music has played an important role in Christian worship from its inception. Biblical references highlight the use of music in worship.¹ The conclusions of the Church of England's *Archbishops' Commission's Report on Church Music* states: 'the fact that the subject of music in worship arouses widespread interest and evokes a strong response in many people is enough to suggest that it is still very much an important issue',² thus highlighting that music still plays an important role in church services today. However, it is the legal regulation of music and church musicians which orders the music in the liturgy, and which facilitates its use in worship.

This thesis explains and evaluates the legal framework governing music within Church of England parish churches, cathedrals and college chapels by considering the following questions:

1. Is there a lacuna in scholarship regarding the study of the regulation of music and musicians within the Church of England liturgy and church worship?
2. Is it possible to formulate theological norms governing the reasons for including music in worship, and are these incorporated into the laws?
3. How has the regulation of music and musicians in Church worship developed historically, and how does this inform our view of the current regulation of music in worship?
4. What are the sources of law applicable to music in Church of England parish churches, cathedrals, and Oxford and Cambridge college chapels? What subjects do they address?

¹ For example, Ephesians 5:18-20 states: 'Do not get drunk with wine, for that is debauchery: but be filled with the Spirit, as you sing psalms and hymns and spiritual songs among yourselves, singing and making melody to the Lord in your hearts, giving thanks to God the Father at all times and for everything in the name of our Lord Jesus Christ'.

² *In Tune With Heaven, The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 249.

5. Are there any models in terms of regulatory approaches that can be identified with regard to the parish churches, cathedrals and college chapels? And what are the similarities and differences in the regulations within each of these three sets of institutions?
6. On a wider level, what are the similarities and differences between the regulation of music across the parish churches, cathedrals, and college chapels?
7. On the basis of an evaluation based on how music regulated in practice, is the current system fit for purpose or are any changes needed to the current regulation of Church music and musicians?

The starting point for a study of the legal regulation of music within Church services is to consider previous Church of England reports into the use of music in worship. Only three reports have been carried out into music within the Church during the twentieth-century: the first in 1922;³ the second in 1948;⁴ and the third in 1992.⁵ The focus of these reports was ‘to review the present state of church music, to offer reflections and to make recommendations’,⁶ suggesting how those involved in the church can ensure the future of music within worship. The most recent *Archbishops’ Commission’s Report on Church Music* was conducted over thirty years ago. There have been significant changes in worship within the last three decades, with the introduction of worship bands, new types of music, including the use of recordings in situations where the church may not have an organist. A further study on the status of music in worship including a study of the regulation of music in the Church of England is long overdue and much needed.

The *Archbishops’ Commission’s Report on Church Music* does not consider the legal regulation of music and musicians of the church and how this impacts church musicians.⁷ For example, canon law is only mentioned on two occasions,⁸ and it does not provide any

³ *Music in Worship: The Report of the Archbishops’ Commission* (SPCK, London, 1922).

⁴ *Music in Church: The Report of the Archbishops’ Commission on Church Music* (1948).

⁵ *In Tune With Heaven, The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, London, 1992).

⁶ *Ibid.*, Preface, 11.

⁷ The only mention of canon B20 in *In Tune With Heaven* is in the Appendices under the heading “miscellaneous” where the canon is simply quoted, without providing any commentary on the canon, how effective the canon is, or whether any change is needed to the canon. For further consideration of this point, see the introduction.

⁸ The first reference is at paragraph 555 on page 189 states that ‘in Canon law the decision as to which services are to be used rests jointly with the incumbent and the Parochial Church Council (Canon

analysis of the law's role in facilitating and ordering music within the liturgy. One reference to the Church of England canons,⁹ is simply to quote canon B20¹⁰ verbatim in the appendices,¹¹ without any detailed analysis of the implications of this canon for the musical life of the parish churches. In fact, the closest the *1992 Archbishops' Commission's Report* comes to discussing the normative side of music is in the concluding recommendations.

Firstly, it recommends that 'clergy, musicians and congregations alike give fresh consideration to the place and value of music in the services of the Church' and that 'clergy and musicians recognise the value of music as an ingredient in evangelism, both in worship and outside it'.¹² This is relevant to the regulation of music because it highlights that music's importance within Church services should be recognised; this can be achieved by reflecting music's value through legal regulation.

Secondly, the Report includes a number of recommendations, specific to the parishes, forming norms for the use of music within worship. These include: (1) 'that clergy and musicians do all in their power to ensure close and amicable working relationships'; (2) 'that those responsible for the choice of music in our churches take account of the varying tastes and preferences of their congregations, and set up a system for congregational feedback'; (3) 'that congregations be given ample opportunity to sing in services, even where they have to be unaccompanied'; (4) 'that choirs and music groups be given opportunities in church services to sing and play on their own'; (5) that those responsible for the choice of hymns and

B.3). The ultimate responsibility for the ordering of music in worship rests with the incumbent (see Appendix 3.1). It is difficult, and possibly unwise, for one person to attempt omnipotence in an area of the Church's life in which there have been so many recent changes in rapid succession. Responsibility could be shared with a body made up of certain ex-officio members (the clergy, the director of music, others with particular responsibilities in worship), and representatives of the PCC, the congregation and particular constituencies such as the youth group'. The second reference to canon law is at appendix 3.1, which simply quotes Canon B20 verbatim. *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton; London; 1992) 189 and appendix 3.1 on page 295.

⁹ These are legal instruments regulating the governance of the Church of England.

¹⁰ Canon B20 is headed "Of the Musicians and Music of the Church" and so governs music within the Church of England parish churches.

¹¹ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 295.

¹² *Ibid.*, 252.

worship songs be guided by the quality of their doctrinal content, language and musical idiom, and that both the new and old be included in the repertoire'.¹³

Whilst not explicitly mentioning the legal regulation of music, these recommendations raise a number of questions regarding legal provisions for music in the Church of England.

Recommendation (1) raises wider questions of employment law, in particular, how those in power can prevent disputes involving church musicians arising, and whether issues surrounding the relationship between clergy and church musicians should be set out in employment contracts.¹⁴ Recommendations (2) and (5) raise questions regarding who decides which music to include in church services and whether any individual other than the minister is permitted under the canons to make such decisions. The reference to 'those responsible for the selection of hymns' suggests that individuals other than the minister should be involved in the selection of the hymns, which may require further consideration of the laws pertaining to this issue.¹⁵ Recommendations (3) and (4) indicate that music should be included in church worship. However, these recommendations have not resulted in any changes to the current law.

Thirdly, regarding cathedrals, the Report recommends: (1) 'cathedrals, with their resources and a long tradition of church music, be expected to set an example of the highest possible standards of worship and music'; (2) 'that cathedrals give proper recognition to the contribution made by all their musicians, both in regarding them as an integral part of the cathedral staff and in finding the means for their remuneration at a realistic level'; (3) 'that cathedral Chapters give careful thought to what they require of their organist, and consider, whether, in any new appointment, a change of nomenclature is desirable, in order to indicate the importance of that person's role in the cathedral's life'; and (4) that 'those responsible for choir schools seek ways both of recruiting children from less wealthy backgrounds and of providing the same musical and liturgical education for girls as that enjoyed by boys'.¹⁶ These recommendations too present questions regarding the legal regulation of music at

¹³ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 252 – 253.

¹⁴ This question is addressed in more detail in chapter 3.

¹⁵ This question is addressed in more detail in chapter 3

¹⁶ *In Tune With Heaven, The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 256.

cathedrals: the recruitment of children from less wealthy backgrounds and provisions of similar experiences for girls and boys alike, raise equality issues; and recognition of the value of cathedral musicians can be achieved by employment law. These issues are addressed in this thesis.¹⁷ Since it is legal regulation that orders and facilitates the use of music in church services, and governs the employment of church musicians, issues addressed in this thesis are essential to the future success of church music. This analysis is absent from previous studies considering music in the Church of England.

Whilst a number of studies touch upon issues addressed in this thesis, there are no comprehensive studies of how the law of music within the Church of England operates and its effectiveness. Although numerous studies consider the history of music,¹⁸ and the liturgy,¹⁹ few include a comprehensive study of the *regulation* of Church music. There have also been many studies of the Church of England parish churches. Some provide an historical overview of the parish churches, or an architectural guide.²⁰ The most definitive book dealing with the law relating to parish churches is Dale's *The Law of the Parish Church* (whilst this touches upon the law relating to musicians, it does not provide a comprehensive overview).²¹ Extensive literature addresses the law of the Church of England: Hill's comprehensive *Ecclesiastical Law*,²² and Doe's *The Legal Framework of the Church of England*.²³ However, whilst they consider issues relevant to church musicians, they do not provide a comprehensive consideration of all legal aspects relating to music and church musicians. Although numerous studies address cathedral life, the most comprehensive consideration of the legal framework governing the Cathedrals is Doe's *The Legal Architecture of English Cathedrals*.²⁴ However, Doe does not include a comprehensive study of the aspects specifically relating to cathedral musicians, or analyse the different legal models relating to

¹⁷ The questions arising out of recommendations (1) and (2) are addressed in chapter 1; while the recommendations in questions (2) – (5) are addressed in chapter 3. The recommendations relating to the Cathedrals are addressed in chapter 4.

¹⁸ Such as R. Taruskin, *Oxford History of Western Music* (Oxford University Press, Oxford, 2009); A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing Ltd, Oxford, 2003).

¹⁹ See, for example, P. Bradshaw, *The Search for the Origins of Christian Worship* (London, 2002).

²⁰ See, for example John Betjeman's *Guide to English Parish Churches* (Harper Collins, London).

²¹ Sir William Dale, *The Law of the Parish Church*, seventh edition (Butterworths, London, 1998).

²² Mark Hill, *Ecclesiastical Law*, 4th edition, (Oxford University Press, Oxford, 2018).

²³ N. Doe, *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford University Press, Oxford, 1996).

²⁴ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018).

cathedral musicians. Furthermore, a new framework: in the form of the Cathedrals Measure 2021 has been enacted since Doe's study. Also, none of the studies of the Oxford and Cambridge Colleges,²⁵ provide a critical comparison of the college statutes, nor do they review the legal framework governing the musical life in the college chapels. The 1992 *Archbishops' Commission's Report on Church Music*,²⁶ does not consider music in the Oxford and Cambridge College Chapels at all, despite their obvious impact on the musical life of the Church of England.²⁷ This thesis therefore fills a gap in legal scholarship by providing a comprehensive review of the legal framework of music and musicians in the Church of England.

To provide a comprehensive analysis of the legal regulation of music and musicians in the Church of England it is important to contextualise the current laws. Studying the theology underpinning the use of music within the liturgy, and the historical development of the regulations helps us to understand why the law is drafted in the way it is. They also inform the way music should be regulated, as historically, an understanding of liturgical issues has shaped music's regulation. This thesis is therefore divided into two parts. Part 1 provides the theological and historical background to music's regulation in church worship. It consists of two chapters. Chapter 1 considers the theological reasons underpinning the legal regulation of music in the liturgy, looking at the relationship between music, theology and church law as these three areas inter-act within the liturgy and Church worship. Chapter 2 reviews the historical development of the *regulation* of Church music.²⁸ These two chapters prepare the

²⁵ Such as Elliott, M, and Agarwal Dr R, *The Ultimate Oxbridge College Guide: The Complete Guide to Every Oxford and Cambridge College* (2020), or Brockliss, L.W.B, *Magdalen College Oxford: A History* (Magdalen College, 2008).

²⁶ *In Tune With Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992).

²⁷ For example, millions tune in to watch the King's College (Cambridge) Nine Lessons and Carols which is broadcast on the BBC on Christmas Eve every year. In addition, the tradition of Magdalen College Chapel Choir (Oxford) singing from Magdalen College Tower on May Morning has become extremely popular, and thousands of people attend on Magdalen bridge each year to hear the choir sing madrigals (it is estimated that some 16,000 gathered under the tower in 2023 to hear the choir). Also, New College Choir (Oxford) has recorded over 110 discs, and in 2010 launched its own label, see <https://www.newcollegechoir.com/recordings>; similarly Merton College (Oxford) has recorded a significant number of CDs.

²⁸ Needless to say, this is not a comprehensive study of the development of music generally, such as can be found in A. Wilson-Dickson's *The Story of Christian Music* (Lion Publishing Ltd, Oxford, 2003); or Taruskin's *The Oxford History of Western Music* (Oxford University Press, Oxford, 2005). Instead, it focuses on how the *regulation* of music within church worship has developed and changed throughout history.

reader for the later chapters addressing the current legal position of the Church of England regarding the use of music in Church worship.

Part 2 reviews, analyses and evaluates the current law as it relates to the parish churches, cathedrals and college chapels. It is divided into 4 chapters. Chapter 3 reviews the legal framework relating to music in the parish churches, looking at the regulation of music within church liturgies, followed by an analysis of the law relating to parish church musicians: their appointment, their duties and rights, how a position may be terminated and on what basis. Chapter 4 reviews the legal framework for music in cathedrals: considering the extent to which the legal instruments recognise music's importance in cathedrals; how national law and cathedral domestic laws govern the individuals involved in cathedral musical life; and the ways that national law and the cathedral legal instruments govern bodies involved in cathedral musical life. Chapter 5 reviews the regulation of music in the Oxford and Cambridge college chapels. It considers how the college statutes provide for divine service and the maintenance of a chapel choir and how music's importance is reflected in the college objects; how the college legal instruments govern the individuals involved in the college chapel musical life; and how chapel music is influenced by different bodies which are involved in chapel music. Chapter 6 addresses two topics central to church musicians: safeguarding and dispute resolution, and their impact on church musicians and those involved in music. Since the laws on safeguarding and dispute resolution are applicable to parish churches, cathedrals and college chapels, these topics are considered together. It highlights the similarities and differences between the institutions in these areas of law.

In terms of methodology, this thesis analyses, evaluates and compares the sources setting out the legal position governing the use of music and church musicians within the parish churches, cathedrals and college chapels. It also considers how the law works in practice. Questionnaires were sent out to selected parish churches (the Parish Church Questionnaires), cathedrals (the Cathedral Questionnaires), and college chapels (the College Chapel Questionnaires). This enables a comparison to be drawn between the legal position, and practice, to assess whether the law works in practice or is in need of refining.

Churches contacted with the Parish Church Questionnaire, included those with a strong musical tradition (because these churches are most likely to have encountered issues being considered in this study): those with a music director and a choir, or which utilise music

within their worship. The Questionnaires were sent via email to 151 parish priests between September 2020 and January 2021 and I requested a response by April 2021. Of the 151 parish churches contacted, I received completed questionnaires from 46 parish priests, (approximately 30% of the churches contacted).²⁹ The Cathedral Questionnaires were emailed to deans and directors of music at all 42 Church of England Cathedrals between August and September 2020, requesting a response by 20 October 2020.³⁰ I received completed questionnaires from 8 cathedrals, (approximately 19% of cathedrals). The College Chapels Questionnaires were emailed to the chaplains and director of music or organ scholar of each of the colleges included in this study between March and June 2021, requesting a response by 31 July 2021. I received responses from 2 colleges. I did not include commentary on how the regulation of music at the college chapels differs between theory and practice, because I had not received responses from a sufficient cross section of the colleges to provide a meaningful comparison. The analysis of the legal regulation of music in the College Chapels, at Chapter 5, is limited to an analysis of the documentary sources (i.e. laws, guidance etc).

It is also important to explain what is not included in this study. There are a number of additional topics, relevant to those involved in church music, which are outside the scope of this study. The law relating to copyright is relevant for those involved in music within churches, cathedrals and college chapels. There are a number of excellent and extensive studies of the law of copyright,³¹ addressing how it relates to music included in church, and this is an area which is constantly changing. This study does not attempt to add to the excellent studies on copyright. In addition, this study does not consider how the secular and criminal law regulates issues pertaining to music and how this interacts with church law. For example, it does not address the extent to which the secular law, or the criminal law separately regulate safeguarding or how this impacts how the church deals with safeguarding issues. Furthermore, the general interaction between law and music is not addressed in this study.

²⁹ See Appendix 2 for the questions included in the Parish Church Questionnaire, the churches contacted, and a more comprehensive methodology.

³⁰ A list of each of the 42 cathedrals contacted, together with a copy of the Cathedral Questionnaires is included at Appendix 3.

³¹ For example, Richard R. Hammar, *The Church Guide to Copyright Law*, 3rd edition (Church Law & Tax Report, London, 2001). In addition, the Church of England has published *A Brief Guide to Liturgical Copyright*, third edition (Church House Publishing, London, 2000).

This thesis is important to all involved in music in the Church of England, including clergy, and, church musicians, as it provides a comprehensive review and analysis of the legal regulation of music within the Church. It is also relevant to individuals within the Church of England who may become involved in considering the place of music within church worship, or in reviewing the law relating to Church music, such as members of the General Synod, or the Legal Advisory Commission of the Church of England, since it considers the role of legal regulation in assisting music within services and recommends areas where it can be improved. It is hoped therefore, that it will form a starting point if the Church of England commissions a further, and much needed review of the role of music in worship. Indeed, this thesis suggests amendments that could be made to the current legal framework. It will be of interest to scholars in a range of disciplines: those studying the history of church music (since it is the first comprehensive study of the regulation of music in the liturgy from Christianity's inception to present day); and law and religion scholars as an inter-disciplinary study: highlighting the connection between theology, music, and the law as they inter-act in the liturgy.

This thesis is ground-breaking as a study on the legal regulation of music within the Church of England and seeks to fill a gap in academic literature. As the Bibliography shows, there is an abundant body of secondary literature on various aspects touched upon. However, there is no secondary literature on the historical development of the law governing music within the Church of England, or the inter-relationship between theology, music and the law and how they impact upon each other within the liturgy. Furthermore, there is no secondary literature specifically addressing the current laws governing the use of music, and the legal position of church musicians within the parish churches, cathedrals and college chapels.

Finally, this thesis is an original contribution to academic knowledge providing a unique perspective, firstly, by tracing the historic development of church music through its legal regulation; secondly, by providing a comprehensive study of the regulation of church music in three major areas: the parish churches, the cathedrals and the college chapels, both independently and in comparison to each other; and thirdly through identifying problems with the church law as it relates to music in practice and providing concrete proposals for reform. This thesis is therefore essential to all involved in church music and legal scholars, as

well as students considering the history of church music because it provides a comprehensive study of all aspects relating to the legal regulation of church music and church musicians.

CHAPTER 1 - THE RELATIONSHIP BETWEEN MUSIC, THEOLOGY, AND CHURCH LAW

INTRODUCTION

Music, theology and church law are inter-connected disciplines, which do not sit in isolation. Liturgical practice is fundamentally shaped by theology, since theology is the primary source for the liturgy, and music is central to liturgical practice in the Church of England. Music is a fundamental part of the liturgy since it is incorporated into the service; and so it does not stand alone: it may be set to specific words within the liturgy, all of which have theological significance. Furthermore, it is legal regulation which facilitates and orders music within the service and helps us to understand its place within the liturgy. The three aspects, theology, music and church law, and how they operate and interact with each other within the liturgy cannot be separated from each other. Theology is the primary source for the liturgy, music is a fundamental part of the liturgy, and church law regulates, facilitates and orders liturgy and music. They all share a similar purpose: to serve Christian faith and action. It is therefore important to consider all three aspects that influence how music is incorporated into worship, including the theological reasons underpinning its inclusion within the service, and how legal regulation enables music to operate within the liturgy. A chapter considering the relationship between theology, music and church law is important to understand how music fits into worship and accordingly impacts our understanding of the law relating to music within the liturgy.

In recent years, scholars have become increasingly interested in the relationship between music and theology.³² A number of studies consider how music can provide further insight into Christian theology.³³ These studies consider the impact that music can have on theology,³⁴ whilst others explore the impact that theology has on music generally, or that the

³² However, as we shall see these studies do not consider the relationship with the law.

³³ Some examples include, D.A. Lynch, *God in Sound and Silence: Music as Theology* (Pickwick Publications, Oregon, 2018); M.L. Heaney, *Music as Theology: What Music says about the Word* (Princeton Theological Monograph Series, USA, 2012); D. E. Saliers, *Music and Theology* (Abingdon Press, Nashville, 2007).

³⁴ They do not just consider music written specifically for worship. For example, Maeve Heaney reflects on music and spirituality in Arvo Pärt's *Spiegel im Spiegel*, in her article: 'Can Music "Mirror" God?': M L Heaney, Can Music "Mirror" God? A Theological-Hermeneutical Exploration

study of music can have on theology. They do not specifically consider the practical implications that the relationship between music and theology has on music within liturgy. Rather, they take on an analytical, or theoretical perspective. A different group of scholars (within the field of law and religion) has considered the relationship between law and theology within the Christian tradition.³⁵ However, law and religion scholars have not considered the inter-relationship between theology, music and church law and how they impact upon each other. This chapter addresses a lacuna in studies and is an original contribution to knowledge.

Before turning to the theological reasons underpinning music's incorporation into the liturgy, it is important to consider Church sources from which principles can be drawn governing this issue. In the Church of England, the *Archbishops' Commission on Church Music* (1992) provides a brief section dealing with the theological arguments for including music within the liturgy.³⁶ This study provides a broad outline of the theological reasons for including music within the liturgy, but does not contextualise the relationship between theology and music, or why these issues are important. Additionally, it does not make any reference to the Roman Catholic document *Musicam Sacram*, and yet all the theological arguments within the *Archbishops' Commission's Report* are contained in the opening paragraphs of the Roman Catholic document. *Musicam Sacram* is an instruction containing principles and rules on sacred music, issued by the Sacred Congregation for Divine Worship of the Roman Catholic Church in March 1967. It follows *Sacrosanctum Concilium* (1963) containing binding norms for the liturgy, and which also provides a section dealing with the music within the liturgy. Whilst, needless to say, it is not legally binding on the Church of England, significant theological thought has been applied to *Musicam Sacram* by various Roman Catholic

of Arvo Pärt's *Spiegel im Spiegel*, *Religions* 2014, 5, 361 – 384. Graham Cray has considered how aspects of the incarnation can be better understood through the study of the music and lyrics of songs written by the soul singer Marvin Gaye. G. Cray 'Through Popular Music: 'Wholly Holy'? in *Beholding the Glory: Incarnation through the Arts*, ed. J Begbie (Darton, Longman & Todd, London, 2000) 118 – 137.

³⁵ For example, see David W Opderbeck, *Law and Theology: Classic Questions and Contemporary Perspectives* (Fortress Press, 2019); D. McIlroy, *The End of Law: How Law's Claims Relate to Law's Aims* (Edward Elgar Publishing Ltd, London, 2019); D. McIlroy, *Christian Perspectives on Law: A Biblical View of Law and Justice* (Authentic Media, London, 2004); M. Belsky and J Bessler-Northcut, *Law and Theology: Cases and Readings* (Carolina Academic Press, North Carolina, 2005).

³⁶ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music*, (Church House Publishing, Hodder & Stoughton, London, 1992), chapters 3, 4 and 5 (pp 33 – 51).

scholars. It provides the most comprehensive guidance for the inclusion of music within the liturgy of any Christian denomination. Furthermore, there has been no significant revision of *Musicam Sacram*, nor has there been any divergence from the instruction since its issue in 1967, thus demonstrating its importance. For this reason, *Musicam Sacram* is an extremely important document setting out the theological reasons underpinning liturgical music, from an Anglican, and Roman Catholic perspective. Any consideration of the theological reasons for including music within the liturgy and music's regulation, must include a detailed consideration of *Musicam Sacram*.

This chapter has two sections. The first provides the grounding for the remainder of the thesis, exploring the meaning of a number of key terms central to the main arguments. Firstly, it explores the words 'music', 'theology', and 'church law'. Secondly, it defines 'worship' and 'liturgy' before considering what liturgical music is.³⁷

The second section considers theological arguments for including music in worship, explaining why music, when combined with the liturgy is particularly suited for worship.³⁸ It formulates eight theological reasons for including music within the liturgy, as derived from *The Archbishops' Commission's Report* and *Musicam Sacram*. This demonstrates the close link between theology and music within the liturgy and how this impacts our understanding of the law on music contained in worship.

1.1 TERMINOLOGY

Several terms central to arguments in this thesis need to be explored: 'music', 'theology', and 'church law'. Whilst these are broad and sometimes contested terms, there are a number of similarities, especially when considered within the context of worship and the liturgy. The second category considered includes 'worship' and 'liturgy', followed by a discussion of the

³⁷ These terms are very broadly defined in secondary literature, so it is useful to provide a more specific definition for later reference within the thesis, and to understand how they interact with each other within the sphere of the liturgy. It is acknowledged that this only relates specifically to the 'music' included in the liturgy, and does not explicitly relate to other topics considered in this thesis, such as the spheres of governance relating to officers involved in music within parish churches, cathedrals and college chapels, Church musicians, and other Church bodies involved in music at these institutions. However, it is important to address this topic in this chapter.

³⁸ This chapter only relates to one aspect of the thesis: the incorporation of music within the liturgy. It has limited impact on issues such as the employment of church musicians, dispute resolution, copyright or safeguarding but is nevertheless important in providing a grounding for issues addressed later in the thesis.

term ‘liturgical music’. Since the object of this thesis is the law relating to music within Church of England worship, which is set within the liturgy,³⁹ an understanding of these terms provides the foundation for the remainder of the thesis. However, since this thesis focuses on music within the liturgy, and thus within church law, this chapter does not provide a general study of the interaction between music and the law. It also does not provide a consideration of definitions relating to state law or the law generally. Instead, this chapter considers issues specific to church law.

1.1.1 Music, Theology and Church Law

The terms theology, music and church law are extremely broad, and can encompass a wide variety of different things. Their definition and meaning is needless to say the subject of an enormous amount of literature. It is important to have a working definition of these words to consider the relationship between the three. There are several theological arguments underpinning the reasons for incorporating music into the liturgy, but it is the law which enables music to function effectively within that liturgy. Therefore, music, theology and church law are closely inter-related, and a study of the regulation of music within Church of England worship would not be complete without understanding each of these terms and how they relate.

1.1.1.1 Music

Defining the term ‘music’ is difficult. The *Archbishops’ Commission’s Report* simply states: ‘most people would be hard pressed to produce a satisfying definition of music, yet they know instinctively what is meant by the word’.⁴⁰ It does not provide any further definition,

³⁹ Again, it is acknowledged that this only relates specifically to the ‘music’ included in the liturgy, and does not explicitly relate to other topics considered in this thesis, such as the spheres of governance relating to officers involved in music within parish churches, cathedrals and college chapels, Church musicians, and other Church bodies involved in music at these institutions.

⁴⁰ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 33.

assuming the reader already fully understands what is meant. One of the difficulties with providing a satisfactory definition of ‘music’ is that it includes a wide range of potentially different things. Providing a universally acceptable definition and characterization of both word and concept is beyond the capacity of a single statement’.⁴¹

Acknowledging the difficulties of defining ‘music’, I will now set out a working definition. Firstly, we can turn to explanations of ‘music’ within dictionaries, to discover the meaning attributed to the word. Secondly, legislative definitions, in legislation such as the Copyright, Designs and Patents Act 1988 may provide assistance, or if there has been any attempt judicially to define the word. Finally, an alternative approach is to consider explanations of the ‘practice of music’ within secondary literature, to understand how music operates.

First, for musicologists, at its most basic level, music is defined as ‘the art of combining vocal or instrumental sounds (or both) to produce beauty of form, harmony, and expression of emotion’.⁴² It is also defined as: ‘that one of the fine arts which is concerned with the combination of sounds with a view to beauty of form and the experience of emotion; also, the science of the laws or principles (of melody, harmony, rhythm, etc.) by which this art is regulated’. Thus, ‘music is art and science, it involves the satisfactory combination of constituent materials...and it is intended to be beautiful, expressive, or (but not necessarily and) intelligible...music serves both aesthetic and communicative functions. The combining of tones is the main activity of the musical artist, whose purpose and aesthetic consideration are not emphasized but replaced to attention of elements of music and to music as a ‘science’.⁴³

Second, ‘music’ is not defined in statute. The Copyright, Designs and Patents Act 1988 defines a ‘musical work’ as ‘a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music’.⁴⁴ It also states a ‘sound recording’ means ‘(a) a recording of sounds, from which the sounds may be reproduced, or (b) a

⁴¹ ‘Music’ in B. Nettle, *The New Grove Dictionary of Music*.

⁴² ‘Music’ in the *Concise Oxford Dictionary*, 1992.

⁴³ ‘Music’ in B Nettle, *The New Grove Dictionary of Music*. However, even these statements are problematic because music genres such as the twelve-tone music of Arnold Schoenberg, or music concrete as pioneered by French composer Pierre Schaeffer challenge traditional concepts of music by combining sounds that many would not consider beautiful or harmonious.

⁴⁴ S.3(1) *The Copyright, Designs and Patents Act 1988*, c.48.

recording of the whole or any part of a literary, dramatic or musical work, from which sounds reproducing the work or part may be produced'.⁴⁵ These are both broad definitions but do not fully explain what 'music' is. Instead, they define the objects consisting of a 'musical work' or a 'sound recording', i.e. the product or piece of work, rather than 'music'. Furthermore, it appears that judicially, there has been no consideration of the precise meaning of the term 'music', and so no guidance can be obtained from caselaw.⁴⁶

Third, an alternative approach is to view music as a 'practice', or more accurately, 'a set of practices',⁴⁷ which can be divided into: (1) music making, including composing, performance using a score, or improvisation; (2) listening to music, whether live at a concert hall, or recorded music; and (3) interpretation of the heard music.⁴⁸ To mirror the three: the composer must follow certain rules or regulations when writing music, such as using musical notation; when listening to music (particularly live music in a concert hall) there are conventions which should be followed, such as sitting and not disturbing others (e.g. switching off mobile phones); and performers must interpret the composer's intent through his/her instructions on e.g. a score.⁴⁹ This can be compared to the 'laws' of music defined by musicologists above.

It is difficult to provide a brief, yet comprehensive definition of 'music', since it can include a variety of different things. There is no legal definition of 'music' within legislation, and there has not been any judicial consideration of the word within the courts of England and Wales.⁵⁰ For the purpose of producing a working definition, it is suggested that music is an

⁴⁵ S.5A(1) The Copyright, Designs and Patents Act 1988, c.48.

⁴⁶ A search of the phrase "music" within all cases included on Westlaw revealed 143 cases. These included a consideration of issues such as who owned the goodwill in the trademark of a pop group, who owned the copyright of a particular sound recording, or the interpretation of various contracts between pop band members. However, none of these judgments included a consideration of the meaning of the term "music". It is possible that this is because the courts are considering a specific recording, or "piece" of music which is already in existence, and so this issue does not arise by the time a piece has reached the court.

⁴⁷ See J. Begbie *Theology, Music and Time*, (Cambridge University Press, Cambridge, 2013) 9 – 10.

⁴⁸ D. E. Saliers, *Music and Theology* (Abingdon Press, Nashville, 2007) 19.

⁴⁹ This approach to the definition of music will be addressed later in this chapter under the heading "similarities between music, theology and law", comparing how this approach to the definition of the three areas can help us to understand the interaction between the three within liturgical music.

⁵⁰ As briefly explained above, this is likely because cases coming before the UK often concern plagiarism or copyright issues, where the courts are grappling with questions such as whether the ownership of a specific piece of music, or of a specific sound recording, which has been identified by the parties, belongs to party A, or party B, rather than over concepts such as what is meant by the phrase "music".

art form: the arrangement of sounds using specific form or the ‘laws of music’, harmony, melody or rhythm to convey an idea through the medium of sound. It consists of different practices, including: (1) music making, through the composition of a piece of music, and performance using a score, or improvisation; (2) listening to music, either live or through a recording; and (3) interpreting that piece of music.

1.1.1.2 Theology

Before exploring the theological reasons underpinning music within worship, it is important to understand the term ‘theology’ and its relationship with music in the liturgy. Therefore, the second term that needs to be understood when considering the relationship between music, theology and the law is ‘theology’.

Again, it is difficult to provide a single, yet comprehensive definition of ‘theology’. The *Blackwell Companion to ‘Modern Theology’* states: ‘attempts to define Christian theology can be notoriously facile. One is often told that such theology is ‘faith seeking understanding’. Alternately, it is often remarked that theology is the interpretation of doctrine, so that one regards interpretation as the business of testing and applying doctrine to the experienced life of the Church’.⁵¹ This difficulty is because the term ‘theology’ is broad, and there are a number of different branches, all with differing approaches.⁵² Nevertheless, it is necessary to provide a working example for this study.

As with music, it is possible to adopt a number of approaches to defining ‘theology’. First, we can discover the meaning attributed to the word in dictionaries, or introductory secondary literature. Secondly, it may be possible to gain an understanding through adopting a

⁵¹ G. Jones, Preface to *The Blackwell Companion to Modern Theology* Ed. G. Jones (Blackwell Publishing Ltd, 2004) xii.

⁵² This includes categories such as: dogmatic, historical, practical, modern, or conservative, liberal and radical, or using categories such as confessional, comparative and neutral. See F.L. Cross, *The Oxford Dictionary of the Christian Church; “Theology”* (Oxford University Press, London, 1957) 1344, and D. Ford, *Theology: A Very Short Introduction* (Oxford University Press, Oxford, 1999) 21 – 32.

purposive approach. Thirdly, as with music, an alternative is to consider explanations of the ‘practice of theology’.

Firstly, at its broadest, ‘theology’ is the ‘Science of God’,⁵³ and involves ‘thinking about questions raised by and about the religions’.⁵⁴ The Collins dictionary defines theology as ‘the study of the nature of God and of religion and religious beliefs’; it is ‘the systematic study of the existence and nature of the divine and its relationship to and influence upon other beings’.⁵⁵ It considers ‘questions of meaning, truth, beauty, and practice raised in relation to religions and pursued through a range of academic disciplines’.⁵⁶ Within a Christian context, theology is the ‘systematic study of Christian revelation concerning God’s nature and purpose, especially through the teaching of the Church’.⁵⁷ A more detailed description explains that theology ‘is the science of the Divinely revealed religious truths. Its theme is the Being and Nature of God and His Creatures and the whole complex of the Divine dispensation from the Fall of Adam to the Redemption through Christ and its mediation to men by High Church, including the so-called natural truths of God, the soul, the moral Law, &c, which are accessible to mere reason’.⁵⁸

Secondly, looking at the purpose of theology, the following is typical: ‘theology aims to promote and refine faith’,⁵⁹ and is the investigation of the shape and ‘contents of belief by means of reason enlightened by faith and the promotion of its deeper understanding’.⁶⁰

Thirdly, like music, theology consists of ‘a set of practices – whether in writing or in speech, whether in the systematic setting forth of specific doctrines, or in hymns, sermons, prayers, or

⁵³ F.L. Cross, *The Oxford Dictionary of the Christian Church*; “Theology” (Oxford University Press, London, 1957) 1344.

⁵⁴ D. Ford, *Theology: A Very Short Introduction* (Oxford University Press, Oxford, 1999) 3.

⁵⁵ ‘Theology’ in the Collins Dictionary: accessed via <https://www.collinsdictionary.com/dictionary/english/theology> on 1 June 2024.

⁵⁶ D. Ford, *Theology: A Very Short Introduction* (Oxford University Press, Oxford, 1999) 17.

⁵⁷ ‘Theology’ in the Collins Dictionary: accessed via <https://www.collinsdictionary.com/dictionary/english/theology> on 1 June 2024.

⁵⁸ F.L. Cross, *The Oxford Dictionary of the Christian Church* (Oxford University Press, London, 1957) 1344.

⁵⁹ R. Gill, ‘The Practice of Faith’, in *The Blackwell Companion to Modern Theology* Ed. G. Jones (Blackwell Publishing Ltd, 2004) 8.

⁶⁰ F.L. Cross, *The Oxford Dictionary of the Christian Church* (Oxford University Press, London, 1957) 1344.

in formulated creeds and confessions of faith. These are practices in language oriented to addressing and expressing God'.⁶¹ Interestingly, this approach sees theology as expressed in music in the form of hymns, and so music is described as the servant of theology. Theology is the study of God. Traditional definitions 'are linguistically oriented. Theology is literally 'words about God', even though mature theological discourse always acknowledges the limits of language'.⁶² In comparison, music is the combination of sounds and does not necessarily consist of 'words', and yet, it can serve to convey meaning, truth and beauty through a 'wordless' form. Furthermore, theology involves the interpretation of texts, such as biblical texts, to gain an understanding of God. In comparison, music involves the interpretation of a score to enable the performer to portray the music. As with 'laws of music', there are basic rules applicable to each branch of theology.⁶³

Like 'music', it is difficult to provide a definition of 'theology', because it is a broad term encompassing a wide variety of disciplines. However, for this thesis, a working definition is that theology is a set of practices involving the study and interpretation of texts about the revelation of God, for the purpose of promoting a greater understanding of God and refining our faith. Studying theology also assists us in our actions, in expressing our understanding of, and addressing, God.

1.1.1.3 Church Law

Since this thesis addresses the legal regulation of music within the liturgy, it is important to understand what is meant by the term 'church law'. As set out in the introduction, given the focus of this thesis is music within the liturgy, this section does not provide a general study of the interaction between music and the law. Furthermore, this chapter does not provide a consideration of definitions relating to state law or the law generally.

⁶¹ D. E. Saliers, *Music and Theology* (Abingdon Press, Nashville, 2007) 20.

⁶² *Ibid.*, 21.

⁶³ For example, Biblical theology explores what the Bible teaches about a specific subject, ecclesiology explores the origins, nature and purposes of the church universal, whilst exegetical theology seeks to discover the truths of scripture by looking at what the message would have meant to the original audience, and Practical theology focuses on the day-to-day application of theology in the lives of Christians or churches and the issues they face. See N. Doe, 'The category "Legal Theology" and the study of Christian Laws', in *Journal of Law and Religion*, 32, no 1 (2017) 64 – 70.

Firstly, when speaking about a particular organisation, ‘the laws of an organisation or activity are its rules, which are used to organise and control it’.⁶⁴ Hill observes that the Church of England is ‘subject to a variety of laws, rules, and norms, some imposed by state, some made by the church with the concurrence of the state, and others created internally by the church itself at national, provincial, or diocesan level’.⁶⁵ He continues: ‘the purpose of the law of and for the church...is to regulate the functioning of the church and its individual members by a combination of commands, prohibitions, and permissions. Such purpose is realised in a number of ways: by God through revelation (*jus divinum*); by the church through its internal mechanisms of government (*jus humanum*); and by the state through secular legislation’.⁶⁶ Furthermore, *The Principles of Canon Law Common to the Churches of the Anglican Communion* (“PCLCCAC”) set out a definition of the law within an Anglican context: ‘law exists to assist a church in its mission and witness to Jesus Christ’,⁶⁷ and ‘a church needs within its laws to order, and so facilitate, its public life, and to regulate its own affairs for the common good’.⁶⁸ Further, ‘law is intended to express publicly the theological self-understanding and practical policies of a church’,⁶⁹ and ‘Law in a church exists to uphold the integrity of the faith, sacraments and mission, to provide good order, to support communion amongst the faithful, to put into action Christian values, and to prevent and resolve conflict’.⁷⁰ Therefore, within a specific organisation, such as the Church of England, the laws consist of ‘its rules’,⁷¹ which are created to regulate the functioning of that organisation and its individual members. This thesis examines a wide range of regulatory instruments such as Acts of Parliament, the Canons of the Church of England, cathedral constitutions and statutes, and the Oxford and Cambridge college statutes, bylaws and ordinances, and norms

⁶⁴ ‘Law’ in the Collins Dictionary: accessed via

<https://www.collinsdictionary.com/dictionary/english/law> on 1 June 2024.

⁶⁵ M. Hill, *Ecclesiastical Law* (Oxford, Oxford University Press, 2018) 1.02, p 2.

⁶⁶ *Ibid.*, 1.03, p 3.

⁶⁷ *The Principles of Canon Law Common to the Churches of the Anglican Communion*, second edition (Anglican Consultative Council, London, 2022) principle 1.1.

⁶⁸ *Ibid.*, principle 1.2.

⁶⁹ *Ibid.*, principle 2.4.

⁷⁰ *Ibid.*, principle 2.5. This can be viewed as a theology of law.

⁷¹ Consisting of a variety of different sources.

in service books, considering how they regulate music within Church services. These are species of English ecclesiastical law which is part of the law of the land.

Secondly, as with ‘music’ and ‘theology’, ‘church law’ can be viewed as a set of practices: (1) making the law; (2) administering the law; and (3) enforcing the law. For example, in the Church of England, firstly, General Synod, in its legislative capacity, makes the laws through Measures.⁷² Secondly, administrative bodies,⁷³ implement the laws (and associated policies),⁷⁴ and individuals within the Church of England must ‘listen’ to, and follow, the laws which have been passed. Thirdly, judges interpret the Church’s laws when they hand down judgments.⁷⁵

Finally, law and religion scholars view canon law as applied theology, and so canon law can be seen as having a theological basis.⁷⁶

1.1.2 Music within the context of worship and liturgy

It is liturgical music, music included within Christian worship, which is the subject matter of this thesis.⁷⁷ Music does not operate within a vacuum, and so it is important to understand the context within which that liturgical music operates before engaging in further consideration of the legal regulation relating to that music. For this reason, it is necessary to explore what is meant by the terms: ‘worship’ and ‘liturgy’, using where appropriate the working definitions of music, theology, and law.

⁷² See N. Doe, *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford University Press, Oxford, 1996) 57 – 58.

⁷³ (including statutory bodies such as the Church Commissioners, the Pensions Board, the Cathedral Fabric Commission, and the Legal Aid Commission; as well as non-statutory bodies such as the Standing Committee, and other committees and commissions).

⁷⁴ See N. Doe, *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford University Press, Oxford, 1996) 91 – 92.

⁷⁵ *Ibid.*, 130 – 131.

⁷⁶ N. Doe, ‘Toward a Critique of the role of Theology in English Ecclesiastical and Canon Law’ in *Ecclesiastical Law Journal*, 1992 2(11) 328 – 346.

⁷⁷ It is acknowledged that this only relates specifically to the ‘music’ included in the liturgy, and does not explicitly relate to other topics considered in this thesis, such as the spheres of governance relating to officers involved in music within parish churches, cathedrals and college chapels, Church musicians, and other Church bodies involved in music at these institutions.

1.1.2.1 Worship

Since the music studied in this thesis is contained within public worship, it is helpful to explore what is meant by the term ‘worship’. There are several possible approaches to defining ‘worship’. First, we can look at the meaning attributed to the word in dictionaries; secondly, we can consider the Church of England’s teaching on how to define ‘worship’; alternatively, we can look at how scholars have defined the term; and finally, we can look at how ‘worship’ has been defined legally.

Firstly, the Oxford English Dictionary defines the verb ‘worship’ as ‘to perform, or take part in, an act of worship directed towards (a god, etc); to venerate with appropriate acts, rites, or ceremonies’.⁷⁸ Similarly, the Collins Dictionary states ‘worship’ is ‘to show profound religious devotion and respect to; adore or venerate (God or any person or thing considered divine’.⁷⁹

Secondly, the Church of England’s teaching acknowledges that ‘worship lies at the heart of the Christian life. It is in worship that we express our theology and define our identity. It is through encountering God within worship that we are formed (and transformed) as his people’.⁸⁰ This is also reflected in the *Archbishops’ Commission’s Report*, which states: ‘the worship of daily life is expressed and focused in the liturgical worship of the Church. That worship not only reflects the worship of everyday living but also helps to form it. For this reason, it is vital that the Church’s services be services of worship before they be anything else’.⁸¹ It is clear that worship is central to Christian life. However, it does not specifically define what is meant by ‘worship’.

⁷⁸ “Worship” in Oxford English Dictionary
https://www.oed.com/dictionary/worship_v?tab=meaning_and_use#13886333.

⁷⁹ ‘Worship’ in Collins Online Dictionary:
<https://www.collinsdictionary.com/dictionary/english/worship#:~:text=to%20show%20profound%20religious%20devotion,and%20full%20of%20admiration%20for> accessed 6 December 2024.

⁸⁰ The introductory section to the worship texts and resources contained on the Church of England website: <https://www.churchofengland.org/prayer-and-worship/worship-texts-and-resources>, accessed 6 June 2024.

⁸¹ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 40.

Thirdly, looking at how scholars describe ‘worship’, they explain that worship is ‘the point for integration between God, theology and life...[it] is where people learn the faith, express it and grow as Christians: it provides both the agenda and the experience’.⁸² Worship provides a means of teaching about the Christian faith, fellowship with other Christians and mission. One of the main purposes of worship is giving Glory to God: ‘it is the fundamental, deepest and truest reason, all-sufficient in itself’.⁸³ Whilst scholars explain that one of the purposes of worship is giving Glory to God, and that it provides an opportunity to teach about the Christian faith, this does not explain what worship is.

Fourthly, in civil law, judicial definitions of ‘worship’ state it must include: ‘a form of ceremony’ involving ‘submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer or intercession’.⁸⁴ Furthermore, it has been held that only a religious service including all these characteristics is ‘an act of worship’. Unless accompanied by all of these elements, an action such as the recitation of a creed or ‘a ceremony of instruction in the tenets by a religious community would not be classified as worship’.⁸⁵ Furthermore, it has been held that worship is an occasion upon which people ‘humble themselves in reverence and recognition of the dominant power and control of any entity or being outside their own body and life’.⁸⁶ However, more recently, this definition has been questioned as being too narrow.⁸⁷ This is reflected in the PCLCCAC, which state ‘the worship of God involves

⁸² The Worship of the Church, Report of the Liturgical Commission on its work 1986 – 91 (GS 264) para 19, as cited in Norman Doe, *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford, Oxford University Press, 1996) fn to pg 282.

⁸³ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 43.

⁸⁴ *R v Registrar General ex p Segerdal* [1970] 3 All ER 886, at 892 per Buckley LJ. This has also been approved in *Re South Place Ethical Society, Barralet v AG* [1980] 3 All ER 918.

⁸⁵ *R v Registrar General ex p Segerdal* [1970] 3 All ER 886, at 892 per Buckley LJ.

⁸⁶ *Re: South Place Ethical Society, Barralet v AG* [1980] 3 All ER 918 per Winn LJ. For a more detailed analysis of the consideration of the phrase “worship” included in this case and *R v Registrar General ex p Segerdal* [1970] 3 All ER 886 see R. Sandberg, *Law and Religion* (Cambridge, Cambridge University Press, 211) 43 – 45, and as expanded by Lord Toulson in *R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages* [2013] UKSC 77.

⁸⁷ *R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages* [2013] UKSC 77: Lord Toulson stated at paras 61 – 62: ‘I interpret the expression “religious worship” as wide enough to include religious services, whether or not the form of service falls within the narrower definition adopted in *Segerdal*’. He considered that it was not necessary for members of a religion to worship one God, stating that a ‘broader definition accords with standard dictionary definitions. The chambers Dictionary, 12th ed (2011) defines the noun “worship” as including both “adoration paid to a deity, etc” and “religious service”, and it defines “worship” as an intransitive verb

praise, adoration, confession, prayer and thanksgiving'.⁸⁸ They also state the worship of God is 'a fundamental action and responsibility of the church'.⁸⁹ Furthermore, Lambeth Conference resolutions 'stress the obligation of the church to engage in corporate worship, in which the whole church, and its individual members, participate in praise, adoration, confession, prayer and thanksgiving'.⁹⁰

In summary, it is axiomatic that the Christian faithful engage in public worship, which is seen as a point of integration between the individuals as a corporate body and God, and it is through this worship that Christians express their theology and define their identity. This is different to private prayer between individuals and God. Furthermore, 'an act of worship' is defined judicially, as a form of ceremony, involving submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer and intercession. To be classified as an act of worship, a religious service must involve these elements.

1.1.2.2 Liturgy

Music within Church of England worship is conducted through the liturgy, so we now turn to this term.⁹¹ It is necessary to consider the term 'liturgy', to understand the context within which the music operates. The Church of England states: 'one of the glories of the Church of England is its liturgical worship. Liturgy refers to the patterns, forms, words and actions through which public worship is conducted'.⁹² Thus it is clear that the liturgy constitutes the

as "to perform acts of adoration; to take part in religious service". However, within the context of Christian worship, the definition in Segerdal is still helpful.

⁸⁸ *The Principles of Canon Law Common to the Churches of the Anglican Communion*, second edition (Anglican Consultative Council, London, 2022) principle 54.2.

⁸⁹ *Ibid.*, principle 54.1.

⁹⁰ LC 1930, Res 8: 'we urge upon the church the absolute obligation of corporate worship' in which individuals 'advance in their knowledge of God's nature, and may hope to penetrate further into his mysteries'. As cited in N Doe, *Canon Law in the Anglican Communion* (Oxford University Press, Oxford, 1998) 216.

⁹¹ As explained above, the music which is the subject matter of this study is that contained within the Church of England liturgy, and therefore, music outside this scope, such as classical music in a concert, is not addressed in this thesis.

⁹² The introductory section to the worship texts and resources contained on the Church of England website: <https://www.churchofengland.org/prayer-and-worship/worship-texts-and-resources>, accessed 6 June 2024.

formal worship of the Church of England.⁹³ This section considers how the term ‘liturgy’ is defined: in dictionaries; by scholars; and legally.

Firstly, whilst there is no formal legal definition of ‘liturgy’, the Collins dictionary describes it as ‘a particular form of religious service, usually one that is set and approved by a branch of the Christian Church’. From a Christian perspective the term liturgy can be used in two senses: to describe ‘all the prescribed services of the Church...as contrasted with private devotion’, and ‘specifically as a title of the Eucharist (as the chief act of public worship)’.⁹⁴

Secondly, the scholar Gregory Dix provides a comprehensive definition of the ‘liturgy’.⁹⁵ He explains: “‘Liturgy’ is the name given ever since the days of the apostles to the act of taking part in the solemn corporate worship of God by the “priestly” society of Christians, who are “the Body of Christ, the church”. “The Liturgy” is the term which covers generally all that worship which is officially organised by the church, and which is open to and offered by, or in the name of, all who are members of the church. It distinguishes this from the personal prayers of the individual Christians who make up the church, and even from the common prayer of selected or voluntary groups within the church’.⁹⁶ Dix explains that, from a canonical perspective, liturgy is ‘the formal expression or mode of worship’.⁹⁷ Thus the liturgy has a formal element to it: it provides order to a form of worship to ‘enhance corporate identity, to prevent sloppiness, disjointedness, and disproportion’,⁹⁸ and follows a specific structure. It is possible for God’s faithful to meet together publicly for the purpose of worship. However, without a formal structure to that worship it would not constitute liturgy.

⁹³ Although interestingly, the Archbishops’ Report on Church Music, whilst having a chapter on ‘Worship, Prayer and the Liturgy of the Church’, at no point even attempts to define what the liturgy is. See *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) chapter 4 (pp 39 – 44).

⁹⁴ F.L. Cross, *The Oxford Dictionary of the Christian Church*; “Liturgy” (Oxford University Press, London, 1957) 815.

⁹⁵ Dix’s *The Shape of the Liturgy* is acknowledged by numerous scholars as one of the most influential books in the field of liturgical study during the second half of the twentieth century – see Simon Jones’s Introduction to the 2005 edition of *The Shape of the Liturgy* (page xii), citing Paul Bradshaw. It is therefore important to include Dix’s definition of the liturgy.

⁹⁶ D. G. Dix, *The Shape of the Liturgy* (Oxford, Bloomsbury Publishing Plc, 2015) 1.

⁹⁷ Norman Doe, *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford, Oxford University Press, 1996) 281.

⁹⁸ *Ibid.*, 282.

Thirdly, ‘liturgy’ is described legally in the PCLCCAC, as follows: ‘liturgy is the work of the faithful through corporate public worship in accordance with the lawful forms of service of a church’.⁹⁹ Therefore, the liturgy is an ordering of Christian public worship, following the lawful forms of service of the church. Within the Church of England, the Church of England (Worship and Doctrine) Measure 1974, defines ‘form of service’ as ‘any order, service, prayer, rite or ceremony whatsoever’.¹⁰⁰ The ‘rubrics and other norms in a service book provide for order and decorum in liturgy, enable the community to participate fully in the act of worship and ensure adaptability to meet local circumstances, practices and needs’.¹⁰¹ It has been suggested that ‘in modern canonical jurisprudence the purpose of liturgical law is to enable and order the fulfilment of the theological objectives of worship’.¹⁰²

In summary, ‘liturgy’ covers the practical ordering and structure for the Church’s corporate act of worshipping God, and provides a pathway guiding worshippers through the service.

1.1.2.3 Music and the Liturgy

The music included within worship includes settings of liturgical texts such as (in a service of Holy Communion) the Gloria, Kyrie, Sanctus, as well as hymns, anthems, and the psalms (usually in evensong).¹⁰³ In addition, there may be incidental instrumental music, or singing covering certain liturgical actions.¹⁰⁴ The purpose of music within the liturgy, is an extension of the liturgy itself, since it is incorporated into the liturgy and liturgical action. There have been a number of different labels applied to ‘the music sung in the course of the celebration of the Sacred Liturgy’, including ‘liturgical music’, ‘sacred music’ or even ‘religious music’.¹⁰⁵ Gill states that music written specifically for liturgical celebrations is called

⁹⁹ *The Principles of Canon Law Common to the Churches of the Anglican Communion*, second edition (Anglican Consultative Council, London, 2022) principle 54.3.

¹⁰⁰ S.5(2) Church of England (Worship and Doctrine) Measure 1974.

¹⁰¹ *The Principles of Canon Law Common to the Churches of the Anglican Communion*, second edition (Anglican Consultative Council, London, 2022) principle 54.5.

¹⁰² N Doe *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford, Oxford University Press, 1996) 282.

¹⁰³ The historical development of music within the liturgy is considered in detail in the next chapter.

¹⁰⁴ Such as setting the altar, or during communion.

¹⁰⁵ See, for example, Gerald Dennis Gill, *Music in Catholic Liturgy: A Pastoral and Theological Companion to Sing to the Lord* (Hildenbrand Books, Chicago, 2009), and Anthony Ruff, *Sacred*

liturgical music.¹⁰⁶ Arguably, ‘liturgical music’ only includes music which is specifically set to liturgical texts, and so would not necessarily encompass hymns, or psalms; and ‘religious music’ is an extremely broad phrase which arguably could include anything which has a religious link. Therefore, in this thesis the phrase used to encompass music set to liturgical texts, hymns, anthems, and psalms is ‘music within the liturgy’.

The purpose of music within the liturgy ‘like the purpose of the liturgy itself, is to enable the Christian community to respond to and participate in the saving work of God in Christ’. Furthermore, it is ‘rooted in theological, specifically liturgical, considerations’.¹⁰⁷ Given the purpose of the liturgy, and therefore of music within the liturgy, is grounded on theological considerations, this highlights the close links between theology and music within the liturgy.

One of the areas where theology impacts music included in worship, and thus the interaction between these two disciplines can be seen in the inclusion of music in the liturgy. The language of the liturgy directly impacts the composition of music since it is composed for specific words, which often means that it is difficult to sing a specific tune to words in a different language. As explored in chapter 2, during the Reformation, there was debate about which language the liturgy should be conducted in. It was argued that worship must be in the vernacular so that the congregation could understand. As a result, the rubrics of the *Book of Common Prayer*, and thus the law relating to how music may be performed in the liturgy changed so that legally the liturgy had to be conducted in the vernacular. Those writing music for the liturgy had to change the music to fit English rather than Latin words. Similarly, at various points throughout history there have been debates over whether the music in the liturgy was too complex and thus distracting congregations from the text’s meaning. As a result, rules were introduced, governing how music must be written, so that one note was given to each syllable to make the text more easily understood. These are examples of how theological views impact the legal regulation of music within the liturgy. In addition, theological factors determine the structure of the liturgy, and thus where music is performed

Music and Liturgical Reform: Treasures and Transformations (Illinois, Hillenbrand Books, 2007) for arguments from a Roman Catholic perspective – these issues do not appear to have received such extensive consideration from the perspective of the Church of England.

¹⁰⁶ Gerald Dennis Gill, *Music in Catholic Liturgy: A Pastoral and Theological Guide to Sing to the Lord* (Hillenbrand Books, Chicago, 2009) 4.

¹⁰⁷ Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 10.

within the service.¹⁰⁸ This relationship between theology and music has a strong impact on the law relating to music in worship.

1.1.2.4 Summary

This first section explores the meaning of ‘music’, ‘theology’ and ‘church law’. In particular, the three disciplines can be viewed as practices, divided into: (1) making the music, law or theology; (2) listening to or administering the music, or church law; theology; and (3) interpreting the music, theology or church law.

Next it explores the context within which music in the liturgy operates, by explaining ‘worship’ and ‘liturgy’. Worship is the point of integration between the individuals as a corporate body and God. It is through this worship that Christians express their theology and define their identity. Furthermore, ‘an act of worship’ is defined judicially, as a form of ceremony, involving submission to the object worshipped, veneration of that object, praise, thanksgiving, prayer and intercession. Liturgy, on the other hand, is the practical ordering and structure for the Church’s corporate act of worshipping God in accordance with law, and provides a pathway guiding worshippers through services. Canon law sets out the theological boundaries underpinning how worship and services must be carried out within the Church of England. For example, Canon B1.2 states that ministers ‘shall only use the forms of service authorised by this canon’.¹⁰⁹ This provides the background for exploring the relationship between music, theology and church law and its applicability to music within the liturgy.

¹⁰⁸ As is explored in the history section of this thesis, this goes back to Biblical texts and is set out in the rubrics of the liturgy.

¹⁰⁹ Canon B1.2 Church of England Canons.

1.1.3 Theological reasons for including music within the liturgy

There are a number of elements of music that set it apart from the other art forms and which make it particularly suited for incorporation into worship. Words, the liturgical texts,¹¹⁰ can be set to a musical form, which operates within the overall shape of the liturgy or service, and becomes part of the liturgical texts when they are sung. This cannot be achieved by any other art form. For example, a painting of a Biblical passage, such as ‘creation’, captures one moment: the specific moment in time is effectively ‘frozen’ on canvass. To depict another ‘moment’ in time, it is necessary to paint another picture. Similarly, a sculpture would capture an individual or a scene, at a specific point in time. The fact that music can move with the spoken word, and evolve as the liturgical texts change, facilitates its incorporation into the liturgical action in a way which the other art forms cannot.¹¹¹ Furthermore, ‘while music does not necessarily convey specific content’, such as a painting or a picture can evoke of a specific scene,¹¹² it can be used ‘to convey something particular through the use of form, style, context and musical technique’.¹¹³ This demonstrates music’s importance within the liturgy, and how when incorporated or attached to the texts it creates something new, adding meaning to the words. For this reason, theology recognises music’s value within the service. However, it is the legal regulation of music which regulates, facilitates and orders music in worship, in a similar way to the liturgical texts, and so it is essential to study how the law achieves this to understand the relationship between music, theology and law. This also helps us to understand the interaction with the theological reasons underpinning the use of music within services.

As addressed above, the most comprehensive document detailing music’s regulation within worship (albeit within the Roman Catholic context) is *Musicam Sacram*. In addition, the

¹¹⁰ This may include the whole of a liturgical text, or only parts of the liturgical text.

¹¹¹ When a liturgical text or action is set to music, the music attaches to the words, and so is “incorporated” into the liturgical action.

¹¹² To take the previous example, a painting can specifically evoke the image of God creating the world in way which cannot be achieved through music. The painting shows the sun, moon and stars; or the trees and the animals, so that you actually see the world being created. In comparison, the listener, hears the music and uses their imagination to picture the world being created. Thus each individual listening to the same piece of music may imagine a different image of the scene.

¹¹³ D. A. Lynch, *God in Sound and Silence: Music as Theology* (Pickwick, USA, 2018) xvii.

Archbishops' Commission's Report briefly considers the theological context for the use of music within worship from a Church of England perspective.¹¹⁴

Vatican II's *Constitution on the Sacred Liturgy (Sacrosanctum Concilium)* recognises music's important role within the liturgy. It has an entire section on 'Sacred Music'. The opening states:

The musical tradition of the universal Church is a treasure of inestimable value, greater even than that of any other art. The main reason for this pre-eminence is that, as sacred song united to the words, it forms a necessary or integral part of the solemn liturgy...[S]acred music is to be considered the more holy in proportion as it is more closely connected with the liturgical action, whether it adds delight to prayer, fosters unity of mind, or confers greater solemnity upon the sacred rites...Liturgical worship is given a more noble form when the divine offices are celebrated solemnly in song, with the assistance of sacred ministers and the active participation of the people.

This sets out music's significant role within the liturgical texts.¹¹⁵

The opening sections of *Musicam Sacram*,¹¹⁶ state:

¹¹⁴ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) Chapters 3 – 6, 33 – 58.

¹¹⁵ Again, whilst this is a Roman Catholic document, it can be applied equally to the Church of England.

¹¹⁶ *Musicam Sacram* is an instruction on sacred music which was issued by the Sacred Congregation for Divine Worship of the Roman Catholic Church in March 1967. This document is stated to be 'not a collection of all the legislation on sacred music, but a statement simply of the principal norms that seem most needed at this time'. This document provides norms for Roman Catholic churches to follow when including music within the liturgy. It does not have any authoritative power over Church of England churches. However, significant theological thought has been applied to *Musicam Sacram*, and the document provides the most comprehensive treatment of the inclusion of music within the liturgy, of any denomination. For this reason, *Musicam Sacram* is an extremely important document to study for anyone considering the importance of music within the liturgy, regardless of whether this is from an Anglican, or a Roman Catholic perspective. Interestingly, the *Archbishops' Report on Church Music*, does not make any reference to *Musicam Sacram* at all, and yet all the theological arguments within the Archbishops' Report is contained in the opening statement of *Musicam Sacram*. Furthermore, there has been no significant revision of *Musicam Sacram*, nor has there been any divergence from the instruction contained within *Musicam Sacram*, since its issue in 1967 (neither within the Roman Catholic Church nor within the Church of England). For this reason, any serious consideration of the theological reasons for including music within the liturgy must include a consideration of *Musicam Sacram*.

The true purpose of sacred music, “is the glory of God and the sanctification of the faithful”.¹¹⁷

It continues:

Liturgical worship is given a more noble form when it is celebrated in song, with the ministers of each degree fulfilling their ministry and the people participating in it.

Indeed, through this form, prayer is expressed in a more attractive way, the mystery of the liturgy, with its hierarchical and community nature, is more openly shown, the unity of hearts is more profoundly achieved by the union of voices, minds are more easily raised to heavenly things by the beauty of the sacred rites, and the whole celebration more clearly prefigures that heavenly liturgy which is enacted in the holy city of Jerusalem.¹¹⁸

These statements set out the theological reasons underpinning music within worship.

Musicam Sacram then expands upon these ideas, setting out detailed ‘norms’ which should be followed when incorporating music into services. From these statements and theological arguments for including music within the liturgy contained in the *Archbishops’ Commission’s Report* it is possible to identify the following eight propositions.¹¹⁹ The purpose of music within worship is:¹²⁰

(1) for thanksgiving and to strengthen the faith of the congregation: the purpose of the liturgy is to give glory to God and music helps to achieve this.

¹¹⁷ *Musicam Sacram*, Preface, 4, see

https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_instr_19670305_musicam-sacram_en.html, accessed 1 June 2024.

¹¹⁸ *Musicam Sacram*, 5

https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_instr_19670305_musicam-sacram_en.html, accessed 1 June 2024; and *the Constitution on the Sacred Liturgy, Sacrosanctum Concilium*, 11.3

https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19631204_sacrosanctum-concilium_en.html, accessed 1 June 2024.

¹¹⁹ Whilst *Musicam Sacram* specifically relates to the music in the Roman Catholic Church, it sets out “principal norms” relating to the theological functions of music within worship apply equally to music within Church of England services, and so it is essential to consider these issues in a study of this nature.

¹²⁰ These propositions are formulated from the quotations set out above in *Musicam Sacram* and the *Archbishops’ Commission’s Report on Music*.

(2) for teaching: making worship texts more memorable and providing a greater understanding of the texts.

(3) to emphasise key elements of the rite: it may be alluring in its effect on worshippers, its beauty adorning worship ceremonies.

(4) for unity and encouraging the active participation of the congregation: singing together fosters a sense of unity and fellowship in the congregation, the unity of their voices in song symbolizing the unity of their hearts and minds.

(5) to establish the Church's hierarchy: by distinguishing the various chants performed by clergy, cantor, choir and congregation, music differentiates the various roles in worship.

(6) to assist with prayerfulness within the service: music may serve as a bridge to contemplation during worship.

(7) to reflect God's Mystery and allowing us to catch a glimpse of heaven.

(8) to assist with evangelism.

The following section explores each of these theological arguments, drawing upon the views of theologians to expand the theological statements. It also considers whether there is a normative dimension to each of these theological purposes of music within liturgy, and whether these are reflected as binding legal norms in the legal documents.

1.1.3.1 Music's thanksgiving function

The true purpose of sacred music *'is the glory of God and the sanctification of the faithful'*. Through singing, the congregation and choir express thankfulness to God, and demonstrate

their faith, and give glory to God. Since ‘worship is for God’,¹²¹ one of the main purposes is to ‘give glory to God’. The *Archbishops’ Commission’s Report* explains: ‘the raison d’être of the whole enterprise is that worship is for God... For this reason the central part of authentic worship is the offering of thanksgiving, adoration and praise. By this means, above all others, we help people to catch a glimpse of God’s glory’.¹²² Giving Glory to God is the ‘fundamental, deepest and truest’ reason for worship.¹²³ Music helps achieve this through its ability to express emotions in a way which cannot be achieved through the words alone.

Ruff, a Roman Catholic,¹²⁴ summarises the role of music within the liturgy as follows: ‘Israel experienced God’s faithfulness in God’s wondrous deeds of creation, self-revelation and redemption; the singing of Israel in assembly is an expression of the experience of salvation. This singing consists of praise, of the covenant; thanksgiving, for God’s deeds, which includes also their proclamation; lament, which however, remains hopeful in God; and petition, for liberation, blessing, and healing’. He argues that this tradition was inherited by Christians and developed so ‘Christian singing is a strong ‘sign of faith’. In singing, Christians express the fact that they believe, whom they believe, what they believe, how they believe, and the communal nature of their believing’.¹²⁵

As explored in Chapter 2, Christians have joined together from the very beginning of Christianity to worship God. Often this was through singing psalms together. ‘In this common sung praise of God, Christians found strength as the song announced a common faith, with every weakness drawn into the strength of a oneness of the song and the faith’.¹²⁶ Today, singing the liturgy ‘strengthens the faith of those who sing, the faith in the Mysteries celebrated and the faith that supports the active living of the Christian life’.¹²⁷

¹²¹ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 41.

¹²² *Ibid.*, 41.

¹²³ *Ibid.*, 41.

¹²⁴ As has been set out above, whilst Ruff is specifically a Roman Catholic commentator, and these documents relate specifically to the Roman Catholic church, their propositions are relevant to all Christians, and so are equally applicable to the Church of England.

¹²⁵ See Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 9.

¹²⁶ Gerald Dennis Gill, *Music in Catholic Liturgy: A Pastoral and Theological Companion to Sing to the Lord* (Hildenbrand Books; Chicago; 2009), 6.

¹²⁷ *Ibid.*, 7.

Furthermore, in the proposed introduction to *Musica Sacram*, Gelineau concluded:

In the liturgy, through the song of the people of God, the voice of the Church, the bride, is heard; she pours out her imploring of the Spirit with inexpressible groanings and proclaims the Word of blessing to the praise of the glory of God almighty.¹²⁸

It is possible to conclude that throughout the Christian world,¹²⁹ a theological reason for worship is to give glory to God, and for thanksgiving. This is achieved through singing, and music. Therefore, music within worship should glorify God and sanctify the people.

1.1.3.2 Music's teaching function

Once incorporated into the liturgical texts, music serves to enhance liturgical texts and help provide meaning. Music is a form of communication, like speaking, or language. It is described as one of the most 'accessible and universal languages', since it is less limited than speech by social, intellectual, national or religious boundaries. It also expresses, often more effectively than words, our feelings and aspirations.¹³⁰ Therefore, it is particularly suited for use in worship. It can be employed within the liturgy, not only to address God, but also to convey a particular meaning to worshippers. Music 'is the language of the soul made audible especially as music is the performance mode of the prayer and ritual engagement of a community'.¹³¹

Since a central focus of Christian worship is the proclamation of the Word of God, setting the words to music enhances the text's proclamation.¹³² Singing a text communicates it to the congregation, and contributes substantially to memorising the text, assisting the congregation

¹²⁸ Gelineau, "Théologie Spirituelle," in Jachinski, *Musica Sacra oder?* 416, as cited in Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 10.

¹²⁹ Including within the Church of England.

¹³⁰ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 34.

¹³¹ D. E. Saliers, *Music and Theology* (Abingdon Press, Nashville, 2007) 4.

¹³² such as occurs in proclaiming the word through the sung rendition of a scripture reading.

to recall those words which can over time assist our understanding.¹³³ When teaching young children, songs, rhymes and chants are often used to help them to remember information, such as the alphabet, the times table, days of the week and months of the year.¹³⁴ At the beginning it is the association of a particular tune with the texts, letters or numbers which enables the child to remember the order, but as the child becomes more familiar, the words become ingrained until the tune is no longer needed. Through this repetition, the child gains a better understanding of the meaning of the words, or the sums. This principle can also be applied to liturgical texts.¹³⁵ Since ‘[t]he church’s ministry of song is for the edification of God’s people...through congregational singing Christian faith is not only expressed, to a very real degree it is formed’.¹³⁶ Memorising texts is the first step towards gaining a greater understanding of what is being said, and so this relationship between memorisation and formation is fundamental to deepening an individual’s understanding of the Christian faith. Music’s role is particularly important because people often remember words that they have sung, rather than ideas and theological concepts that are preached at them through a sermon. Since people learn more readily through active participation,¹³⁷ rather than passively listening, through singing hymns, the people of God learn ‘how to speak with God’, and so songs of worship often help shape a Christian’s beliefs.

Thus a theological reason for including music within worship is to make texts more memorable, and assist the formation of the listeners. Music serves as a tool to teaching. To make the point normatively, therefore, music should teach the worshippers and help our understanding about God.

¹³³ Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 12.

¹³⁴ See for example, A Brandt, R Slevc, M Gebrian ‘The Role of Musical Development in Early Language Acquisition, 566 – 591 in *The Oxford Handbook of Music and the Brain*, ed. M Thaut, D Hodges (Online edn, Oxford Academic, 2018) accessed 7 December 2024.

¹³⁵ There have been numerous studies on the relationship between memory and music in children, for example, see S Hallam and E Hilmonides, *The Power of Music: an Exploration of the Evidence* (OpenBook Publishers, Cambridge, 2022), in particular see chapter 6; and *The Oxford Handbook of Music Psychology*, ed, S. Hallam (Oxford University Press, Oxford, 2012) in particular Part 5.

¹³⁶ R. Maconie, The Concept of music <https://www.rca.org/resources/theology-and-place-music-worship> - 14.01.20.

¹³⁷ This idea of active participation will be explored further later in this chapter.

1.1.3.3 Emphasising key elements of the rite

Musicam Sacram states: 'Liturgical worship is given a more noble form when it is celebrated in song'. The purpose of the liturgy is to celebrate our faith. Music helps us to express the 'celebratory and festal nature of the liturgy'.¹³⁸ The *Archbishops' Commission's Report* stresses the importance of music for setting an appropriate mood both for, and within worship. Since the music used within services is written for the enrichment of words, they provide 'a more concrete vehicle for the expression of human emotion, and most people use words as the primary means of expressing their feelings for God'.¹³⁹ Accordingly, music is used as a vehicle to enhance the significance of their offering to God.

Music helps emphasise certain elements of the liturgy, in a similar way to the use of incense before communion. Singing the most important parts of the liturgy, highlights these elements of the service because they are different to the sections immediately before, or after. A further example is that the 'Gloria' may be omitted from the liturgy during Lent and Advent. Then on Easter Day, and Christmas Day, the Gloria is re-introduced to the liturgy.¹⁴⁰ This helps to highlight the festive mood on these particular festivals. If the Gloria is sung on these days when it has been vacant during previous services, it further emphasises this element of the liturgy.

Accordingly, music serves to emphasise certain elements of the liturgy, making them more prominent. It also helps the listener to identify the appropriate mood of a particular part of the service, and highlights the solemnity of the occasion. Music should emphasise key elements of the liturgy.

¹³⁸ Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 11.

¹³⁹ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 48.

¹⁴⁰ *Common Worship: Services and Prayers for the Church of England* (London: Church House Publishing; 2000), Note 11 states: "'The Gloria in Excelsis'" This canticle may be omitted during Advent and Lent, and on weekdays which are not Principal Holy Days or Festivals', p. 331.

1.1.3.4 Music's social function: creating a sense of unity and encouraging active participation

Musicam Sacram states that one of the purposes of using music within the liturgy is that “*the unity of hearts is more profoundly achieved by the union of voices*”. From its inception the Christian Community has joined together to sing praises to God.¹⁴¹ The Christian Community sings together because, on the whole, incorporating singing into an act of worship creates a sense of unity between all members of that congregation, brings the members together and creates a sense of neighbourliness. Like the law, these ideas underpin Christian doctrines. Just as the active participation of the faithful is necessary to Christian worship, this active participation can be heightened through the use of music in the liturgy and the people can be encouraged to actively participate through acclamations, responses, psalmody, antiphons, songs and hymns.¹⁴²

Saliers argues the act of singing is ‘a deeply human act, found in every culture. This is because singing activates things that seem so central to human life itself: bodily, emotional, intellectual, and moral animation. To sing requires breath, physical production of sounds, emotional resonance, uses of the mind, and characteristically collaborative patterns of listening and participation...If these things are so, then the act of singing to God is a deeply theological act...Singing enacts the praise, thanksgiving and blessing. Singing also enacts sorrow, anger, lament, and the questioning of God’.¹⁴³ Arnold builds on Saliers’ argument, suggesting ‘singing is not, therefore, merely a physical act. It is also a mental, emotional and collaborative process and, in the context of monastic prayer, or any gathered worship, it becomes a theological act in itself, bringing sound, words and resonance to the silent praise of the heart. Singing can enable a release of emotion from within through the physical act’.¹⁴⁴

On the other hand, music can be divisive and alienate members of the congregation if the wrong selection is made.¹⁴⁵ For example, if a priest or director of music changes a setting of

¹⁴¹ as will be explored further in the history chapter.

¹⁴² Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 15 and *Sacrosanctum Concilium*, 30.

¹⁴³ D. Saliers, *Music and Theology* (Nashville, Abingdon Press, 2007) 63.

¹⁴⁴ Arnold, J, *Sacred Music in Secular Society*, 44.

¹⁴⁵ This is explored in more detail in chapter 6.

the Ordinary¹⁴⁶ used within worship, the style of music, or simply prevents the congregation/choir from singing one aspect of the liturgy, this can lead to a breakdown in the relationship between the congregation and clergy/director of music. In these circumstances, the music no longer achieves its desired purpose. Here, music is not unifying the congregation nor creating a sense of community.

However, music can overcome ‘denominational and doctrinal divides between people,’ since it is a ‘universal language’, and brings ‘harmony and shared experience, but one that is broad enough to encompass everybody’s individual experience, religious or otherwise’.¹⁴⁷ This is particularly because ‘different voices, different instruments are blended to offer a single, living, and unified work of beauty’.¹⁴⁸ Music’s power can help strengthen the feeling of community between a group of people when they come together.¹⁴⁹ As a result, *Musicam Sacram* prefers prayers to be sung because ‘the unity of hearts is more profoundly achieved by the unity of voices’.¹⁵⁰ This feeling of unity encourages people to come together to worship, and fosters a sense of shared community.

Through singing together within the liturgy, the congregation is brought closer together. Thus music has a unifying effect, and a further theological reason for including music within the liturgy is to unite the congregation and enable them to actively participate in the service. Therefore, put normatively, music should unify and create a sense of community among worshippers.

¹⁴⁶ i.e. certain texts within the liturgy which do not change with the seasons, such as the Gloria, Agnus Dei, Kyrie, or Sanctus.

¹⁴⁷ Arnold, J, *Sacred Music in Secular Society*, 70.

¹⁴⁸ R. Maconie, The Concept of music <https://www.rca.org/resources/theology-and-place-music-worship> - 14.01.20.

¹⁴⁹ Gelineau states that: “*The liturgy is the shared activity of a people gathered together. No other sign brings out this communal dimension so well as singing...Many individual voices, can actually be fused together, so that when they blend and follow the same rhythm, only one voice is heard – that of the group. This brings out a very strong feeling of unity and belonging*”: Gelineau, “Music and Singing” 495, as cited in Anthony Ruff, *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007) 13.

¹⁵⁰ *Musicam Sacram*, 5, on

http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_instr_19670305_musicam-sacram_en.html

1.1.3.5 Music's hierarchical function: distinguishing various roles within worship

Music highlights the hierarchy of the different groups participating in the service: the priest, the choir or musicians, and the congregation. It serves a social function within the liturgy, helping to highlight the different theological aspects of the service and the roles relevant to each group. This is reflected in *Musicam Sacram*: '*...With the ministers of each degree fulfilling their ministry and the people participating in it*'. Interestingly, this is the only theological principle identified in *Musicam Sacram*, not explicitly stated in the *Archbishops' Commission's Report*. However, as discussed below, the idea of a hierarchy existing between different members of the Church may be as relevant to a Church of England service.

Different parts of the liturgy are conducted by different groups: the priest alone says or sings the Eucharistic Prayer; the choir alone may sing certain parts of the Ordinary;¹⁵¹ while the full congregation recite or sing other elements of the liturgy. As explored in Chapter 3, an indication of which elements of the liturgy are said/sung by each section of the Church is set out in the rubrics to the liturgies, and so there may be slight variations as to which elements are said/sung by which category of the Church. For this reason, this is not set out in 'hard law' but is guidance,¹⁵² which helps provide certainty to those attending the services, regarding what is required of them. This differentiation helps identify where each member of the group fits into the service and in turn assists in understanding the 'order' and our role: which is one of the purposes of liturgical law.¹⁵³

James O'Donnell argues: 'if you just strip it [the role of a musician singing during the service] down to what it means, one could argue that, just as a surgeon performs an operation, a musician performs a piece of music... You are performing your role or your function just as much as a priest is. The priest's proper role in, for example, the Eucharist, is to celebrate. By extension the director of the choir has a particular role, as does each singer and each member

¹⁵¹ such as the Kyrie, or the Gloria.

¹⁵² A more detailed consideration of the approved Church of England liturgies, and a discussion of the difference between the laws in this regard is provided in chapter 3.

¹⁵³ See section above under heading "Liturgy".

of the congregation...Everybody is performing their proper role'.¹⁵⁴ Everyone attending a service has a role to play in worship, whether the priest, choir members,¹⁵⁵ reading the Bible passage or intercessions, or participating in the responses as part of the congregation. The rubrics, notes and directions within the liturgies prescribe the roles of each category of person within the Church, and music reflects this when incorporated into the service. For example, hymns are generally sung by the entire congregation, whilst an anthem may be sung by the choir alone.

The fact that different aspects of the service are said or sung by different parts of the worshipping community,¹⁵⁶ helps differentiate our respective roles within the Church. From a theological standpoint, music helps everyone to identify their role within the Church. Therefore, music *should* accommodate the different classes within the church and their roles in liturgy.

1.1.3.6 Assisting with prayerfulness within services

Musicam Sacram states: 'Through this form [i.e. music], prayer is expressed in a more attractive way' and 'minds are more easily raised to heavenly things by the beauty of the sacred rites'. Music 'does not simply communicate doctrinal truths in a way that reinforces memory of them, as if it affected only the mental faculties; nor does music simply appeal to the senses, which would lead to an insistence that the hearer rise above the aural appeal. Rather, music combines the emotional power of sound with the spiritual power of God's Word in such a way as to affect the soul'.¹⁵⁷ This explains one of the reasons for incorporating music into the liturgy: its capacity to evoke powerful emotions in both listeners and 'performers'. Words set to music 'are given greater emotive range and associational

¹⁵⁴ Interview between Jonathan Arnold and James O'Donnell, Westminster Abbey, 18 October 2011, as cited in J. Arnold, *Sacred Music in Secular Society*, 46.

¹⁵⁵ If there is a choir.

¹⁵⁶ for example, certain elements are reserved to the priest alone, the choir alone may sing an anthem, and hymns and other elements of the service are said or sung by the full congregation.

¹⁵⁷ Joyce Irwin, "So Faith Comes from What is Heard": The Relationship between Music and God's Word in the first Two Centuries of Germany's Lutheranism', in *Resonant Witness: Conversations between music and theology*, ed. J. Begbie, and S Guthrie, (2011, Wm. B Eerdmans Publishing Co, USA), 71.

power than when we only speak them – much less when we only think about them.’¹⁵⁸

Begbie argues: ‘the great triumph of music...involves this synthesis. Whereby a musical structure, moving according to its own logic, compels our feelings to move along with it, and so leads us to rehearse a feeling at which we would not otherwise arrive’.¹⁵⁹ In the correct context, a rousing tune can assist in creating the right atmosphere to praise God, whilst another melody may move the congregation to tears and assist in the grieving process. Music ‘can give us a sense of living through joy and sorrow, hope and suffering, passion, delight and sheer gratitude...Here we might say that music offers the possibility of a way of understanding something that language may express but not fully contain’.¹⁶⁰

Music for the liturgy ‘is not simply about moving the emotions; it does not have emotionally manipulative climaxes. If music helps us to learn about something greater than ourselves, which we call ‘God’, then it is that encouragement to take attention away from ourselves and learn to take time to repeat the process of prayerful music-making, to listen, to be still, to be patient. Perhaps what we learn from good sacred music is what it means just to be’.¹⁶¹

Whilst the liturgy is complete without music, and a ‘said’ service can take place, the inclusion of music at certain points within the service enhances the liturgy in a way which is not achieved through the words alone. It helps worshippers to better understand their faith. Understood normatively, music should assist with prayerfulness.

1.1.3.7 Music’s ability to express the mystery of God

From a theological standpoint, one of the reasons for incorporating music into the liturgy stems from the argument that anything which is made reveals something about its maker: as a painting reveals something about the artist. Similarly, music tells us not only about the composer and performers, ‘but also about the God who has given it’, and also ‘expresses

¹⁵⁸ D. E. Saliers, *Music and Theology*, (Abingdon Press, Nashville, 2007) 6.

¹⁵⁹ Begbie, *Theology, Music and Time*, 18 quoting Scruton, *The Aesthetics of Music*, 359.

¹⁶⁰ D. E. Saliers, *Music and Theology*, (Abingdon Press, Nashville, 2007) 75.

¹⁶¹ Arnold, J, *Sacred Music in Secular Society*, 95.

something of the mystery, the order and the glory of creation and its Creator'.¹⁶² It has long been thought that music is a gift from God and part of the created order, and therefore reveals something about God who created music.¹⁶³ Hildegard of Bingen,¹⁶⁴ claimed 'music is the echo of the glory and beauty of heaven',¹⁶⁵ while Martin Luther,¹⁶⁶ thought that music was a gift from God and a form of divine preaching.¹⁶⁷ It is therefore suggested that 'music enables one to study the relations pervading God's creation, relations which have their source and supporting ground in the eternal God, who is music'.¹⁶⁸ Music may serve as 'a form of revelation' because it can 'effect a change in us, and hence our mode of being in the world'; thus awakening us to an awareness of the original greatness of the divine Creator, but 'in which we always *already* stand'.¹⁶⁹

Music is a language that unlocks much more than words can. Music that 'engages us with the suffering and the mystery, the joy and the glory of being human, but also music that goes beyond the human to evoke 'mystery and transcendence', words that we cannot possibly hope fully to understand, but that seem only too appropriate to describe the deep listening of music'.¹⁷⁰ At its best, music can bring an 'understanding or revelation that goes beyond words and intellect. Indeed, the ultimate power and meaning of music is that it contains expressions of truths that cannot be expressed in any other way, cannot be clearly identified afterwards in words, and yet are irreducibly there. At the end of a really fine musical performance, we leave with a greater understanding of the depth of reality than when we arrived'.¹⁷¹

¹⁶² *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 34.

¹⁶³ R. Maconie, The Concept of music, <https://www.rca.org/resources/theology-and-place-music-worship> - 14.01.20.

¹⁶⁴ (1098 – 1179)

¹⁶⁵ Hildegard in a Nutshell, ed. Robert van der Weyer (London, Hodder & Stoughton, 1997) 97.

¹⁶⁶ (1483 – 1546)

¹⁶⁷ Miikka E Anttila, *Luther's Theology of Music: Spiritual Beauty and Pleasure* (Berlin: de Gruyter, 2013).

¹⁶⁸ J. Begbie, and S Guthrie, *Resonant Witness: Conversations between music and theology* (Wm. B Eerdmans Publishing Co, USA, 2011) 14.

¹⁶⁹ D Brown and G Hopps, *The Extravagance of Music* (Palgrave, Macmillan, London, 2018) 27.

¹⁷⁰ D. E. Saliers, *Music and Theology* (Abingdon Press, Nashville, 2007) 69.

¹⁷¹ Arnold, J, *Sacred Music in Secular Society*, 105.

Furthermore, music is a living practice of making and hearing. ‘Whatever the formal elements’, or raw materials making up a piece of music, be it the melody, pitch, rhythm, tempo, harmony, ‘the “end product” – the music itself – gains its particular shape from the social and cultural context from which it arises’.¹⁷² ‘Music always, to some extent, embodies social and cultural reality...no matter how autonomous with respect to intended function...’.¹⁷³ For this reason, ‘[t]he musical idiom conveys a great deal about how the community conceives of God...When the quality of music is grandiose or pompous, the projected image of God may contain more of the self-image of the worshipping community than the community realizes. When the quality of music is pleasant and folksy, the projected image of God may be strong on intimacy and ease but lacking in awe or mystery’.¹⁷⁴ The music must also be appropriate to its setting: music written for and specifically performed by a professional choir in a large cathedral, may not be suitable for the more intimate setting of a small parish church, without a professional choir. The music incorporated into the liturgy at a large cathedral conveys a sense of the mystery or magisterial nature of God, in a way that could not be achieved through the music of a small parish church. Equally, well-chosen music in a small parish church can convey a more intimate, pastoral side to God, not present or appropriate in a cathedral setting. Both these projections reveal something different about God and are appropriate in their contexts.

Music ‘is not just an art form that imparts pleasure but that, at its most profound, it can lead us to an understanding of a greater truth to the world, beyond the material, which enhances the reality of existence and leads us to a greater sense of what it means to be a human being’.¹⁷⁵ Therefore, music *should* convey the mystery of God.

1.1.3.8 Evangelism

The *Archbishops’ Commissions’ Report* points to the fact that one of music’s significant assets is its ability to evangelise. It explains that ‘for some [God’s] way into their hearts is

¹⁷² D. E. Saliers, *Music and Theology*, (Abingdon Press, Nashville, 2007) 12.

¹⁷³ J. Begbie, *Theology, Music and Time*, (Cambridge University Press, Cambridge, 2000) 13.

¹⁷⁴ D. E. Saliers, *Music and Theology* (Abingdon Press, Nashville, 2007) 28.

¹⁷⁵ Arnold, J, *Sacred Music in Secular Society*, 111.

through music and they are brought to faith, or have their commitment renewed or deepened, because of what they hear or sing'. It continues: 'there are very many people, for instance, who have been brought to Christ, and sometimes to ordained ministry as well, as a result of many years' membership of a choir. Equally, people who attend services because they enjoy the music can one day find they are there for more than that. God has used it to draw from them their love and obedience to himself'.¹⁷⁶ Accordingly, 'music has considerable potential for evangelism both in itself and through its devotees'.¹⁷⁷ Therefore, music *should* play a role in evangelising.

CONCLUSION

This chapter considers the relationship between theology, music and church law, particularly regarding music performed within the liturgy. It highlights the close relationship between the three disciplines of theology, music and law, particularly the 'practice' of these, specifically when applied to music within the liturgy. Theology influences the music incorporated into the liturgy. It is legal regulation, which provides the structure for the music incorporated into worship and which enables music to properly function within the liturgy. For example, the Church of England service books contain a structure for the Holy Communion service, setting out points where music may be included in the liturgy, they include rubrics and directions guiding those leading worship.¹⁷⁸ The three disciplines are inter-connected, when applied to music within the liturgy. However, whilst some scholars have considered the relationship of music and theology, and different scholars have addressed the relationship between theology and law, law and religion scholars have not explored these principles as applied to all three disciplines of music, theology and church law. This chapter addresses a lacuna in scholarship and provides an original contribution to knowledge.

¹⁷⁶ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music*, (Church House Publishing, Hodder & Stoughton, London, 1992) 46.

¹⁷⁷ *Ibid.*, 46.

¹⁷⁸ As explored in later chapters, this is achieved by regulating and facilitating the use of music in worship through legal instruments such as Church Measures, constitutions, the Church of England Canons, as well as the rubrics in the service booklets.

The first section explores a number of terms, which are explored further later in this thesis. Firstly, the disciplines of: ‘music’, ‘theology’, and ‘church law’. In particular, it considers how the three disciplines can be viewed as practices, divided into: (1) making the music, law or theology (through composing music, the laws, or theological or doctrinal texts); (2) listening to or performing the music, promulgating the law or studying a theological text; and (3) interpreting the music, theology or law (i.e. the musical, theological or legal texts). Secondly, it considers the terms ‘worship’ and ‘liturgy’, exploring music within the liturgy, looking at specific examples of how this demonstrates the inter-connected nature of music, theology and church law when music is incorporated into the liturgy.

The second part looks at the theological reasons for including music within the liturgy in Church worship. It considers the theological arguments addressed in the *Archbishops’ Commission’s Report*, and *Musicam Sacram*. From these documents it identifies eight theological functions of music in worship, formulating a series of norms and principles which govern the theological reasons for including music within worship. This includes:

- (1) music within worship should glorify God and sanctify the people;
- (2) music should teach the worshippers and help our understanding about God;
- (3) music should emphasise key elements of the liturgy;
- (4) music should unify and create a sense of community among the worshippers;
- (5) music should accommodate the different classes within the church and their roles in liturgy;
- (6) music assists with prayerfulness;
- (7) music should convey the mystery of God;
- (8) music should have a role in evangelising.

Whilst these norms can be deduced from the Church literature, they are not reflected in the legal texts, and so are not binding legal norms in the Church of England.¹⁷⁹ However, it would be difficult to enforce these principles if they were included as binding legal rules, since they are subjective and so difficult to enforce. It would be beneficial if these norms were set out in the rubrics or notes section of the Church of England service books (and so

¹⁷⁹ Although they are stated to be norms in the Roman Catholic document *Musicam Sacram*.

would be included as “soft law”), as it would help those overseeing music within worship to ensure that the music is incorporated effectively into the service, which in turn would enhance worship.

This chapter demonstrates the close relationship between theology and the music included in worship. Since it is the legal regulation of music that enables it to fulfil this theological function, the three elements of theology, music and church law are inextricably interconnected when music is incorporated into the liturgy. For this reason, it is necessary to consider all three elements and how they relate to each other in order to gain a full understanding of how liturgical music operates within worship. This sets the grounding for the next chapter which considers how the legal framework of the music included in the liturgy has developed historically. Furthermore, it will then be possible to see how theological considerations have shaped the law governing music within the liturgy as we discuss music at the various levels of the parish, cathedrals and college chapels.

CHAPTER 2 - THE HISTORICAL DEVELOPMENT OF THE REGULATION OF MUSIC WITHIN THE LITURGY

To understand why music is incorporated into the liturgy in the way it is, and how its regulation evolved in the way it did, it is important to trace the development of music within the liturgy from early Christian worship to the present day. This task is notoriously difficult because few studies of the history of music, or the liturgy, include a detailed study of the *regulation* of Church music. Additionally, whilst a number of scholars have traced the history of music, including Church music,¹⁸⁰ few provide a detailed description of the inclusion of music in the liturgy before the time of Constantine (d. 327).¹⁸¹ Given the sparsity of information about the role or use of music within the liturgy or worship during this period, it is even more difficult to discover how that music was regulated. For example, whilst the *Archbishops' Commission's Report on Church Music* includes a brief outline of how music has been included within Church worship since the early Church, it does not explain how music was regulated, or how the regulation of music within the liturgy developed through the centuries.¹⁸² The chapter addressing the history of Church music begins: 'For the first thousand years of the Church's life the music used in worship was the unaccompanied melody of plainsong, or Gregorian chant' without providing any further detail about the role music played within worship, or how it was regulated.¹⁸³ Furthermore, Duffy and MacCullough in their seminal books dealing with the Reformation, refer to music on only a handful of occasions,¹⁸⁴ and yet music played a crucial part in the changes introduced during the "Reformation".

Despite these difficulties, it is possible to identify certain rules which developed governing the music within the liturgy from these historical studies. Since it is the regulation of music

¹⁸⁰ See, A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing Ltd, Oxford, 2003).

¹⁸¹ E. Foley, *Foundations of Christian Music: The Music of Pre-Constantinian Christianity* (Grove Books Ltd, Nottingham, 1992) 5.

¹⁸² See *In Tune With Heaven, The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 25 – 30.

¹⁸³ *In Tune With Heaven, The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 25.

¹⁸⁴ See D. MacCulloch, *Reformation: Europe's House Divided* (Penguin Books, London, 2004) and E. Duffy, *The Stripping of the Altars: Traditional Religion in England 1400 – 1580* (Yale University Press, London, 2005).

which orders and facilitates music within the liturgy, it is important to understand how the rules surrounding the use of music within the liturgy grew up and developed. This enables us to understand why these rules are in place today, and their purpose.

This chapter provides an original contribution to knowledge by providing a unique perspective to the history of Church music through a study of its regulation and how this affected its historic development. This has not previously been attempted by scholars: seminal studies of the history of music, and indeed Church music consider this through the development of the music and compositional techniques, or the individuals involved in music throughout the centuries, such as composers and performers (e.g. by considering the works or lives of Henry Purcell (1659 – 1695), Johann Sebastian Bach (1685 – 1750), or Frederick Chopin (1810 – 1849)). In contrast, this chapter traces the history of Church music through its regulation, thus providing a unique perspective on one particular aspect of its development. It therefore addresses a lacuna in scholarship. It also explores the extent to which the primary sources are prescriptive and the extent to which scholars of the history of church music, have identified the prescriptive dimension of the church music in its history. This is not an extensive study of the development of music generally;¹⁸⁵ instead it focuses on how the regulation of music within church worship has developed and changed throughout history.

2.1. THE REGULATION OF LITURGICAL MUSIC IN EARLY CHRISTIANITY

The starting point for a consideration of the development of the regulation of music is with the early church - from the new testament to the early church councils in the 5th century. The principal sources that scholars consult to discover how music in the early church developed are: references to music, the singing of hymns, or psalmody in the Bible; the writings of the early Church Fathers; rules regulating the use of music in the liturgy from the canons set down by the early Church Councils; and secondary sources discussing the history of music or

¹⁸⁵ Such as can be found in A. Wilson-Dickson's *The Story of Christian Music* (Lion Publishing Ltd, Oxford, 2003), or Taruskin's *The Oxford History of Western Music* (Oxford University Press, Oxford, 2005).

the liturgy. This section considers the extent to which these sources address the regulation of music in the liturgy. Scholars have looked at the extent to which music was included in Christian worship in the early church, but they have not looked at the degree to which music was regulated. This study therefore provides a unique perspective to the study of Church music.

Before addressing how these sources can shed light on the development of the regulation of music, it is important to sound a note of caution regarding interpreting the early sources. Scholars need to be aware of a number of difficulties when considering the early sources. In the context of liturgical history, commentators caution against treating early primary sources as ‘simply offering raw factual data’, without considering matters such as the character of the text, the author’s aims and intentions in commenting on that particular aspect of the liturgy, and the context within which it was written.¹⁸⁶ This is equally applicable to those seeking to trace the regulation of music in the liturgy.

There are risks in reading ‘any ancient source as though it was a verbatim account of a liturgical act’.¹⁸⁷ For example, in early primary sources, it is usually only particularly ‘significant, novel, or controverted practices’ that are discussed: the authors often highlighted elements of the liturgy that they considered particularly significant, whilst those in common usage or judge unimportant by the author were omitted.¹⁸⁸ The fact that a particular action is not mentioned in a primary source does not necessarily mean it was not in common usage. In addition, care should be taken when considering directions for conduct of worship such as in the ancient church orders, conciliar decrees, or in early monastic rules and ancient orders of services. While they may appear to be a complete list of instructions, a comparison of twentieth-century equivalent texts reveals that such documents are often silent on important elements of the liturgy because they are presumed familiar to the reader. Accordingly, directions in the early sources may not explain accepted or customary aspects, nor the reasons for them, but only set out new, uncertain, or controversial points.¹⁸⁹ Finally, the first time something is mentioned was not necessarily the first time it was included in the liturgy.

¹⁸⁶ P. Bradshaw, *The Search for the Origins of Christian Worship* (London, 2002) 15.

¹⁸⁷ *Ibid.*, 15.

¹⁸⁸ *Ibid.*, 15.

¹⁸⁹ *Ibid.*, 16.

Whilst these warning notes are sounded specifically in relation to the historical study of the liturgy, they apply equally to a study of the regulation of music in the liturgy.

2.1.1 References to music in the Bible

The Bible is a starting point for tracing the inclusion of music in Christian worship, and therefore in discovering whether music was regulated in early Christian worship. Whilst there are many references to worship music and song in both the Old and New Testaments, such references are often indirect, or incidental to the overall story and therefore do not provide a clear picture of the role music actually played in worship or its regulation. However, it is possible to draw some normative conclusions from these passages.

2.1.1.1 Old Testament

The most obvious references to singing and music in the Old Testament¹⁹⁰ are in the Book of Psalms.¹⁹¹ In addition, an example of how music was used in worship can be found in the depiction of the dedication of Solomon's Temple in 2 Chronicles, which describes a glorious celebration:

All the Levitical singers...arrayed in fine linen, with cymbals, harps, and lyres, stood east of the altar with one hundred twenty priests who were trumpeters. It was the duty of the trumpeters and singers to make themselves heard in unison in praise and thanksgiving to the Lord, and when the song was raised, with trumpet and cymbals and other musical instruments, in praise to the Lord,

¹⁹⁰ Whilst the references to singing in the Old Testament are not examples of singing in Christian worship, since the earliest Christians were familiar with these Old Testament references, it is important to briefly consider them here.

¹⁹¹ For example, Psalm 138: 'I give you thanks, O Lord, with my whole heart; before the gods I sing your praise', or Psalm 150, (which has received detailed consideration by numerous music scholars) states: 'Praise him with trumpet sound; praise him with lute and harp! Praise him with tambourine and dance; praise him with strings and pipe! Praise him with clanging cymbals; praise him with loud clashing cymbals! Let everything that breathes praise the Lord! Praise the Lord!

“For he is good, for his steadfast love endures forever,” the house, the house of the Lord, was filled with a cloud, so that the priests could not stand to minister because of the cloud; for the glory of the Lord filled the house of God.¹⁹²

The event was a form of Israelite worship, and the passage contains a description of the event, but suggests a number of normative aspects regarding the music, namely: where the musicians stood, who the musicians were, and how they played during the worship – in unison.

A slightly different example of the use of singing and musical instruments can be found in the account in Nehemiah of the dedication of Jerusalem’s city walls. This describes how the Levites came to Jerusalem ‘to celebrate the dedication with rejoicing, with thanksgivings and with singing, with cymbals, harps and lyres’.¹⁹³ The writer describes two choirs being assembled on the walls, explaining that half the company of singers and musicians ascended the eastern side of the wall, while the remaining musicians ascended the western wall.¹⁹⁴ This is an example of formal worship, where the role of the musicians had been pre-planned, and where the role of the choirs and musicians had been pre-determined.

The conclusions we can draw from these and other references to music, singing, and musicians in the Old Testament is that it played a central role in Jewish worship. And since the early Christian converts began their life within Jewish society, the important role music played in Jewish life provides a backdrop to the study of music’s incorporation into Christian liturgy. Furthermore, the descriptions of worship within the Old Testament demonstrate that many aspects of music within worship were regulated: the musicians followed rules on where they should stand or when they should sing (even if that regulation was not explicit).

2.1.1.2 New Testament

¹⁹² 2 Chronicles 5:11-14.

¹⁹³ Nehemiah 12:27.

¹⁹⁴ ‘And the singers sang with Jezrahiah as their leader. They offered great sacrifices that day and rejoiced, for God had made them rejoice with great joy; the women and children also rejoiced. The joy of Jerusalem was heard far away’ (Nehemiah 12:42-43).

Whilst there are many passages in the New Testament referring to music or praising God in song, such references are imprecise and elusive: it is extremely difficult from the descriptions to determine precisely what is being sung and in what liturgical circumstances,¹⁹⁵ even less so how it was regulated. References to music in the New Testament do not provide many clues to the precise role that music played in the liturgy, nor how it was regulated, although it does create the general impression that music and sacred song were accepted as part of liturgical life.¹⁹⁶ Furthermore, the New Testament is not only silent about any ‘musical’ office, but also about any other office within the Church worship which makes it very difficult to draw any conclusions about whether musicians were included in early Christian liturgy.¹⁹⁷ However, some of the key references to music do help identify a number of norms governing the role of music within worship in early Christianity.

A first theme identified from the New Testament is that music, particularly singing was included as part of the liturgy, or worship. In their description of the last supper, both Matthew and Mark, comment that ‘after singing a hymn, they went out to the Mount of Olives’.¹⁹⁸ This description of the Last Supper is an example of early Christian liturgy and demonstrates that singing formed an important part of the Last Supper. Another reference to singing prayers to God can be found in Acts 16:25: whilst in prison, Paul and Silas sang and prayed to God.¹⁹⁹ This is an example of Christian worship of God, outside the liturgy.

A second area where the New Testament can assist is identifying liturgical texts, and hymns, included in the New Testament, which are still used in the liturgy today.²⁰⁰ For example, passages that have been identified as hymns or prayers reflect the liturgical material in use by

¹⁹⁵ J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 12.

¹⁹⁶ J. McKinnon (ed), *Antiquity and the Middle Ages: From Ancient Greece to the 15th century* (Macmillan Press Limited, 1990) 68.

¹⁹⁷ E. Foley, *Foundations of Christian Music: The Music of Pre-Constantinian Christianity* (Grove Books Limited, 1992) 52.

¹⁹⁸ Matthew 26:30; Mark 14:26.

¹⁹⁹ *About midnight Paul and Silas were praying and singing hymns to God, and the prisoners were listening to them. Suddenly there was a great earthquake, so violent that the foundations of the prison were shaken, and immediately all the doors were opened and everyone’s chains unfastened. Acts 16:25.*

²⁰⁰ Some examples include the Lukan canticles such as Mary’s Song of Praise, forming the basis of the Magnificat; Zechariah’s Prophecy; Simeon’s words at the temple, which form the basis of the Nunc Dimittis; or the annunciation to the shepherds, which forms the beginning of the Gloria in excelsis, which came to be sung in the eastern morning office and in the western Eucharist. See analysis of the arguments in Bradshaw P, *The Search for the Origins of Christian Worship* (London, 2002), 57 – 59.

early Christians.²⁰¹ Again, the fact that these texts were sung by early Christians within Christian worship demonstrates norms regarding the texts that were used, and that music within worship was regulated.

A third area is where passages from the New Testament seek to provide guidance to Christians about how they should live their lives, which included singing:

Do not get drunk with wine, for that is debauchery; but be filled with the Spirit, as you sing psalms and hymns and spiritual songs among yourselves, singing and making melody to the Lord in your hearts, giving thanks to God the Father at all times and for everything in the name of our Lord Jesus Christ.²⁰²

Again, normativity is implied - this passage suggests that Christians *should* sing their praises to the Lord through hymns and psalms.

It is possible to deduce a number of implicit and explicit rudimentary norms from within the New Testament, namely that early Christians used music within the liturgy and worship (even if we are unable to determine precisely how the music was regulated). Furthermore, a number of the texts used within the liturgy by early Christians are very similar to the texts used within the liturgy today,²⁰³ demonstrating that the words used within Christian liturgy were regulated from the earliest Christian worship.

2.1.2 The Church Fathers

²⁰¹ Even if the material was created by the author rather than being taken directly from worship, those authors would inevitably have been influenced by the familiar liturgical forms and so the texts will reflect the practices in use at the time. The common stylistic and linguistic features across all these different passages with different authors, theology and background, suggest that the common features derive from similarities within the liturgical traditions. See P. Bradshaw, *The Search for the Origins of Christian Worship* (London, 2002) 59.

²⁰² Eph 5: 18 – 20.

²⁰³ For example, and the words of Institution said in the Eucharist: ‘Then he took a loaf of bread, and when he had given thanks, he broke it and gave it to them saying, “This is my body, which is given for you. Do this in remembrance of me”’. (Luke 22: 19); or the words of the Gloria: ‘And suddenly there was with the angel a multitude of the heavenly host, praising God and saying: “Glory to God in the highest heaven, and on earth peace among those whom he favours”’. (Luke 2: 13 – 14). This is explored further in chapter 3.

The Church Fathers were highly influential Christian writers and scholars, who interpreted the Bible, setting out principles to guide early Christians.²⁰⁴ It is possible to draw a number of conclusions about their attitude towards music in the liturgy, and the regulation of music, from references to music in their writings.

First, are instances where the early Church Fathers describe the liturgy, or provide references to the use of music within Christian worship. These provide clues about early attitudes towards liturgical music, and how music was incorporated into Christian services. From these descriptions it is possible to deduce normative aspects governing how worship was conducted by early Christians. For example, Justin Martyr (d.c.165) provides one of the first descriptions of the Sunday Eucharist at Rome.²⁰⁵ It describes how a number of people assemble together, to offer prayers, and then it appears to describe the Eucharist: ‘when we are finished with the prayers, bread is brought, and wine and water, and he who presides likewise offers prayers and thanksgiving, according to his ability, and the people give their assent by exclaiming Amen’.

McKinnon points out that there is no explicit reference to the inclusion of music in any aspect of the service. He therefore suggests that music was not included in the liturgy at this stage in early Christian worship.²⁰⁶ However, in this passage, Justin Martyr does not state how the ‘prayers’, the ‘memoirs of the Apostles’ and the ‘writings of the Prophets’ were ‘read’: whether these were ‘said’ or ‘sung’. It is possible including music in worship was considered such an everyday occurrence that it did not warrant explanation. Indeed, as demonstrated

²⁰⁴ R. Taruskin, *The Oxford History of Western Music, volume 1: The Earliest Notations to the sixteenth century* (Oxford University Press, Oxford, 2005) 25.

²⁰⁵ ‘And on the day named for the sun there is an assembly in one place for all who live in the towns and in the country; and the memoirs of the Apostles and the writings of the Prophets are read as long as time permits. Then when the reader has finished, he who presides speaks, giving admonishment and exhortation to imitate those noble deeds. Then we all stand together and offer prayers.

And when, as we said above, we are finished with the prayers, bread is brought, and wine and water, and he who presides likewise offers prayers and thanksgiving, according to his ability, and the people give their assent by exclaiming Amen. And there takes place the distribution to each and the partaking of that over which thanksgiving has been said.’ Apology I, 67 – as cited in J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 20.

²⁰⁶ See the argument in J. McKinnon (ed), *Antiquity and the Middle Ages: From Ancient Greece to the 15th century* (Macmillan Press Limited, 1990) 68 – 71.

above,²⁰⁷ music was clearly included in early forms of the liturgy and Christian worship. Therefore, we cannot conclusively say that music was not included in worship at this stage.

By way of contrast, Basil the Great (c.330 – 379) bishop of Caesarea from 370 made several important references to music in his works:²⁰⁸

What is more blessed than to imitate the chorus of angels here on earth; to arise for prayer at the very break of day and honor the Creator with hymns and songs; and then when the sun shines brightly to turn to our work, and, with prayer as an everpresent companion, to season our tasks with hymns, as if with salt? For the consolation of hymns favors the soul with a state of happiness and freedom from care.²⁰⁹

It is possible to deduce normative dimensions from this passage: the early Church Fathers encouraged Christians to ‘arise for prayer at the very break of day...with hymns and songs’. Thus, singing in the form of hymns formed part of a Christian’s prayers to God. In addition, the Church Fathers exhorted the positive aspects of including music in the liturgy: it helped inspire divine thoughts but could also influence the listener’s character. As early as 330, the Church Fathers were working out the theological reasons for including music within worship: Basil the Great highlights that through singing hymns to God, we are ‘imitating the chorus of angels’, and singing is described as a way of ‘praising God’. Both of these are theological reasons for including music in worship.²¹⁰

Another area where music’s role in Christian life is identified is the importance of the psalms to teaching Christians about how to lead an exemplary life.²¹¹ The Church Fathers believed

²⁰⁷ From the cited passages of the New Testament.

²⁰⁸ This passage is taken from a letter from Basil to Gregory of Nazianzus in around 358 see J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 68.

²⁰⁹ Cited in J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 68.

²¹⁰ This is explored further in chapter 1.

²¹¹ “*What did the Holy Spirit do when he saw that the human race was not led easily to virtue, and that due to our penchant for pleasure we gave little heed to an upright life? He mixed sweetness of melody with doctrine so that inadvertently we would absorb the benefit of the words through gentleness and ease of hearing, just as clever physicians frequently smear the cup with honey when giving the fastidious some rather bitter medicine to drink.*” Homilia in psalmum I; PG xxix, 212 as cited in J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 65.

that ‘beautiful things’ existed to remind the listener of divine and perfect beauty. The Church Fathers stressed that music was to be the servant of the liturgical texts, and only music that made the listener’s mind receptive to the Christian teachings and ‘disposed it to holy thoughts’ was worthy of inclusion in the Church service.²¹² Again, these are theological reasons setting out the purpose of music within worship,²¹³ and so can be distinguished from the regulation of music within worship. However, it is regulation which facilitates music achieving this purpose within the liturgy,²¹⁴ and so it is difficult to separate the two elements of music.

A related but separate theme is music’s emotive force. Many of the writings of St Augustine (354 – 430) how the emotive force of music can be used to raise the spirits of Christians during difficult times.²¹⁵ In this passage, he explains his feelings arising from the music at his baptism:

How much I wept at your hymns and canticles, deeply moved by the voices of your sweetly singing church. Those voices flowed into my ears, and the truth was poured out in my heart, whence a feeling of piety surged up and my tears ran down...

Not long since had the church of Milan begun this mode of consolation and exhortation, with the brethren singing zealously together with voice and heart...At that time the custom began that hymns and psalms be sung after the manner of the eastern regions lest the people be worn out with the tedium of sorrow. The practice has been retained from that time until today...²¹⁶

²¹² R. Taruskin, *The Oxford History of Western Music, volume 1: The Earliest Notations to the sixteenth century* (Oxford University Press, Oxford, 2005) 26.

²¹³ These concepts have been explored in more detail in chapter 1.

²¹⁴ By setting out how (in terms of who decides which music should be included in the liturgy) and ordering where in the services the music should be included.

²¹⁵ Another theological reason for including music within worship.

²¹⁶ *Confessiones* ix, vi, 14-vii, 15; PL xxxii, 769 – 70; CCL xxvii, 141-2; as cited in J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 154.

In this passage, St Augustine explains that Christians sang hymns and psalms within worship, and that this had been the custom (i.e. ‘the practice’) for some time.²¹⁷ He also highlights music’s ability to lift the spirits of Christians and to inspire faith. It was a customary norm that singing formed an integral part of early Christian worship.

2.1.3 References to Music in the Early Canons

It is also important to consider the early Church canons to trace the use of music, and its regulation, by the early Church. The early canons were ‘intended to regulate the discipline and external worship of the Church, as well as to correct and restrain particular abuses’. They are important because they form the rules ‘which regulated the discipline of the Catholic Church’ and many of the rules which continue today are based upon these canons.²¹⁸

The canons passed by the first Church Councils,²¹⁹ do not address the role of music within Christian music, let alone set down regulation for the inclusion of music in the liturgy. Indeed, music is not mentioned in these canons at all. The early councils were concerned with promoting unity in an institution that had only recently, become the official religion of the state.²²⁰ They also created rules dealing with: those who had “lapsed” during the persecutions; whether and how the Church should accept these individuals back into communion,²²¹ which views were considered heresy; and the conduct of bishops, priests, and deacons as well as conflict.²²² They do not address the format of Christian services.²²³ It is

²¹⁷ The fact that this passage references the Empress “Justina, mother of the boy-emperor Valentinian”, places this text at around 371 – 374CE.

²¹⁸ Lambert, The Rev W, *The Canons of the first four General Councils of the Church and those of the early local Greek Synods* (London, 1868) iii. These conciliar canons are commonly cited by for example the post-Reformation English ecclesiastical lawyers such as John Godolphin (in 1678), John Ayliffe (in 1726), and Robert Phillimore (in 1873).

²¹⁹ These include the Councils of Nicaea (c.325 A.D), Constantinople (c.381 A.D), Ephesus (c.431 A.D.) and Chalcedon (c.451 A.D.)

²²⁰ It was in 380 that the Roman Emperor Theodosius I issued the Edict of Thessalonica which recognised Christianity as the Roman Empire’s state religion. See Wilson-Dickson A, *The Story of Christian Music* (Lion Publishing plc, 2003) 26.

²²¹ see Canons 5, 9, and 14 of Nicaea, and Canons 3 – 9 of the Provincial Council of Ancyra c.314.

²²² for example, see Canons 15 – 18 of Nicaea, and canons 6 -9 of Chalcedon.

²²³ Except for a number of bishops attending the Council of Nicaea signing up to the wording of the Nicene creed.

therefore not surprising that these early canons do not consider the use of music in Christian services.

Whilst the early councils did not explicitly regulate the use of music within Christian worship, the idea of regulating music within liturgy was already implicit from the writings of the early Church Fathers and other early primary sources describing Christian worship. Music's regulation within worship was explicitly dealt with in some of the later councils. For example, there is a reference to the role of the cantor in canon 15 of the Council of Laodicea (c.363-364):

No others are to sing in church, besides the canonical cantors, who ascend the ambo and sing from a parchment.

This canon is linked to the theological argument that music helps establish the hierarchy within the Church.²²⁴ Canon 17 continues that the psalms 'ought not to be sung one after the other in the assemblies, but a reading should be interpolated after each psalm'.

Canon 59 states that:

One must not recite privately composed psalms nor non-canonical books in the church, but only the canonical books of the Old and New Testament.

By limiting the texts permitted in worship to the canonical books of the Old and New Testaments, the authorities were seeking to prevent heretical texts being used.

Further reference to the structure of the liturgy is included in a collection of Alexandrian canons titled the Canons of Basil.²²⁵ First, Canon 97 stipulates (without explicitly mentioning music) the order in which readings from the Bible and the Gospels should be carried out. It

²²⁴ This is addressed in more detail in chapter 1.

²²⁵ Again, the precise date of this collection is unknown since it appears to have been reworked over a number of centuries from the late fourth century. See J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 119.

also addresses who should read these passages.²²⁶ This section of the canon, whilst not specifically addressing the use of music within the liturgy, identifies the hierarchy of who reads which elements of the liturgy and stresses that ‘none should overstep his rank’. This idea of identifying the hierarchy within the church (like can. 59), is one of the theological reasons for including music within the liturgy.²²⁷ Second, however, the canon continues:

Those singing psalms at the altar shall not sing with pleasure, but with understanding; they should sing nothing other than psalms... The congregation shall respond with vigour after every psalm.²²⁸

These canons appear to be the closest to setting out the order that should be followed within the service. McKinnon suggests this canon demonstrates that psalms were sung as the faithful and catechumens gathered for the pre-Eucharistic synaxis.²²⁹ However, the author does not stipulate whether each of the readings and psalms should be ‘said’ or ‘sung’. Again, it demonstrates that by the late fourth century, the Church Councils were setting down rules governing the content of worship, including the music included in the liturgy. Furthermore, the congregation responded to the psalms within the liturgy. This shows that from the late fourth century the Church Councils considered the music within worship was an object worthy of regulation, and explicitly dealt with its regulation.

2.1.4 Egeria’s Description of the Eucharist

²²⁶ ‘When they begin to celebrate the mysteries, they should not do so in disorder, but should wait until the entire congregation has gathered; as long as they are coming in they should read psalms. Then after the congregation is assembled, there should be readings from the Apostles, then from the Acts and from the Gospel. If the deacons read well, they should read the psalms; and if the presbyters read well, they should read the Gospel. If they do not read well, the oldest lectors should read the psalms, and the deacons the Gospel. Only a deacon or a presbyter should read the Gospel in a catholic church; none should overstep his rank’. See J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 120.

²²⁷ See chapter 1.

²²⁸ See J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 120.

²²⁹ *Ibid.*, 120.

It is also possible to determine how music was included in early Christian worship from descriptions of the Eucharist in early sources, which assists in tracing the regulation of music in the early Church. One of the earliest known written descriptions of the Eucharist comes from the diary of Egeria, a nun on pilgrimage to the Holy Land from around the fourth century.²³⁰ The importance of this document lies in its description of the liturgy in Jerusalem and in the central role that music clearly plays in the liturgy.²³¹

The first extract describes the weekday night office:

Each day before cockcrow...until it is light, hymns are sung (dicuntur) and psalms responded to, and likewise antiphons; and with every hymn there is a prayer. For two or three priests, and likewise deacons, who say these prayers with every hymn and antiphon, take turns to be there each day...

From this it is possible to conclude that the monks and nuns sang the psalmody, and the clergy said the prayers.²³² This implies a prescriptive aspect to singing certain elements of worship.

Later, Egeria describes the Sunday service.²³³ Commentators have noted the difficulty with the distinction between ‘hymns’, ‘psalms’ and ‘antiphons’ in Egeria’s description of the

²³⁰ Whilst it is difficult to ascertain the precise date of her pilgrimage, it has been suggested that from the details provided in the narrative of the diary, the author was in Jerusalem from 381 to 384. P. Bradshaw, *The Search for the Origins of Christian Worship* (London, 2002) 115. It is also not known precisely where Egeria was from, but it is believed she was Spanish or French.

²³¹ Although some commentators have highlighted the limitations to this document. For example, the liturgical practices detailed in the diary are somewhat selective, and Bradshaw suggests that this reflects her own personal interests. In addition, the diary does not describe customs widely or universally practised at the time, only detailing those elements of the liturgy that would not have been familiar to the readers back at home. Furthermore, it must be remembered that Egeria was a visitor in a foreign community and so there is some uncertainty about whether she correctly understood some of the elements of the worship that she was describing. See P. Bradshaw, *The Search for the Origins of Christian Worship* (London, 2002) 116.

²³² J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 112.

²³³ ‘...all the people gather before cockcrow...Hymns are sung and also antiphons, and there are prayers with each hymn and antiphon. As soon as the first cock crows, straightaway the bishop comes down and enters the cave in the Anastasis. All the gates are opened, and the entire throng enters the Anastasis, where already countless lamps are burning, and when the people are within, one of the priests sings a psalm and all respond, after which there is a prayer. Then one of the deacons sings a psalm, similarly followed by a prayer, and a third psalm is sung by some cleric, followed by a third prayer and the commemoration of all. When these three psalms have been sung and the three prayers said, behold

services, because we are unable to determine the performance practice of each of these forms or indeed whether they conform with our present understanding of ‘hymns’ and ‘psalms’.²³⁴ However, they have not identified the prescriptive elements of Egeria’s recollection of the liturgy. It is possible to identify a number of norms from Egeria’s description: within the Eucharist, a priest or deacon would sing a psalm, to which the congregation responded, followed by a prayer. Furthermore, it was customary for the bishop to read the gospel. The contributions of the different groups: the priests, monks, and laity were clearly delineated with the laity having the opportunity to respond in the psalms, thus highlighting the hierarchy of the church within the liturgy (one of the theological reasons for including music within the liturgy). This passage demonstrates that by the fourth century, music played an important part in the liturgy, and the singing of psalms forms a thread throughout all the services described.²³⁵ It is also clear that the main Sunday service followed a similar structure to the current Eucharist service: that of the liturgy of the word, followed by the liturgy of the Eucharist.

2.2. THE MIDDLE AGES

A number of developments within the Church during the Middle Ages had a significant influence on the use of liturgical music in worship and its regulation. As a result of the increasing use and complexity of music within worship, it became more closely regulated. In addition, between 1100 and 1400, primary sources increasingly set out regulations dealing with the individuals involved in music at the cathedrals; this highlights the increasing importance attributed to music within the liturgy. This section considers how the music’s regulation within the liturgy developed during the Middle Ages, demonstrating that it was an

censers (thiamataria) are brought into the cave of the Anastasis, so that the entire Anastasis basilica is filled with the smell. And then as the bishop stands behind the railings, he takes the Gospel book and goes to the gate and the bishop himself reads the Resurrection of the Lord... When the Gospel has been read, the bishop leaves and is led with hymns to the Cross, accompanied by all the people. There, again, one psalm is sung and a prayer said. Then he blesses the people, and the dismissal takes place. [Then] psalms and antiphons are sung until it is light; and with every psalm and antiphon a prayer is said, for the priests and deacons take turns in keeping daily vigil with the people at the Anastiasis.’ See J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 112.

²³⁴ See J. McKinnon, *Music in Early Christian Literature* (Cambridge University Press, 1987) 112.

²³⁵ A. Wilson-Dickson, *The Story of Christian Music: From Gregorian Chant to Black Gospel* (Lion Publishing, Oxford, 2003) 30.

increasingly important element of worship. The first area was the standardisation of the liturgy into one rite. The second was the invention of musical notation (which itself, may be conceived as a technical musical performative regulatory system). Thirdly, the role of individuals involved in the musical life of cathedrals is considered.

2.2.1 The Development of the Liturgy²³⁶

During early Christianity, different versions of the liturgy developed independently of one another depending on geographical region.²³⁷ By around the tenth century, the order of the Eucharist had become fairly stable, with a number of set texts, such as the Gloria, Kyrie, Sanctus and Agnus Dei forming a nucleus of liturgical texts.²³⁸ During the medieval period, gradually, the Roman rite became the predominant rite prescribed for use throughout the Western Church in place of the many other local rites.²³⁹

Another development that impacted the development of the liturgy, was that liturgical books were used by those conducting worship, such as the priests, readers and those leading the chants. Originally, there were no complete prayer books containing all the texts required for a single type of celebration: instead a number of different books such as the sacramentaries,²⁴⁰ lectionaries,²⁴¹ antiphonaries,²⁴² and ordines,²⁴³ were used.²⁴⁴ Gradually, these texts were

²³⁶ In tracing the history of Christian worship, the development of the Eastern and Western Churches split in 1054 and it is necessary to distinguish between the two after this period. In the following sections, I will therefore concentrate on the development of the Western liturgy because it is from within this tradition that the English Anglican tradition evolved. However, it will be helpful during the course of this thesis to compare the musical elements within the Eastern liturgies.

²³⁷ For example, for a time, a number of other rites did flourish throughout the Western Church: the Ambrosian (the rite of Milan), Gallican (the rite of modern-day France, Germany, and Belgium), Mozarabic (the rite of the Iberian peninsular). For a more detailed consideration of the development of the western liturgies see R. Hoppin, *Medieval Music* (W.W Norton & Company, 1978) 33 – 42.

²³⁸ This format for the liturgy has remained pretty constant through to the twenty-first century and forms the basis of the sung Eucharist in the liturgy of today.

²³⁹ I will only look at the Western rites and not the Eastern rites in this thesis, because it is out of the Western rites that the Roman Catholic and therefore Church of England liturgies developed.

²⁴⁰ Containing the prayers said by priests.

²⁴¹ For gospel and epistle readers.

²⁴² For those leading the chants.

²⁴³ Containing the special directions for a particular liturgy.

²⁴⁴ J. Baldwin, 'Christian Worship to the Reformation' in *The Making of Jewish and Christian Worship*, ed. P. Bradshaw and L. Hoffman (London, 1991) 174 – 175.

collated in one book called the ‘missal’ as more and more of the functions of the Eucharist were designated to the officiating priest.²⁴⁵ Whereas previously, worship had been transmitted aurally, during the Middle Ages a prescribed liturgy developed which was written down in one place. As a result, the liturgy was more closely regulated because it was contained in a written document. This took place alongside the development of written musical notation. During this period, both the liturgy and liturgical music came to be written down. This made it easier for transmission, but it also meant the liturgy and music were capable of closer regulation.

2.2.2 The invention of musical notation – the idea of performative regulation

One of the most significant developments in the history of Western music, and within the history of the liturgy, was the invention of a written record of the chant melodies within the liturgy.²⁴⁶ By making a written record of these melodies, it became possible to define exactly how the liturgy should be sung, and arguably, this marked the beginning of the formal regulation of music within the liturgy.

Over the first thousand years of Christian worship, the music used within the liturgy was sung and passed on aurally.²⁴⁷ The earliest manuscripts created for use by the choir only contained the texts to be sung: traditionally, singers learned and performed the melodies from memory. However, as the number of chants for performance increased, this became more difficult. To assist with recalling the melody, various signs, called “neumes”,²⁴⁸ were written above the chant texts.²⁴⁹

²⁴⁵ J. Baldwin, ‘Christian Worship to the Reformation’ in *The Making of Jewish and Christian Worship*, ed. P. Bradshaw and L. Hoffman (London, 1991) 175.

²⁴⁶ D. Hiley, ‘Plainchant Transfigured: Innovation and Reformation through the Ages’ in *Antiquity and the Middle Ages*, ed. J. McKinnon (Macmillan Press, Cambridge, 1990) 120.

²⁴⁷ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 45.

²⁴⁸ A neume is the word used for the signs or symbols used in early western and eastern plainsong to indicate the course of the melody – see definition of “neume” in Oxford English Dictionary: <https://www-oed-com.abc.cardiff.ac.uk/view/Entry/126352?redirectedFrom=neume#eid>, accessed 25 April 2023.

²⁴⁹ R. Hoppin, *Medieval Music* (W.W Norton & Company, 1978) 58.

The earliest form of neumatic notation provided an indication of the number of notes to be sung and whether the notes moved up or down. However, we are unable to recreate the melody centuries later from these earliest “scores” because the neumes do not indicate the note on which the melody begins, or the size of the intervals between notes. Accordingly, this earliest neumatic notation simply served as an aid to the singer who already knew the melody.²⁵⁰ Nevertheless, neumes were essentially regulatory in nature, through mapping the general shape of the music which was followed by the singers.

The next regulatory development of musical notation was the indication of the size of the intervals between neumes based on the distance between the individual neumes. Through carefully placing neumes of the same pitch at the same level throughout the chant, singers could see at a glance the shape of the music. This led to the use of one or two lines to represent particular notes with a letter at the beginning of the line indicating which note it represented.²⁵¹ The next development was the four-line staff.²⁵² This placed the neumes on parallel lines prescribing specific notes to be sung.²⁵³

Whilst this notation clearly indicated the pitches of the notes it did not set out the duration of each note. Accordingly, we do not know the rhythmic style of Gregorian Chant during the

²⁵⁰ R. Hoppin, *Medieval Music* (W.W Norton & Company, New York, 1978) 59.

²⁵¹ *Ibid.*, 59 – 60.

²⁵² This creation is generally credited to Guido D’Arezzo (c.995 – 1050) – see Wilson-Dickson A, *The Story of Christian Music* (Lion Publishing plc, 2003) 44. Although, see the commentary in Strunk’s *Source Readings* which indicates that it may be an exaggeration to attribute this invention to Guido. However, it is clear from the Prologue to his *Antiphoner* that he was certainly a key figure in its early development. See *Strunk’s Source Readings in Music History* (W.W. Norton & Company, New York, 1998) 211.

²⁵³ Guido explained how his method of teaching this notation would work in the prologue to his *Antiphoner*: “*The notes are so arranged, then, that each sound, however often it may be repeated in a melody, is found always in its own row. And in order that you may better distinguish these rows, lines are drawn close together, and some rows of sounds occur on the lines themselves, others in the intervening intervals or spaces. All the sounds on one line or in one space sound alike. And in order that you may understand to which line or spaces each sound belongs, certain letters of the monochord are written at the beginning of the lines or spaces. And the lines are also gone over in colors, thereby indicating that in the whole antiphoner and in every melody those lines or spaces which have one and the same letter or color, however many they may be, sound alike throughout, as though all were on one line. For just as the line indicates complete identity of sounds, so the letter or color indicates complete identity of lines and hence sounds also*” See *Strunk’s Source Readings in Music History*, ed. O. Strunk (London, W.W. Norton & Company, 1998) 212 and 215.

early medieval period.²⁵⁴ From around the twelfth century developments in rhythm were included in the notation. The creation of notation on a staff represented the beginnings of modern notation,²⁵⁵ and has enabled later performances of this music.

Once musical notation indicated both pitch and duration of the notes to be sung, it was possible to regulate more precisely what notes were to be sung. This marked the beginning of the regulation of the music sung in the liturgy. Therefore, the development of musical notation provided a form of regulating music within worship. Musical notation is effectively “rules” enabling the regulation of liturgical music within worship.

The development of musical notation allowed the creation of new types of music, which was not possible in aural traditions where music was transmitted through memorising the melodies.²⁵⁶ It was one of the most significant developments in the history of Western music, having an enormous impact on all aspects of Western music over the following centuries. It also provided a form for regulating music within the liturgy, which had not previously been possible. The creation of written musical notation was therefore a significant development in the history of music generally, but also in relation to the regulation of music within the liturgy.

Following the advent of notation, composers and musicians increasingly embellished the music of the liturgy. This led many contemporary commentators to criticise the complexities of liturgical music which was seen as distracting from, rather than acting as the servant of the liturgy as had originally been intended.²⁵⁷ As seen below, due to composers and musicians seeking to “push the boundaries” by making liturgical music more ornate, the authorities argued that music needed to be more strictly regulated, or removed from the liturgy.²⁵⁸

²⁵⁴ Our current practice is based on the theories developed by the Solesmes monks during the nineteenth century, as well as consideration of medieval theoretical treatises, so it is unlikely that we will be able to recreate the rhythmic practices of the medieval Gregorian chant. R. Hoppin, *Medieval Music* (W.W Norton & Company, 1978) 62.

²⁵⁵ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 44.

²⁵⁶ *Ibid.*, 48.

²⁵⁷ Thus music was not conforming with the second of the theological reasons identified in chapter 1 for including music within the liturgy – if music was distracting from the texts it was not “making texts more memorable and enhancing our understanding of the liturgy”.

²⁵⁸ This is addressed in more detail in the section dealing with the Reformation.

2.2.3 The role of individuals involved in music at the cathedrals

In the early church the cathedral was the place the bishop maintained his household, which included a church which ‘contained his teaching-chair or *cathedra*’.²⁵⁹ During the Middle Ages, the Church, increasingly recognised the importance of song and music as an aid to worship. Whilst there was little regulation during the early years of Christianity, the Church increasingly intervened during the Middle Ages to regulate music’s use within the liturgy ‘organizing the repertoire, ordering its execution and correcting abuses’.²⁶⁰ This can be seen in the increase in number and prestige given to office holders involved in cathedral music.²⁶¹ The main office holders linked to music-making at cathedrals included the dean, precentor, succentor, chancellor, choir clerks, vicars choral, and organist. Each office holder’s functions and duties are described in varying detail in a cathedral’s domestic laws. This provides insight into music’s role in cathedral daily worship. This section explores the duties of individuals involved in the musical life of the English cathedrals and traces the development of these roles to demonstrate how music’s use within the liturgy evolved and became more closely regulated. Much of this section is based upon the excellent, and comprehensive study of Kathleen Edwards.²⁶² Her study is unique in providing a comparative study of the constitutions and legal documents of the English secular cathedrals in the Middle Ages.²⁶³ It is possible to draw conclusions regarding how the regulation of individuals involved in music at these cathedrals changed during this period, and how this reflected the increasing importance attributed to music.

2.2.3.1 Dean

²⁵⁹ By the Middle Ages some cathedrals were entrusted to a monastic order, and were subject to the rule of that order, and those which were not (with secular canons) became known as the secular cathedrals. Following the Reformation, the secular cathedrals were left untouched, and so it is these cathedrals this study will focus on. N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 4 – 5.

²⁶⁰ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 159.

²⁶¹ Indeed, Edwards has suggested that a review of the fourteenth century statutes of the English secular cathedrals reveals ‘an elaborately organized system’ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 135.

²⁶² K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967).

²⁶³ *Ibid.*, see the Preface on page xv.

During the Middle Ages, the dean was the president of the chapter,²⁶⁴ and had the cure of souls of cathedral clergy.²⁶⁵ The origin of the office of the cathedral dean is difficult to trace.²⁶⁶ Additionally, it is difficult to ascertain with certainty his precise role since the earliest statute books and customs (the domestic laws of cathedrals) contain very few detailed descriptions.²⁶⁷ The dean's functions were not defined in any complete form at Salisbury, York or Lincoln, in 1090-1091.²⁶⁸ In addition, the extent of the dean's powers varied between cathedrals.

The dean's primary duty was that of priest: 'He is pre-eminent over all in the rule of souls and correction of behaviour'. As the chief priest, he took on the functions of the bishop when he was absent from the cathedral, and over time, the more solemn duties of divine worship came to be reserved to him.²⁶⁹ In addition, he was involved in matters of administration and jurisdiction (subject to the authority of the chapter); this included disciplining the lesser clergy, or dealing with choir discipline.²⁷⁰ Therefore, the dean's role included (as least implicitly) dealing with church musicians.

2.2.3.2 Cantor or precentor

By the twelfth century, the position of cantor had been established in all cathedrals. The 'cantor, chanter, or precentor' was usually, like the dean, one of the first dignitaries to be

²⁶⁴ The governing body of a cathedral.

²⁶⁵ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 136.

²⁶⁶ For a detailed exploration of the history of this role, see K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 137 - 148.

²⁶⁷ As late as 1440, William Alnwick, bishop of Lincoln wrote: "that which belongs to the dean's office is found to be little decided in law; indeed it consists in different things according to various customs of different places; and so it is rooted in custom". See L.S., iii, 281 as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 142.

²⁶⁸ See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 142.

²⁶⁹ For example, saying the Confiteor at prime and compline; giving the benediction; involvement in special ceremonies on Ash Wednesday, Maundy Thursday and Palm Sunday; and celebration of the office on all principal double feasts. See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 143.

²⁷⁰ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 143.

included as a specific office holder within the English secular cathedral,²⁷¹ and was the second dignitary after the dean.²⁷²

Every cathedral had a precentor who was in charge of the music and the liturgy and oversaw the cathedral's song school.²⁷³ His primary role was to 'rule the choir in strict accordance with the detailed liturgical rules described in the cathedral ordinals and customaries': he was required to set the pitch of the singing; oversee the singing; determine what each singer should sing within the liturgy as well as choose appropriate chants for specific services.²⁷⁴ Each week, together with the chancellor he would prepare a list of singers, readers and ministers of the altar.²⁷⁵

Furthermore, whilst the discipline of the choir was usually dealt with by the dean or chapter, the precentor was required to 'correct any faults in the singing, to rouse the negligent to sing, and to rebuke gently or to calm those who caused disturbances by rushing about the choir'.²⁷⁶ At Hereford and Lincoln, the precentor was also responsible for maintaining the service books.²⁷⁷ Finally, the precentor selected and admitted the choristers to their position, subject

²⁷¹ For example, at Salisbury, Lincoln, and York this office dates from the reconstitution of the chapters in around 1090-1091. It is believed the role of cantor or *primicerius* existed at Exeter cathedral from around 1050, and there is certainly mention of someone in the post from 1030; Wells cathedral already had a precentor by the time of Bishop Robert in 1136 – 1166; finally a precentor is mentioned at St Paul's as being in place during Bishop Maurice's time. In comparison, the position of cantor appears at Chichester, Hereford and Lichfield cathedrals shortly after that of the dean, and certainly by the middle of the twelfth century. See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 160 and M. Walcott, *Fasti Cisterenses*, 11; Z and C Brooke, 'Hereford Cathedral Dignitaries' in *Camb Hist Jour*, viii, 10.

²⁷² With the exception of St Paul's and Exeter before 1225, and possibly York before the twelfth or early thirteenth century.

²⁷³ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 136.

²⁷⁴ The precentor was responsible for starting the *Magnificat* and *Benedictus* within the service; he also began any processional chants and sequences; and provided a key note to the canon celebrating the mass at the altar. K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 164.

²⁷⁵ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 163 - 164.

²⁷⁶ In L.S., I, 284; iii, 298-9; RSSP, 22, as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 164.

²⁷⁷ He had to ensure that their notation was systematic and accurate; he would pay for any required corrections; and if any copies were broken he would arrange for them to be re-bound or mended. Finally, if new books were required, he would oversee their production. L.S., I, 284; ii, 63; iii, 299 as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 164 - 165.

to the approval of the dean and chapter.²⁷⁸ The precentor's role was therefore directly concerned with overseeing those involved in music at the cathedrals.

2.2.3.3 The succentor

The office of succentor was introduced to the English secular cathedrals fairly late in comparison to other posts: it appears none of the English secular cathedrals had a succentor until late in the twelfth century.²⁷⁹

The succentor's function was to assist the precentor, and ensure the precentor's duties were maintained during his absence. The medieval statutes describe the succentor's functions in almost identical terms to the precentor's duties.²⁸⁰ During the later Middle Ages, at Lichfield and York, the succentor became the permanent head of the newly formed corporations of the vicars choral, which gave him a new, additional, function.²⁸¹ These additional duties regarding the cathedral musicians reflects the increasing importance attaching to music within worship at the cathedrals.

2.2.3.4 The Chancellor's duties relating to music

Whilst the majority of the Chancellor's duties,²⁸² were unconnected with the cathedral's musical life, he was required to draw up the weekly list of readers of lessons for cathedral

²⁷⁸ Use Sarum, I, 3; W.S. 45; Ordinale Exon, I, 3; L.S. I 283; ii 17. This responsibility was retained in some churches (such as Wells) throughout the Middle Ages and later. However, in other churches some of these duties were relieved by endowments provided for the support of the choristers (for example at St Paul's, Lincoln and Salisbury). K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 165.

²⁷⁹ For example, the first evidence of a succentor at Salisbury was from around 1163, whereas Wells had a succentor from about 1164 and Lincoln is recorded as having one at some point between 1196 and 1203. See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 169.

²⁸⁰ For this reason it is unnecessary to outline in detail the succentor's role, as this has been described broadly above.

²⁸¹ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 169.

²⁸² The Chancellor's duties included keeping the chapter's seals, acting as its secretary, supervising the schools of grammar and theology, he was also frequently the cathedral librarian and keeper of the archives, and he arranged the reading of the lessons in choir, and the sermons. See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 136.

services, determine the length of the lessons, and hear the readers practise before services. This role was often carried out in conjunction with the precentor or succentor.

2.2.3.5 Tabellarii, Punctuatores or Custodes Chori

A number of choir clerks were often appointed to assist the precentor, succentor and chancellor in the clergy's duties of singing, serving and reading at services. Although the titles of this post varied, generally, their duties were the same, and included: noting daily faults, neglect of duty and any ministers who were absent from the choir.²⁸³ The role of cathedral clergy became more prescribed during the Middle Ages. Prior to this, whilst clergy were appointed to the offices of dean, chancellor or precentor, their roles and duties were generally not set down in writing in the cathedral statutes but governed by custom. The fact that the roles and duties attaching to these positions became set out in the cathedral statutes during the Middle Ages reflects the greater regulatory framework applicable to individuals appointed to these positions.

2.2.3.6 The Vicars Choral and minor Canons

During the twelfth and thirteenth centuries it became common practice in the majority of English secular cathedrals for each canon²⁸⁴ to nominate and financially support a vicar choral. The liturgy and chants were gradually becoming more elaborate and extensive. An increasing number of prayers, chants, psalms and other services were added to the cathedral repertory. As a result, the cathedrals needed more people to cover these additional services, and a body of specially trained musicians with the musical skills to perform the increasing

²⁸³ They then reported these individuals to the dean and chapter in time for them to be punished at the weekly Saturday chapters. The most common punishment was for a deduction to be made from the errant individual's weekly commons. For example, three such officers were appointed at Wells cathedral, with the titles of 'tabellerii, tabularii, or exploratores' of faults. In Lichfield, from around 1240, it was agreed that a vicar should be appointed to notify the chapter of any vicars or chaplains who were absent from the canonical hours. Monasticon, VI, iii, 1257, as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 175.

²⁸⁴ The canons were the most important of the cathedral clergy. See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 33.

repertory of material for the services.²⁸⁵ The vicars choral therefore took on the main responsibilities at the canonical hours and other cathedral services.²⁸⁶

The main duty of the vicars choral in English secular cathedrals, was to ‘sing the services for the increase of divine worship’.²⁸⁷ They were subject to the direction of the cathedral chapter and in particular the precentor and succentor,²⁸⁸ and were required to undertake an examination, or be proficient in singing and music before they were appointed.²⁸⁹ The cathedral chapters set out the number of vicars choral that were required.²⁹⁰

The role of the vicars choral evolved during the twelfth and thirteenth centuries so that by the thirteenth century they had separate and distinct functions within the cathedral. Their importance lay in singing and supporting the increasing number of services. Furthermore, while there is no evidence to suggest cathedrals had a permanent body of choral clerks from their foundation, it is clear that in time this post became requisite.²⁹¹ Again, the growing number and importance attributed to the role of the vicars choral highlights the increasing importance of music in cathedral services.

2.2.3.7 The Organist

²⁸⁵ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 256.

²⁸⁶ *Ibid.*, 252.

²⁸⁷ This is apparent from the cathedral ordinals, and statutes as set out in K. Edwards, *The English Secular Cathedrals in the Middle Age, second edition* (Manchester University Press, 1967) 265.

²⁸⁸ See precentor and succentor’s roles set out above.

²⁸⁹ Occasionally the proposal of a vicar choral was rejected because he lacked a musical voice. In these instances, he would have to undertake a probationary year during which he would learn the psalter, antiphony, hymnary and “histories” by heart. At the end of that year he would complete a second examination before they could be appointed as a perpetual vicar. S.S., 74-77; 212-215; Salisbury Ceremonies 274-275; W.S. 58, 87; L.S., ii, 29, 72, 80, 111-112, 45; iii, 347 as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 265.

²⁹⁰ In 1319, Salisbury chapter decreed that there must be a minimum of 13 vicars choral on each side of the choir at every service. S.S., 220-221, as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 266. In comparison, the chapter at York stipulated that there must be at least 12 on each side, York Fabric Rolls, 252, as cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 266.

²⁹¹ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 266.

It is believed that organs were introduced to England during the ninth and tenth centuries.²⁹² Their primary role was to provide joyful music for processions, or open gatherings. However, improvements to the keyboard and quality of the tone towards the end of the eleventh century, meant the organ could accompany chant within the liturgy.²⁹³ The vast majority, if not all, of the English secular cathedrals had organs and an organist from at least the mid-twelfth century.

The earliest references to organists are made in the cathedral charters,²⁹⁴ or in documents recording organists' salaries.²⁹⁵ The organist originally had a lowly status, which possibly explains why the organist's responsibilities were not set out in the cathedral statutes at that time. As the capabilities of the organ as a musical instrument developed, greater demands were placed on the organist, so that by the fifteenth and sixteenth centuries, the duties of the organist were set out in detail in the cathedral statutes.²⁹⁶ During the fifteenth century, the organist acquired additional duties of instructing and supervising the choristers following the endowment of private schools and boarding houses for the choristers at a number of cathedrals.²⁹⁷

²⁹² Edwards refers to a famous description of an organ at Winchester cathedral from 971, which required two players and seventy blowers, and created a 'thunderous volume of sound. K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 172.

²⁹³ K. Edwards., *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 172.

²⁹⁴ The cathedral charters were the cathedral's legal documents. See examples of cathedral charters given in the introduction to N. Doe., *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 9.

²⁹⁵ For example, the name of an organist is mentioned in the charter of Salisbury cathedral from around 1200; while the organist of Hereford cathedral was required to acknowledge receipt of a pension of five silver marks from the dean and chapter. Sarum Charters, 61; and Hereford Charters, 178; cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 173.

²⁹⁶ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 173.

²⁹⁷ *Ibid.*, 173. For example, in 1463, the organist at Salisbury cathedral is reported to be teaching the choristers in chant, and with the agreement of chapter received emoluments from the vicar's stall, had three yards of broadcloth a year for his livery of the choristers' suits, and was given twelve pence a week as commons. The organist was also required to play the organ at the daily mass of the Blessed Virgin Mary. See Agreement printed by Wordsworth C, and Robertson D 'Salisbury Choristers...with the history of the Organ' in W.A.M xlvi,216 – cited in K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 173.

In summary, during the Middle Ages, music played an increasingly important role within the liturgy. This is evidenced by the fact that over this period, additional office holders involved in music-making at the English secular cathedrals were added to the cathedral staff, and the increasing prestige attaching to positions such as the organist. The increasing use of music and its complexity within the liturgy called for additional roles within the cathedral which needed to be regulated.

2.3. THE REFORMATION IN ENGLAND

Whilst changes to music and its regulation within the liturgy that came about during the Reformation are not a focus of historical accounts,²⁹⁸ nevertheless these changes were significant. Music's role within the liturgy was an aspect of church services which contributed to the Reformation (although again this is not a focus of historians). Many changes brought about by the Reformation had a significant impact on the regulation of music which has lasted to the present day. It is therefore important to understand why these changes were introduced and how they changed and influenced the regulation of music within the liturgy.

It is also important to note that there were many different Reformations across Europe with differing consequences for the emerging Reformed Churches. Whilst it is acknowledged that the Reformation in England did not happen in isolation, and developments in Europe influenced events in England,²⁹⁹ this thesis focuses on the regulation of music in the *Church of England*, and so a consideration of the wider developments in Europe are beyond the scope of this thesis.

²⁹⁸ Such as D. MacCulloch, *Reformation: Europe's House Divided* (Penguin Books, London, 2004) or E. Duffy, *The Stripping of the Altars: Traditional Religion in England 1400 – 1580*, second edition (Yale University Press, London, 2005).

²⁹⁹ Such as developments in Germany, and the views of Martin Luther (for a more detailed analysis of Martin Luther's contribution to the Reformation see D. MacCulloch, *Reformation: Europe's House Divided* (Penguin Books, London, 2004) 115 – 157), or in Zurich and the work of Zwingli, and the work of Calvin in Geneva (for a more detailed analysis of Calvin's contribution to the Reformation see D. MacCulloch, *Reformation: Europe's House Divided* (Penguin Books, London, 2004) 237 – 253).

2.3.1 Henry VIII: regulation to break with Rome

Henry VIII's break with Rome (in the early 1530s) had major long-term ramifications for ecclesiastical music and its regulation in England and Wales. The driving force behind the creation of new institutions and governance in the English Reformation is generally understood to be politics rather than theology, and 'institutional and juridical reform preceded liturgical and doctrinal' reform. Indeed, the Reformation in England was achieved by the enactment of a series of statutes made by the Sovereign-in-Parliament.³⁰⁰ On the face of it, the legal instruments introduced during Henry VIII's reign did not explicitly address music within the liturgy. However, a number of changes introduced during this period did impact music within the services (even if not explicitly): firstly, the increase in the power of the Crown over the Church; secondly, the redistribution of church property following the dissolution of the monasteries; and thirdly, the gradual increase of English within services. These changes had a lasting impact on the way in which the church (and the liturgy and music) developed and was regulated. This section considers these regulatory changes and their impact on music's regulation.

Firstly, during the early years of the Reformation, the Crown's power increased at the expense of the Church's power. The Act of Supremacy of November 1534 recognised Henry as 'the only supreme head in earth of the Church of England'.³⁰¹ This gave Henry power over the Church which had not been enjoyed by any previous English monarch. In the following year Thomas Cromwell was appointed Vicar-General and was given the power to draw up Injunctions (in consultation with the Archbishop of Canterbury), which were binding and had to be observed throughout the Church of England. This had an enormous impact on the way in which worship developed, since prior to this, the King could only act in accordance with Convocation.³⁰²

³⁰⁰ See N. Doe and S. Coleman, eds, *The Legal History of the Church of England: From the Reformation to the Present* (Oxford, Hart Publishing, forthcoming February 2024) Ch. 2.

³⁰¹ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 1.

³⁰² *Ibid.*, 2.

Secondly, one of the key events impacting music within church services was the redistribution of church property following the ‘dissolution of the monasteries’, (beginning in 1536). Whilst not explicitly addressing music within services, the consequences of these events had a lasting impact on music in the liturgy. Until that point the monasteries had ‘maintained the Roman traditions of liturgy and music in splendour’.³⁰³ Previously, services in the monasteries had included elaborate music requiring a large body of men and boys to sing. They had large endowments and their statutes provided for the maintenance of singers for the performance of elaborate music. In addition, they supported song schools for educating choristers. With the suppression of the monasteries, in the vast majority of cases these schools were closed,³⁰⁴ and those men who had been involved in the musical life of the monasteries, were no longer required.³⁰⁵ Between 1536 and 1540 every monastery in the country was forced to surrender to the Crown. The abolition of these institutions ‘reduced the number of foundations dedicated to the musical services of the church’.³⁰⁶ Therefore, whilst not explicitly addressing music in services, the legal instruments dissolving monasteries and redistributing church property had direct and lasting consequences on the music in the liturgy.

Thirdly, following the introduction of the English Bible into parish churches in 1538, there was a gradual increase in the use of English in services. This impacted the music used in the liturgy. A further notable development in 1544 was the issue of a ‘Litanie with suffrages to be said or songe in...processyons’. This litany was an amalgamation of a number of different Latin forms of procession,³⁰⁷ and had been written by Thomas Cranmer.³⁰⁸ During this period

³⁰³ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 67. This development followed on from the earlier section on the Middle Ages focusing on the developments of the ‘secular’ cathedrals.

³⁰⁴ E. Fellowes, *English Cathedral Music* (London, 1969) 6.

³⁰⁵ *Ibid.*, 6.

³⁰⁶ Watkins Shaw, in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 694. For example, the inventory of Waltham Abbey dated 24 March 1531, at the time of its suppression lists some 70 people who were provided with a small gratuity upon being deprived of their posts. This included five choristers, and approximately twelve singing-men. The document also mentions a ‘lytell payre of organes’ in the Lady chapel, and ‘a great larg payre or organs’ and also a ‘lesser payr’ in the choir. See P.R.O, Exchequer K.R., Church Goods 11/24, as cited in E. Fellowes, *English Cathedral Music* (London; 1969), 6-7.

³⁰⁷ For a full description of the development of this litany see P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 5.

³⁰⁸ As explored further in chapter 3, (these liturgical texts are prescriptive and can be seen as a form of regulation of the liturgy). These changes therefore impacted the regulation of music within the liturgy.

vernacular forms of prayers, canticles, and psalms as set out in the Primers (books of private devotions) increasingly found their way into the liturgy.³⁰⁹ This major liturgical change had a lasting effect on music in the Church of England.

As explored in the next section, the steps taken during the Henrician Reformation marked the beginning of radical changes to the liturgy, through the requirement to use English within the liturgy and the introduction of the Book of Common Prayer as the authorised form of service. However, the overall structure of the liturgy remained vastly unchanged during Henry's reign. Furthermore, daily services continued to be said and sung in Latin, although steps were taken to make them more intelligible to the laity.³¹⁰

In summary, the regulatory framework of the Church in England began to change during Henry VIII's reign. The legal instruments affecting the Church and in particular the services did not explicitly address music in the liturgy. However, a number of changes did impact music within the services (albeit implicitly): the increase in the Crown's power over the Church; the redistribution of church property following the dissolution of the monasteries; and the gradual increase of English in services. These changes had a lasting impact on the way in which the church (and the liturgy and music) developed and was regulated within the Church of England.

2.3.2 Edward VI – stricter and more prescriptive regulation of worship and music

During Edward VI's reign (1547-52), further liturgical reform was carried out, through various legal instruments, with a direct impact on music's use in the liturgy. Firstly, the

³⁰⁹ Watkins Shaw in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 695. An interesting insight into the rationale behind the development of this litany can be found in Archbishop Cranmer's letter to the King on the issue of processional music: *...in mine opinion, the song that shall be made thereunto would not be full of notes, but, as near as may be, for every syllable a note; so that it may be sung distinctly and devoutly, as be in Matins and Evensong Venite, the hymns Te Deum, Benedictus, Magnificat, Nunc dimittis, and all the Psalms and Versicles; and in the mass Gloria in excelsis, Gloria Patri, the Creed, the Preface, the Pater noster and some of the Sanctus and Agnus...* Brightman I, as cited in P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 7.

³¹⁰ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 2.

requirement for one note for every syllable in the music had a direct impact on the style of music written for the liturgy; and secondly the introduction of the *Book of Common Prayer* as the authorised and accepted form of liturgy within the Church of England, making English rather than Latin the language of the liturgy. This section considers these regulatory changes and their direct impact on the music used within the liturgy.

Firstly, music used within the liturgy was directly regulated through a series of Orders following cathedral visitations, resulting in composers being required to change the style of music written for the liturgy. During the first years of Edward's reign, all cathedrals received a Royal Visitation, following which a number of recommendations were made about how services should be altered to bring to an end "popish" practices and ceremonies.³¹¹ Issues relating to the music performed during the liturgy were frequently commented upon by the Royal Visitors, and their comments demonstrate the preference for a 'simpler and more comprehensible liturgical style'.³¹² Following the Royal Visitation to Lincoln cathedral, the Visitors ordered (an example of regulation by executive order) that:

[The choir] shall from henceforth sing or say no anthems of our Lady or other Saints, but only of our Lord, and them not in Latin; but choosing out the best and most sounding to Christian religion they shall turn the same into English, settling thereunto a plain and distinct note for every syllable one: they shall sing them and none other.³¹³

The implications of 'one note for every syllable' as required by this passage, and the insistence on the text being clearly enunciated, were that composers were required to write

³¹¹ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 8. This included issues such as: recommendations about how the liturgy should be amended to reduce its complexity and simplify the visual spectacle of worship; no more than two candles were permitted to be lit during mass; bells could be rung at the start of services but were not permitted at any other time; the use of the organ or the singing of Latin antiphons, responsories and sequences was forbidden; and occasionally for the reduction in the numbers in the choir. See A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 68.

³¹² For example, following their review of Winchester cathedral, the Visitors forbade the singing of sequences and stated that chapters from the Old and New Testament should be read to the choir every day before Mass and Evensong. At York, the singing of more than one mass per day was forbidden, they also forbade the choir from singing responds, and ordered that all traditional Latin anthems should be replaced by English substitutes. P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 9.

³¹³ Lincoln Cathedral injunctions of 1548, as cited in P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 9.

the simplest polyphony possible.³¹⁴ This can be seen by the examples of English church music that were written during the early years of the Reformation period.³¹⁵

Secondly, was the introduction of an authorised form English services, in the form of the *Book of Common Prayer*. During Edward's reign, Archbishop Cranmer produced the first of two versions of the *Book of Common Prayer*. This had a dramatic effect on the liturgy used in the Church of England, one which has continued to present-day services.³¹⁶

In 1549 the first Act of Uniformity made the *Book of Common Prayer* compulsory in all places of worship in England, Wales and Ireland, replacing the existing Latin services.³¹⁷ This had significant implications for the music included in church worship. Musical settings previously used for the Latin Mass, the motets and all other sacred music written for Latin texts from the date of the first Act of Uniformity became redundant. Musicians had to create music that was appropriate for this new Anglican setting.³¹⁸ One of the difficulties with such drastic changes was the need to come up with suitable music for the liturgies that was required under the new *Book of Common Prayer*.³¹⁹

Attempts were made during the last few years of Edward's reign to push for further reform and a Second Act of Uniformity passed through Parliament in 1552. In April 1552 a modified version of the *Book of Common Prayer* was issued, revising many aspects of the liturgy. A number of the sung elements of the mass were removed from the service because music 'possibly the most mystical of all liturgical ornaments' was considered in need of radical

³¹⁴ E. Fellowes, *English Cathedral Music* (London, 1969) 35.

³¹⁵ For example, see William Mundy's First Service for full choir (believed to have been composed before 1552) – see P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 212.

³¹⁶ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 68.

³¹⁷ *Ibid.*, 68.

³¹⁸ Such as the Versicles and Responses, the Psalms, the litany, and the anthems. Composers therefore wrote music for the complete English settings of the Offices, and for Holy Communion, including the Gloria, Sanctus, Benedictus and Agnus Dei, as is demonstrated by a number of the musical items in the famous Wanley part-books which have been dated at around 1546 – 1547. See E. Fellowes, *English Cathedral Music* (London, 1969) 7-8.

³¹⁹ This need for new copies of music is shown in the financial records of various cathedrals: at Canterbury cathedral in 1550, twenty-six 'psalters of the gretter sort for the quere' were purchased; and at Wells cathedral the organist was paid 16s 4d 'for divers songs and books by him made and to be made'. See S. Lehmborg, *English Cathedrals: a history* (Hambleton and London, London, 2005) 130.

pruning.³²⁰ This is evident from a comparison between the rubrics of the 1549 and the 1552 *Book of Common Prayer*:³²¹

Section	1549	1552
Introit	Then shall the clerks <i>sing in English</i> for the office, or Introit (as they call it), a psalm appointed for that day	Rubric not included
Kyrie	...which psalm ended, <i>the priest shall say, or else the clerks shall sing</i> , iii Lord, have mercy upon us...	Then shall <i>the priest rehearse distinctly</i> all the ten Commandments: and the people kneeling shall after every Commandment <i>ask</i> God's mercy for their transgression of the same...
Gloria in excelsis	Then the priest, standing at God's board shall begin, Glory be to God on high. The clerks. And in earth...	Then shall be said or sung, Glory be to God on high
Creed	After the Gospel ended, the priest shall begin. I believe in one God. <i>The clerks shall sing the rest.</i>	And the Epistle and Gospel being ended, <i>shall be said the Creed.</i>
Offertory	Then shall follow for the Offertory, one or more of these sentences of holy scripture, <i>to be sung</i> while the people do offer, <i>or else one of them to be said by the minister</i> immediately before the offering... Where there be <i>clerks they shall sing</i> one or many of the sentences above written, according to the length or shortness of the time that the people be offering.	...the curate shall declare unto the people whether there be any holy days or fasting days the week following, and earnestly exhort them to remember the poor, <i>saying</i> one or more of these sentences following, as he thinks most convenient...

³²⁰ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 28.

³²¹ Comparison is taken from the table included in P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 27.

Sanctus	After which Preface shall follow immediately... When the clerks have done <i>singing</i> then shall the priest or deacon turn him to the people and <i>say</i> ...	After which Preface shall follow immediately...
Communion	In the Communion time <i>the clerks sing</i> ii O Lamb of God... ...and when the Communion is ended, then shall <i>the clerks sing</i> the post-Communion Where there are no clerk, there the priest shall say all things appointed for them to sing	Rubric not included Rubric not included

The vast majority of the provisions on music in both the 1549 and 1552 prayer books are prescriptive.³²²

2.3.3 Queen Mary – return to Roman Catholic worship

Shortly after the introduction of the 1552 Prayer Book King Edward died and his sister, Queen Mary ascended to the throne.

During her five-year reign (1552 -1557), Queen Mary restored the Catholic faith to England through a number of regulatory instruments. Under Mary all the changes made by the Edwardian Reformation were ‘swept away’ and the English church was again in full communion with Rome, including the use of the unreformed Latin rite.³²³ While this inevitably had an impact on church musicians who were required to revert to the Latin Mass

³²² For example, the rubric for the Introit in the 1549 prayer books states: ‘Then *shall* the clerks *sing in English* for the office, or Introit (as they call it), a psalm appointed for that day’. Similarly, the rubric for the Gloria in the 1552 prayer book states: ‘Then shall be said or sung, Glory be to God on high’.

³²³ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 28.

form, there was an entire history of available music for musicians to draw on during this period, and this prevailed until Elizabeth I's accession.³²⁴

2.3.4 Elizabeth I – regulation to achieve a middle ground in worship

Elizabeth I's reign saw the restoration of the Church of England. This was achieved by reversing Mary I's decrees through various legal instruments. A number of changes introduced by Elizabeth directly impacted music in the liturgy. These fall into two categories: firstly, changes to the liturgy through reintroducing a slightly amended version of the *Book of Common Prayer*; and secondly regulation directly addressing the use of music within church services. This section considers legal regulation introduced during Elizabeth's reign which influenced music used within services, and the extent of its impact on music.

First, are liturgical changes impacting music within services. Upon her accession in 1558, Elizabeth I reversed the religious decrees under Mary through various Acts of Parliament, and gradually restored the religious position to a form very similar to the second version of the *Book of Common Prayer*.³²⁵ At the beginning of her reign, Elizabeth made small changes to the liturgy at the Chapel Royal, including substituting Cranmer's English litany for the Latin procession; and these changes were gradually adopted throughout the country. However, beyond this change, the Latin services remained as they had during Mary's reign.³²⁶

In March 1559, two Acts were passed which restored the Church of England. The first, the Elizabethan Supremacy Act, restored the Crown's jurisdiction over matters spiritual and ecclesiastical, relinquished during Mary's reign; it also repealed all the Acts passed during Mary's reign relating to religious matters. The second, the Elizabethan Act of Uniformity, enforced the use of the revised Prayer Book, which came into use on 24 June 1559.³²⁷

³²⁴ E. Fellowes, *English Cathedral Music* (London, 1969) 3.

³²⁵ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 70.

³²⁶ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 31.

³²⁷ E. Fellowes, *English Cathedral Music* (London, 1969) 50.

Although the Elizabethan *Book of Common Prayer* was in many respects the same as the 1552 Prayer Book, ‘it was carefully modified to avoid the more extreme position of 1552 without completely reverting to 1549’.³²⁸ By steering a middle ground, the Elizabethan Settlement successfully avoided disrupting national unity at a ‘perilous time in English history’.³²⁹ This was achieved through drafting vague wording for communion, enabling both Protestant and Catholic factions of the church to use the text. From this period, there have been very few alterations to the Prayer Book which have affected English Church music.³³⁰

Secondly, a number of legal instruments explicitly addressed the use of music within the liturgy. They demonstrate that Elizabeth recognized the importance of including music in the liturgy. A Royal Injunction of 1569 (this is a set of instructions to priests – soft law) highlights the importance attributed to music, and permits music, such as hymns, to be sung in Church services.³³¹ Theological issues permeate this injunction. For example, it highlights that hymns or songs are ‘to the praise of Almighty God’; and that the music must be understood by the listener.³³²

The regulatory objectives of this injunction were to permit the singing of metrical psalms, and ensure the congregation understood the words being sung in the hymns and songs. Also associated with this principle is congregation participation,³³³ based on the idea that passive involvement in the service will not aid an individual’s understanding of the Word, but by

³²⁸ Watkins Shaw in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 696.

³²⁹ *Ibid.*, 694.

³³⁰ Apart from one change made to the 1662 Prayer Book in relation to the responses before the psalms at Morning and Evening Prayer. Watkins Shaw in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 696.

³³¹ ‘And that there be a modest and distinct song as used in all parts of the Common prayers in the Church, that the same may be as plainly understood as if it were read without singing. And yet, nevertheless, for the comforting of such that delight in music, it may be permitted, that in the beginning, or in the end of Common Prayers, either at morning or evening, there may be sung an hymn, or such-like song to the praise of Almighty God, in the best sort of melody and music that may conveniently be devised, having respect that the sentence [that is the meaning] of the Hymn may be understood and perceived’. Cited in H. Benham, *Latin Church Music c.1460-1575* (London, 1977) 165.

³³² Both these are theological reasons given for including music within worship in both the *Archbishops’ Commission on Church Music* and in the Roman Catholic document *Musicam Sacram*. See section on “Theological Reasons for including music within the liturgy” in Chapter 1.

³³³ E. Routley, *A Short History of English Church Music* (Mowbray Ltd, 1997) 20.

actually being involved in the liturgy, the congregation's understanding of the texts will be enhanced. It demonstrates that the music must act as a servant to the text.³³⁴ Music flourished in the Church of England during this time, because of the tolerance shown by Elizabeth.³³⁵

In some instances, attempts were made, through legal instruments, to place stricter controls on the music sung at the daily offices by those policing services. For example, in 1571, Bishop Horne,³³⁶ during his visitation of Winchester Cathedral, ordered that contrapuntal music should be banned from the services.³³⁷ Various regulatory instruments were used to achieve reforms to worship within the Church of England. This was through parliamentary acts, such as the Acts of Uniformity, which stipulated that the only permitted form of service was the *Book of Common Prayer*. During this period, the *Book of Common Prayer* underwent two revisions in 1549 and 1552. These prescribed which elements of the liturgy could be sung, and so determined the form the liturgy should take. In addition, royal injunctions also sought to regulate how music could be performed within the liturgy. Finally, sometimes 'executive' episcopal direction set out specific rules that churches had to follow.

2.4. LITURGY AND MUSIC IN THE SEVENTEENTH CENTURY: TURBULENCE AND FURTHER CHANGE FOR MUSIC IN THE LITURGY

The seventeenth century saw continued turbulence in relation to the use of music within church services. The century can broadly be divided into two halves: the first saw little real

³³⁴ Lehmborg has suggested that without this injunction 'we might be deprived of the glorious anthems of Tudor church music' – see S. Lehmborg, *English Cathedrals: a history* (Hambledon and London, London, 2005) 150. In addition, Watkins Shaw states that this injunction allowed the 'cathedral anthem', which did not have a place in the liturgy according to the Edwardian and Elizabethan Prayer Books. See Watkins Shaw in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 698.

³³⁵ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 71.

³³⁶ The Bishop of London.

³³⁷ Item, that in the choir no more shall be used in song that shall drown any word or syllable, or draw out in length or shorten any word or syllable, otherwise than by the nature of the word it is pronounced in common speech, whereby the sentence cannot be well perceived by the hearers. And also the other reports or repeating of notes with words or sentences, whereby the sense may be hindered in the hearer shall not be used. W. Frere and W. Kennedy, "Visitation Articles and Injunctions of the Period of the Reformation", *Alcuin Club Collections XVI* (1910), as cited in P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 38.

change to the liturgy (and thus to the music included in services), although competing rivalries between the extreme Protestants and the more conservative ‘catholics’ continued. The second period followed the institution of the Commonwealth in 1649, when there were huge changes to the music used in church services: choral services ceased, organs and music books were destroyed, and there was a push towards metrical psalm singing, familiar to the Puritan church. Many of these changes were achieved through regulation, and directly affected church music in England and Wales. This section considers the impact of these legal instruments on music within church services.

Firstly, the period when James I and Charles I were on the throne. Following his accession to the English throne, in 1603, James I convened a conference (at Hampton Court) of catholic and protestant factions in 1604, allowing them an opportunity to discuss their differences.³³⁸ Some alterations were made to the Prayer Book in 1604, but these were minor and did not impact Church music.

A review of the seventeenth-century visitation articles and injunctions reveals a renewed interest in musical aspects of the service and a recognition of its value within the liturgy.³³⁹ It is commonly understood that the reigns of James I and Charles I are notable for ‘the rivalries between the extreme Protestant and Calvinist teaching on one side, and that of the conservative churchmen...on the other’.³⁴⁰ An example of the rivalries between the two factions of the Church, can be found in the high-profile court case brought by Peter Smart (an old-style puritanical churchman) against John Cosin and his prebendaries for changes to the services at Durham Cathedral.³⁴¹ In particular, Smart criticised the use of elaborate music,

³³⁸ P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 45.

³³⁹ *Ibid.*, 45 -46.

³⁴⁰ E. Fellowes, *English Cathedral Music* (London, 1969) 4.

³⁴¹ 8. *Item: We article and object that you, John Cosin, and your fellows, to the intent that you might allure popish people and other schismatical sectaries, to your superstitious and idolatrous service, and ceremonies; you have not only banished the singing of psalms, in the vulgar tunes, by authority allowed and in all Cathedral churches, before and after sermons: but you have so changed the whole liturgy, that though it be not in Latin, yet by reason of the confusedness of voices of so many singers, with a multitude of melodious instruments (directly contrary to the Injunctions and Homilies) the greatest part of the service is no better understood, than if it were in Hebrew or in Irish...*

9...you would needs bestow excessive cost, in ornaments upon the choir and church...You have built a new pair of gorgeous organs, which have cost at least £700, which you command to be played upon not only at the 6’oclock prayer in the morning...but you also enjoin the organist to play upon the same organs, all the time that both the sacraments of Baptism and Holy Communion are

including the organ, and full choir within services. This case demonstrates the strong feelings on both sides regarding the music that should be incorporated into the liturgy.

Secondly, the period following the English Civil War (1642 – 1651). The end of the English Civil War saw the execution (in 1649) of Charles I, and the institution of the Commonwealth. During this period Parliament abolished the Episcopal system and in 1645, the use of the *Book of Common Prayer* was made illegal. This was achieved through regulation.³⁴² This ‘Puritan rule’ was a tremendous blow to English church music: many cathedrals were closed and their clergy and choirs dismissed; many organs and music books were destroyed.³⁴³ This destruction has resulted in the loss of many anthems and services which had been composed by Tudor musicians.³⁴⁴

During the commonwealth, a number of legal instruments were passed which had a direct impact on music within churches. In 1644 Parliament issued ‘two Ordinances of the Lords and Commons assembled in Parliament for the speedy demolishing of all organs, images and matters of superstitious monuments in all Cathedralls, and Collegiate or Parish Churches and Chapels, throughout the Kingdom of England and the dominion of Wales, the better to accomplish the blessed reformation so happily begun, and to remove all offences and things illegal in the worship of God...’³⁴⁵

And so, the elaborate music familiar to many was extinguished (at least for a short period) in many of the English churches and cathedrals. During the Commonwealth, apart from the singing of metrical psalms (as was deemed acceptable to the Calvinist tradition), choral

administered, to the great offence of the religious people.” See G. Ornsby, “The Correspondence of John Cosin, D.D.” *Surtees Society*, LII (1868), 144, as cited in P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 48 – 49.

³⁴² A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 102.

³⁴³ *Ibid.*, 102.

³⁴⁴ E. Fellowes, *English Cathedral Music* (London, 1969) 4.

³⁴⁵ Quoted in KR. Long, *The Music of the English Church* (London, 1972) 206. Furthermore, a note from Oliver Cromwell to the dean of Ely provides some insight into his views towards church music: “Lest the soldiers should in any tumultuous or disorderly way attempt the reformation of your cathedral church I require you to forbear altogether your choir service, so annoying and offensive, and this as you will answer it if any disorder should arise thereupon...I desire your sermons where usually they have been, but more frequent...” As cited in P. Le Huray, *Music and the Reformation in England 1549 – 1630* (London, 1967) 54.

church music ceased to exist in England. This was achieved through regulation, imposing stricter restrictions on music in churches (and in some instances banning it completely).

2.5. THE RESTORATION

When Oliver Cromwell died in September 1638, there was no one to take his place as Protector, and so one of the army leaders made a move to restore the old monarchy with the exiled Charles II as the new king.³⁴⁶ The restoration of Charles II to the English throne in 1660, saw the Church of England reinstated, and the resumption of full choral services. This was achieved through regulation, again, having a significant impact on the music in church services. This section considers two elements where regulation affected music within worship, first are changes made to the liturgy through the introduction of the 1662 Book of Common Prayer, and secondly changes to music within cathedrals.

Following Charles II's accession to the throne, the Savoy conference, was held (at the Savoy Hospital) in 1660 to discuss changes needed to *the Book of Common Prayer*.³⁴⁷ Eventually, the previous (1552) form of *the Book of Common Prayer*, with minor alterations, was approved.³⁴⁸ In May 1662, the Restoration Act of Uniformity was passed, stating that the divine service was to be conducted daily in cathedrals and college churches throughout the kingdom according to the 'Rites and Ceremonies of the Church' as set out in *the Book of Common Prayer*.³⁴⁹ The 1662 Prayer Book is still in use today – and it contains a number of legal rules about the liturgy, and the use of music within the liturgy. These rules, and their impact on the music incorporated in the liturgy are considered in the next section.

2.5.1 The 1662 Prayer Book and its regulation of music

³⁴⁶ D. MacCulloch, *Reformation: Europe's House Divided* (Penguin Books, London, 2004) 525.

³⁴⁷ Those of the Puritan persuasion opposed the reintroduction of the old Prayer Book which they considered 'too romish'.

³⁴⁸ I. Spink, *Restoration Cathedral Music 1660 – 1714* (Clarendon Press, Oxford, 1995) 4.

³⁴⁹ *Ibid.*, 4 and 6.

The revisions made to the 1662 Prayer Book did not significantly change the music in the services. However, for the first time the anthem was officially (through the rubrics) given a place in the Prayer Book at Morning and Evening Prayer.³⁵⁰

There are only a limited number of references to singing during the Holy Communion in the 1662 Prayer Book. The first is in relation to the Creed where it states: ‘And the Gospel ended, shall be sung or said the Creed following’.³⁵¹ The second is the section ‘Therefore with Angels and Archangels, and with all the company of heaven’, leading into the *Sanctus*, which the rubric states may be said or sung.³⁵² Thirdly, the *Gloria in excelsis*, may be said or sung.³⁵³ Although the rubrics do not stipulate whether the Responses to the Ten Commandments should be said or sung, it has been suggested that during this period it was normal for the choir to sing these responses.³⁵⁴ The phrase stating that the congregation shall ‘ask’ for God’s mercy, may be interpreted to mean that the responses may be said, or sung. Finally, it has been suggested that the phrase “Glory be to thee, O Lord” before the Gospel, was also frequently sung in the liturgy, even though the rubric states that the response should be said.³⁵⁵

2.5.2 Music in the English Cathedrals

³⁵⁰ Although the English anthem had already been included in services by the time of Elizabeth I. See Watkins Shaw in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 708. The rubric following the third Collect states: ‘In Quires and Places where they sing, here followeth the Anthem’ (1662 Book of Common Prayer.)

³⁵¹ Rubric to the 1662 Book of Common Prayer, as printed by John Baskerville, accessed online via <<http://justus.anglican.org/resources/bcp/1662/baskerville.htm>> accessed on 6 June 2017.

³⁵² Rubric to the 1662 Book of Common Prayer, as printed by John Baskerville, accessed online via <<http://justus.anglican.org/resources/bcp/1662/baskerville.htm>> accessed on 6 June 2017.

³⁵³ Rubric to the 1662 Book of Common Prayer, as printed by John Baskerville, accessed online via <<http://justus.anglican.org/resources/bcp/1662/baskerville.htm>> accessed on 6 June 2017.

³⁵⁴ I. Spink, *Restoration Cathedral Music 1660 – 1714* (Clarendon Press, Oxford, 1995) 7. The rubric states: ‘Then shall the Minister, turning to the People, rehearse distinctly all the TEN COMMANDMENTS; and the People, still kneeling shall, after every Commandment ask God mercy for their transgression thereof for the time past, and grace to keep the same for the time to come, as followeth’. Rubric to the 1662 Book of Common Prayer, as printed by John Baskerville, accessed online via <<http://justus.anglican.org/resources/bcp/1662/baskerville.htm>> accessed on 6 June 2017.

³⁵⁵ I. Spink, *Restoration Cathedral Music 1660 – 1714* (Clarendon Press, Oxford, 1995) 7.

The task of restoring music to the English cathedrals after the Commonwealth was not easy: after more than 15 years where music had been banned from the church liturgy, and where many church organs had been destroyed, recovery was slow.³⁵⁶ Many clergy that had held central posts before the civil war, as well as a number of the key cathedral musicians, had died. Many others who had been employed in cathedral or church music before the Commonwealth had been forced to find alternative employment, and were not necessarily keen to return to the cathedrals. The boy choristers who had sung in the choirs prior to the Commonwealth were unable to sing because their voices had broken. Furthermore, since music had not been permitted in church services no prospective choristers could remember the sung services.³⁵⁷

A study of the English Cathedral Chapter act books demonstrates that from the second half of 1660 a large number of new canons and other officers were installed into the cathedrals, including those involved in cathedral musical life.³⁵⁸ Whilst they simply record decisions made by the Cathedral Chapter, they illustrate steps taken by the cathedrals to restore music. This indicates that music was included once again in cathedral worship.³⁵⁹ Whilst a number of cathedrals encountered difficulties recruiting and employing the same number of musicians that had been involved pre-Commonwealth, by 1662, the majority of cathedrals were fully staffed and sung services had resumed.³⁶⁰

In addition, attempts were made to copy the old repertory into choir books, enabling pre-civil war music to be circulated once again. As a result, music by composers such as William Byrd (1539/40 – 1623) and Thomas Tallis (c.1505 – 1585) influenced the next generation of

³⁵⁶ ‘The organists and choirmasters had to lay entirely new foundations upon which to rebuild the choirs, and also to collect and train the boys’. See E. Fellowes, *English Cathedral Music* (London, 1969) 4.

³⁵⁷ S. Lehmborg, *English Cathedrals: a history* (Hambledon and London, London, 2005) 221.

³⁵⁸ *Ibid.*, 222.

³⁵⁹ For example, St Paul’s cathedral in London has the earliest entry: on 6 July 1660 the act book records that an archdeacon and two prebendaries were appointed, with a further fifteen prebendaries and the new precentor following in August. However, singing men were not put in place until the summer of 1661. In comparison, Winchester cathedral was probably one of the first to resume sung services, since the personnel list from 10 September 1660 records a full complement of ten lay clerks (including the organist) and six choristers. See S. Lehmborg, *English Cathedrals: a history* (Hambledon and London, London, 2005) 222.

³⁶⁰ S. Lehmborg, *English Cathedrals: a history* (Hambledon and London, London, 2005) 223.

church composers.³⁶¹ In addition, a number of manuals were published setting out how key texts to the liturgy could be sung in cathedral services.³⁶² Whilst these manuals were not expressly authorised by the church hierarchy and so were not regulatory because they were not binding on those involved in church music, they provided an aid to individuals involved in the musical life of the cathedrals.

2.6. THE NINETEENTH CENTURY

After the 1662 Prayer Book, there were no changes made to the liturgy until the twentieth century. Therefore, after the turbulence of the Reformation and the Commonwealth periods (and the impact this had on the music within services), the liturgy remained stable for nearly three centuries.

Whilst the regulation of music in the liturgy changed very little during the nineteenth century, there were some developments within the cathedrals and parish churches which impacted music within the liturgy.

The work of the Oxford Movement had far reaching consequences for church worship, especially the musical elements of the liturgy. It recommended a return to the Catholic past, with the ritual and symbolic elements forming a fundamental part of worship. At the centre of the reforms was the idea that ‘public worship, conducted in a formal and reverent fashion’ was at the centre of church life.³⁶³ The Oxford Movement reintroduced congregational plainsong, chanting of the psalms and the responses back into Matins and Evensong, and rediscovered the pre-Reformation music and chant which had been lost to the Church. ‘Music

³⁶¹ Watkins Shaw in F. Blume, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974) 708.

³⁶² For example, in 1661, Edward Lowe published *A Short Direction for the Performance of Cathedrall Service*. This included traditional psalm tones and chants for the responses, which can be traced back to Merbecke’s *Booke of Common Praier Noted from 1550*. It also included a limited number of harmonised psalm tones ‘to serve only so long, till the Quires are more learnedly Musicall’, as well as a number of four-part responses, which had been adapted from Byrd’s second set of preces and Tallis’s second set of responses. In 1664, Lowe brought out a second revised version entitled *A Review of some Short Directions*, which incorporated changes brought about by the 1662 version of the Prayer Book (even though these were limited musically). See I. Spink, *Restoration Cathedral Music 1660 – 1714* (Clarendon Press, Oxford, 1995) 8 – 9.

³⁶³ A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 133.

was to play its part in allowing the whole congregation to worship together but was not itself to become the object of adoration'.³⁶⁴ Here, theological ideas, including music's uniting effect on the congregation, its ability to enhance the solemnity of the liturgy, were a driving force behind the Oxford Movement's reforms to the liturgy and in particular the use of music within the liturgy.³⁶⁵ Although these changes to church music were not achieved through formal legal regulation, many of the changes were based on tradition and custom within the liturgy.

2.7. COMMENTARIES ON THE LAW OF THE CHURCH OF ENGLAND³⁶⁶

There are a number of commentaries on the law of the Church of England, spanning the periods explored in this chapter. These provide insight into how music in the liturgy, are governed by Church law. Tracing these commentaries, reveals that musical life within the Church became increasingly regulated over the years. The first commentaries do not explicitly address the law relating to the musical elements of the service, instead, music is implicitly dealt with through consideration of the ownership of property. Gradually, more elements relating to music within services are dealt with in the commentaries. The implication is that the musical aspects of worship were gradually regulated more closely throughout church history.

In Godolphin's commentary (1680), there is nothing specifically addressing music within the liturgy. The only mention is in relation to who the organ belongs to: 'if a man take the Organs out of the Church, the Church-wardens may have Action of Trespass for them, for the Organs belong to the Parishioners, and not to the Parson; therefore the Parson cannot sue him in the Ecclesiastical Court that takes them away'.³⁶⁷ This does not address the incorporation of

³⁶⁴ Rev Dr Martin Thomas, *English Cathedral Music and liturgy in the Twentieth Century* (Routledge, London, 2015) 7.

³⁶⁵ These ideas were explored in more detail in chapter 1.

³⁶⁶ Whilst the commentaries included in this section span the historical periods explored above, it was felt that it would be beneficial to address these commentaries in a separate section because it helps to identify the themes and subjects being considered by legal commentators, and so highlights how music was regulated.

³⁶⁷ J. Godolphin, *Repertorium Canonicum: An abridgment of the ecclesiastical laws of this realm consistent with the temporal* (London, 1680), 167.

music into services, but deals with objects linked to church, and ownership of the church's objects. It demonstrates that legally the organ was considered to belong to the parish.

Whilst Grey (1730) does not specifically address legal provisions relating to terms such as 'music', 'psalmody', 'the choir', or 'the organ, he does explicitly deal with issues relating to music within the church. The organ is listed as one of the 'Proper Ornaments and Furniture of Parish Churches'.³⁶⁸ In addition, he sets out how the liturgy is to be performed: 'the Common Prayer shall be *said or sung* distinctly and reverently, upon such Days, as are appointed to be kept holy by the Book of Common Prayer'.³⁶⁹ Furthermore, 'the Rubricks in the Liturgy [are] a Part of the Statute Law of the Land', 'as having been confirm'd in Parliament by the several Acts of Uniformity, in the Reigns of Edward VI. Q. Elizabeth, and Charles II'.³⁷⁰ This reiterates that by 1730 the law permitted the liturgy to be sung in accordance with the authorised form of the *Book of Common Prayer*, and the rubrics were considered to be legally binding.

Similarly, Blunt revised by Phillimore (1873),³⁷¹ does not have a specific section addressing the use of music within the service. Whilst there are references to certain elements of the service being 'said or sung', there is very little on the Church's position regarding the law as to what music should be included in the services. The only reference is to the accompaniment by the organ and singing:

'It rests with the incumbent to control all those parts of the Divine Service which are not actually performed by the clergy. Thus Lord Stowell decided – in a case where the churchwarden instituted a suit against their clergyman for obstructing the singing of the school-children by introducing the accompaniment of an organ – that 'the minister has the right of directing the service: e.g, when the organ shall and shall not play, and when the children shall and shall not chant, though the organist is paid and the children managed by the churchwardens...they must complain to the ordinary if he introduces irregularities into the Service' [Wilson v Macmath, 3B & A 250] (1819)]. In the case of St George's-In-the-East,

³⁶⁸ R. Grey, *A System of English Ecclesiastical Law* (London, 1730) 75.

³⁶⁹ *Ibid.*, 114.

³⁷⁰ *Ibid.*, 12.

³⁷¹ Rev J. Blunt, and W. Phillimore, *The book of church law being an exposition of the legal rights and duties of the parochial clergy and the laity* (Rivingtons, London, 1873).

the Bishop of London declared: “The law allows an incumbent to have a choral rather than a read service if he pleases...I have no power of forbidding, or, if I forbid, of enforcing obedience to my mandate”. [Eccl. Gaz., Sept. 1859].³⁷²

By 1873, legally the incumbent controlled all elements of the liturgy, including the music. The incumbent had absolute discretion to determine when the organ should play, what should be sung and when it should be sung. Since, by this period, the law permitted sung services, the bishop could not prevent the incumbent from including sung forms of service in his church.

Sir Robert Phillimore’s *The Ecclesiastical Law of the Church of England (1873)*, also sets out legal principles governing the music that could be included in church services. He states that the Acts of Uniformity stipulated that only the form of worship directed in the Book of Common Prayer shall be used in the church. However, there was an exception: it shall be lawful for men ‘to use openly any psalms or prayer taken out of the Bible’ at any time.³⁷³

In considering the music permitted in churches, Phillimore states that:

The rule laid down for church music in England almost one thousand years ago, was that they should observe a plain and devout melody, according to the custom of the church.³⁷⁴

A second theme is the status of organs in churches. Phillimore states:

It may be difficult in some cases to distinguish whether an addition of this kind to the service of the church is to be deemed necessary or ornamental, because organs in

³⁷² See Rev J. Blunt, and W. Phillimore, *The Book of Church Law being an exposition of the Legal Rights and Duties of the Parochial Clergy and the Laity* (Rivingtons, London, 1873) 322. In relation to the latter comment by the Bishop of London, there may now be recourse under the Clergy Discipline Measure in the event that an incumbent took unreasonable steps in relation to the way the organist, or choir were treated. However, the extent to which a Bishop will step in for issues such as this may be questioned.

³⁷³ However, no authority is cited for this statement. See, Sir R. Phillimore, *The Ecclesiastical Law of the Church of England*, vol 1 (London, Henry Sweet, 1873) 965.

³⁷⁴ Again, no authorities are cited for this statement. See Sir R. Phillimore, *The Ecclesiastical Law of the Church of England*, vol 1 (London, Henry Sweet, 1873) 965 – 966.

some churches may be necessary, though in others ornamental. In cathedral churches they would, I conceive, be deemed necessary, and the ordinary might compel the dean and chapter to erect an organ, as proper and necessary for the service usually performed in such places.³⁷⁵

This comment is odd. By the time Phillimore was writing in 1873, the organ was frequently adopted, certainly in some of the large parish churches. It was not ‘ornamental’: there were a number of composers, who wrote music which had an increasingly important role for the organ. However, from Phillimore’s statement, it is possible to conclude that by the late nineteenth century, the law not only permitted organs in church services, but that organs were an established form of musical accompaniment within church worship.

A third theme, is comparing music at cathedrals with parish churches. This is addressed in Cripps’ *Law relating to Church and Clergy* published in 1921.³⁷⁶ Cripps compares the cathedrals where the music is performed by professional singers, with the local parish church where the service is plain.³⁷⁷ Cripps states that many commentators have argued that nothing beyond this should be allowed in the parish service. He draws on a number of sources going back to the Reformation to state that this is not supported in the law.³⁷⁸

³⁷⁵ Sir R. Phillimore, *The Ecclesiastical Law of the Church of England*, vol 1 (London, Henry Sweet, 1873) 966 – 928.

³⁷⁶ H. Cripps, Sir R. Cripps, and Sir A. Lawrence, *A practical treatise on the Law relating to Church and Clergy*, 7th edition (London, Sweet and Maxwell, 1921).

³⁷⁷ Again, this highlights the close relationship between theology, music and the law as is discussed in more detail in chapter 1. Cripps is drawing on theological ideas, such as the need for the texts of the liturgy to be clear supporting the use of plain melodies in the service, and the fact that music draws the congregation together when singing together.

³⁷⁸ Firstly, he states, the liturgy of Edward VI ‘describes the singing or saying of even song’, ‘and in the communion service the minister is directed to sing one or more of the sentences at the offertory’. He points to the psalms being directed to be ‘said or sung’ without any distinction between cathedrals and parish churches. He also relies on the 1559 Injunctions set out by Elizabeth I. which approve of singing. Finally, he refers to the Articles for the Administration of Prayers and Sacraments, set out in an Injunction dated 1564 by Queen Elizabeth I, in which Common Prayer is directed to be ‘said or sung decently and distinctly in such place as the Ordinary shall think meet...so that the people may be most edified’. Cripps concludes that if chanting or singing was unlawful anywhere but in the cathedrals ‘these canons are strangely worded, and are of disputable meaning’. H. Cripps, Sir R. Cripps, and Sir A. Lawrence, *A practical treatise on the Law relating to Church and Clergy* (London, Sweet and Maxwell, 1921) 562.

In setting out the manner in which church services are to be conducted, Cripps, relies on the consistory court's judgment in *Hutchins v Denziloe*³⁷⁹ to state that:

As the minister is to direct at his discretion what parts of the service are to be sung and to exercise a general superintendence in such matters, it follows that he may direct by whom the singing or chanting are to be principally performed, whether it be instrumental or vocal, and, in fact, make any new orders or regulations relating thereto as he may think fit, but subject to the general controlling power of the ordinary...³⁸⁰

Cripps continues that, it is possible to conclude that:

The appointment or dismissal of singers or instrumental performers in the church rests entirely with the minister, who might dismiss them individually or as a body, appoint a different method, or prohibit singing altogether, if he thought proper, subject, however, as we have already observed.³⁸¹

Finally, Cripps comments that following the case of *Wyndham v Cole*,³⁸² where there is an organ in a church or chapel:

It is not competent to the organist to play on it at any time in defiance of the directions of the minister. The organist might appeal to the ordinary; but in the meantime should obey the directions of the minister.³⁸³

The *Report of the Archbishop's Commission* in 1922 (as revised in 1932 and 1938) noted that this position remained the same in 1938 under the new parochial church councils. However, it concluded that this was not a satisfactory situation and 'the music director's position should be made secure against arbitrary dismissal or capricious action, and an appeal should lie to

³⁷⁹ (*No 1*) (1792) 1 Hagg Cons 170.

³⁸⁰ H. Cripps, Sir R. Cripps, and Sir A. Lawrence, *A practical treatise on the Law relating to Church and Clergy* (London, Sweet and Maxwell, 1921) 560.

³⁸¹ *Ibid.*, 561.

³⁸² *Wyndham v Cole* (1875) 1 P.D. 130.

³⁸³ H. Cripps, Sir R. Cripps, and Sir A. Lawrence, *A practical treatise on the Law relating to Church and Clergy* (London, Sweet and Maxwell, 1921) 561.

the bishop'. This position has been amended as employment law during the twentieth-century has become more favourable to employees. Accordingly, church musicians who have an employment contract, have a more stable working environment.³⁸⁴

In summary, commentaries on the law of the Church of England give insight into the regulation of music within the liturgy from at least the seventeenth century. Firstly, the limited references to the regulation of music within the early commentaries demonstrates that music was considered worthy of regulation. They confirm that by the nineteenth century the law permitted music's inclusion in the liturgy. The incumbent had complete control over musical elements of services within the church, including when the organ may play, what could be sung, and when it could be sung.³⁸⁵ In addition, by the beginning of the twentieth century, the commentaries were starting to set out the legal position regarding the appointment and dismissal of singers or instrumental performers within the church.

³⁸⁴ This topic will be addressed in more detail later in this thesis.

³⁸⁵ As will be seen later in this chapter, the law has sought to place some limitations on the minister's complete discretion regarding decisions relating to the musical elements of the service.

2.8. THE TWENTIETH CENTURY

There have been a number of changes to the music within the liturgy during the twentieth century,³⁸⁶ although there have been limited changes to the legal instruments governing its use within the liturgy. The first development was the promulgation of the Code of Canons of the Church of England in 1964 and 1969, which included a canon dealing with the regulation of music and musicians in the church (Canon B20).³⁸⁷ This did not fundamentally change the position regarding the regulation of music within the church, since many provisions incorporated the laws developed before the introduction of the canons. However, for the first time, the canons of the Church of England included provision specifically relating to music within the liturgy and the musicians.³⁸⁸ Secondly, there have been a number of Acts of Parliament relating to the English Cathedrals introduced during the twentieth century. A number of provisions within these Acts have affected the music within cathedrals.³⁸⁹ Thirdly, the introduction of more modern liturgical texts has influenced the style of music used within worship. This has resulted in a wider range of music being available for use within the liturgy.

Firstly, the introduction of Canon B20 sets out, in one place the regulation of the music used within the liturgy and provisions relating to the musicians involved in church music. The Convocations of Canterbury and York promulgated the Code of Canons of the Church of England in 1964 and 1969, replacing the whole of the Code of 1604. However, the 1604 Canons do not have a canon which specifically relates to the music within the liturgy.³⁹⁰

³⁸⁶ Ireland, was organist at St Luke's Chelsea from 1904 to 1926, although he wrote little music specifically for the church – see A. Wilson-Dickson, *The Story of Christian Music* (Lion Publishing plc, 2003) 236.

³⁸⁷ See G. Bray, *The Development of the Canons: A Historical Study and Summary of the Church of England's Canons 1969 to 2020* (Latimer Publications, Oxford, 2020) 1 – 4.

³⁸⁸ See G. Bray, *The Development of the Canons: A Historical Study and Summary of the Church of England's Canons 1969 to 2020* (Latimer Publications, Oxford, 2020) for a summary of the introduction of the canons, and their development over the last 50 years.

³⁸⁹ These will be considered in more detail in chapter 4.

³⁹⁰ Canon XIV of the 1604 Canons states: “The Common Prayer shall be said or sung distinctly and reverently upon such days are appointed to be kept Holy by the Book of Common Prayer”; and Canon XV states: “The Litany shall be said or sung, when, and as it is set down in the book of Common Prayer, by the Parsons, Vicars, Ministers or Curates, in all Cathedral, Collegiate, Parish Churches and Chapels...” From this it is clear that music was permitted in worship. However, the canons did not have more specific provisions relating to music within the services.

Canon B20 is the key canon impacting on the music in the church.³⁹¹ The title originally given to this canon was “Of the hymns, anthems, and music of the Church”, and it did not originally deal with the appointment and termination of the organist and church musicians (now set out in Canon B20.1). This was amended to the current heading “Of the musicians and music of the Church” by amending canon 10, in 1988.³⁹² The first version of canon B20.1 stated ‘it belongs to the minister to direct when the organ shall be played and when it shall not be played, and to decide what parts of the service shall be sung’.³⁹³ Again, this was amended to the current wording of the canon,³⁹⁴ in 1988, to delete the reference to the minister directing when the organ shall be played, and introducing provisions relating to the minister’s function of appointing and terminating the position of organist, choirmaster or director of music.³⁹⁵ It is likely that this reflected developments in employment law during this period. The other provisions in this canon remain unamended.

Secondly, there have been a number of Acts in relation to the English Cathedrals introduced during the twentieth century. A number of provisions within these Acts have affected the music within cathedrals. These will be considered in more detail in chapter 4.

Thirdly, one of the main changes impacting music in the liturgy is changes made to the texts included in the liturgy. This was in an attempt to make the wording of the liturgy “more accessible” to the laity. The texts to which music is set, are fundamental to the shape that the music takes. With each reworking of liturgical texts, there is a shift in the way the music is written: as was seen in the change from Latin to English during the Reformation. As seen above, the established form of service until the latter half of the twentieth century was the 1662 *Book of Common Prayer*. During the twentieth century, a rethinking of the liturgical processes led to the *Alternative Service Book* 1980, and *Common Worship* in 2000. The Preface to *Common Worship* states that:

³⁹¹ This canon will be considered in more detail in chapter 3, and particularly how it applies to parish churches today. However, here I deal with the historic development of this canon.

³⁹² Amending Canon 10, 4 July 1988, See G. Bray, *The Development of the Canons: A Historical Study and Summary of the Church of England’s Canons 1969 to 2020* (Latimer Publications, Oxford, 2020) 48.

³⁹³ See *Ibid.*, 48.

³⁹⁴ See Appendix 1, which quotes the full text of Canon B20.

³⁹⁵ See G. Bray, *The Development of the Canons: A Historical Study and Summary of the Church of England’s Canons 1969 to 2020* (Latimer Publications, Oxford, 2020) 48 – 49.

*Common Worship draws together the rich inheritance of the past and the very best of our contemporary forms of worship. In this volume we bring together the services of The Book of Common Prayer as they are used today and newer liturgies in both traditional and contemporary style.*³⁹⁶

The change in the language used within the liturgy from the more formal English in the 1662 *Book of Common Prayer*, to the more modern English in *Common Worship*, has affected the music written for the liturgy. Composers have adapted the music written for the liturgy to fit the more modern language. In addition, there are a range of different texts used within different churches and different services which has resulted in a greater variety of music being used within different churches.

Finally, there have been a number of *Archbishops' Commission Reports* addressing Church Music during the twentieth century: the first in 1922;³⁹⁷ the second in 1948;³⁹⁸ and the third and most recent report in 1992.³⁹⁹ The focus of these reports is 'to review the present state of church music, to offer reflections and to make recommendations',⁴⁰⁰ to ensure the future success of music within worship in churches. None of these reports specifically address the legal regulation of music and the musicians of the church and the implications this can have on the music within the liturgy.⁴⁰¹ However, what the reports make clear is that the Church of England considers that music has a crucial status within the liturgy, and, it is submitted, is therefore worthy of regulation.

CONCLUSION

³⁹⁶ Preface to *Common Worship*, (Church House Publishing, London, 2000) ix.

³⁹⁷ *Music in Worship: The Report of the Archbishops' Commission*, (SPCK, London, 1922).

³⁹⁸ *Music in Church: The Report of the Archbishops' Commission on Church Music* (1948).

³⁹⁹ *In Tune With Heaven, The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992).

⁴⁰⁰ *Ibid.*, Preface, 11.

⁴⁰¹ For example, the only mention of canon B20 in *In Tune With Heaven* is in the Appendices under the heading "miscellaneous" where the canon is simply quoted, without providing any commentary on the canon, how effective the canon is, or whether any change is needed to the canon. This is considered in the introduction to this thesis.

The chapter is an original contribution to scholarship, providing a unique perspective on the historical development of music through its regulation. Music has been included in the liturgy from the beginning of Christianity, and it has always been regulated to some degree, whether that has been at a very low, superficial level, or much more prominent and restrictive. It is apparent that there was very little regulation of the music included in the liturgy in the earliest times, for example, rules regulating the use of music in the liturgy are not set out in the earliest canons of the ecumenical and other councils of the post-apostolic church. Until the Middle Ages music was transmitted aurally, but as the complexity of services increased, written liturgical books came to be used, and musical notation developed allowing the music for use in service to be passed on to future generations. Arguably, this represents the regulation of music in the form of musical notation. The creation of written musical notation was a significant development in the history of music generally, but also in relation to the regulation of music within the liturgy. In addition, due to the increasing demands on music within the liturgy, an increasing number of individuals involved in the music at the cathedrals required increasing regulation of their roles. This is reflected in the increasing importance attributed to music within the liturgy. As the liturgy became more elaborate, and the music used within the liturgy became more complex the regulation of the music within the liturgy increased, until the Reformation when those in power within the Church of England sought to place greater restrictions on various elements of the liturgy.

Following the Reformation, restrictions were placed on the language that could be used in the service, and rules governing how complex the music should be, for example, simple music was preferred because it was believed that the congregations were more likely to be able to understand the texts. This was achieved through a number of different regulatory instruments: Acts of Parliament, Royal Injunctions, and the Prayer Books. Since the Reformation there have been many changes to the liturgy, such as striving to provide increasing participation in the liturgy by the congregation through structures such as the introduction of congregational hymns within the service. The twentieth century has seen the relaxation of many of the rules, and music within the liturgy is currently governed by Canon B20.

Throughout the history of the Christian liturgy, the music used within the services has adapted and changed as the expectations of society have altered and those in power have dictated. Whilst the extent of the rules governing music has changed, there has always been

some form of “legal regulation” of how music is conducted in services, governing those musicians and clerics involved in the music within the services. However, it is clear that the character of music’s regulation throughout history has been driven by an understanding of the liturgy.

CHAPTER 3 - THE REGULATION OF MUSIC IN PARISH CHURCHES

INTRODUCTION

The parish churches are central to the worshipping life of the Church of England, and music plays an essential role in the liturgy. There have been many studies of the Church of England parish churches from numerous perspectives. Many provide an historical overview of parish churches, or an architectural guide.⁴⁰² The most definitive book dealing with the law relating to parish churches is Dale's *The Law of the Parish Church*.⁴⁰³ However, this only dedicates two pages to church musicians, briefly mentioning Canon B20.⁴⁰⁴ Furthermore, the most recent edition is from 1998, nearly 30 years ago. None of these studies provide a detailed review of the legal framework governing musical life within parish churches. It is also of note that canon law is only mentioned on two occasions in the *Report of the Archbishops' Commission on Church Music*,⁴⁰⁵ it does not provide analysis of the law's role in facilitating and ordering music within the liturgy.⁴⁰⁶ Whilst the report reaches a number of conclusions about the state of music in parish churches and provides recommendations about how parishes can improve their musical offering and ensure the continuation of musical life within their churches, it does not address how legal regulation can help achieve this. Since it is legal regulation which facilitates and orders music within services, this leaves a gap in the study regarding how the Church of England can achieve these recommendations. A consideration

⁴⁰² See, for example John Betjeman's *Guide to English Parish Churches*, (Harper Collins, London).

⁴⁰³ Sir William Dale, *The Law of the Parish Church*, seventh edition (Butterworths, London, 1998).

⁴⁰⁴ See section headed 'The Organist, Choir, Parish Clerk and Sexton', Sir William Dale, *The Law of the Parish Church*, seventh edition (Butterworths, London, 1998) 79 – 80.

⁴⁰⁵ Paragraph 555 of the report states that 'in Canon law the decision as to which services are to be used rests jointly with the incumbent and the Parochial Church Council (Canon B.3). The ultimate responsibility for the ordering of music in worship rests with the incumbent...It is difficult, and possibly unwise, for one person to attempt omnipotence in an area of the Church's life in which there have been so many recent changes in rapid succession. Responsibility could be shared with a body made up of certain ex-officio members (the clergy, the director of music, others with particular responsibilities in worship), and representatives of the PCC, the congregation and particular constituencies such as the youth group'. *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music*, (Church House Publishing, Hodder & Stoughton, London, 1992) 189. The second point that Canon Law is mentioned is at Appendix 3.1, which simply quotes verbatim Canon B20 on music and the musicians.

⁴⁰⁶ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 295.

of the legal framework of the music of Church of England parish churches is essential to ensure that the value of music and musicians is recognised and to ensure that music flourishes within parish churches.

As set out in the introduction, this thesis provides an original contribution to scholarship by providing a comprehensive study of the three major areas of regulation of music within the Church of England: the parish churches, the cathedrals and the college chapels. This chapter contributes to this through a review of the legal framework of music in the Church of England parish churches. The first section considers the regulation of music within services: how music is selected for the liturgy, who decides which music is included, and where it should be included. This demonstrates the important role afforded music within the liturgy of parish churches. The second section looks at the regulation of parish church musicians: their appointment, their duties and rights, how a position may be terminated, and on what basis.⁴⁰⁷

It is important to note that the main canonical provision applicable to parish church music and musicians is canon B20 ‘Of the musicians and music of the church’. This canon only applies to the parish churches (as it explicitly excludes the cathedrals college chapels).

To ensure that a full picture is given of the legal regulation of music within Church of England parishes, each section begins setting out the legal position taken from various sources of law, (such as the canon law, statutes, and legal guidance). It analyses what happens in practice: considering the views shared by a number of parish priests in response to the Parish Churches Questionnaire.⁴⁰⁸ The churches included in this study are those with a strong musical tradition: with a music director and a choir, or which are known to utilise music within their worship.⁴⁰⁹ Finally, this chapter provides an original contribution to

⁴⁰⁷ Whilst the structure of this chapter does not follow the ordering of Canon B20, it was felt that it was important to begin the study with a consideration of the selection and ordering of music within services, since this forms the starting point for any study of the music and musicians within church worship: the requirement for church musicians follows from the use of music within worship. Following this, the chapter considers the musicians engaged in the musical life of the parish churches.

⁴⁰⁸ A detailed description of the methodology adopted for this study, together with a list of the parish churches contacted and the questions included in the questionnaire is included at Appendix 2.

⁴⁰⁹ A list of all the parish churches contacted is included at Appendix 2 as well as an explanation of the methodology adopted and the questions submitted to the parish priests. These churches were selected for the study because I needed to introduce limits to the parish churches contacted to make the study manageable, and the churches selected are most likely to have encountered the issues

scholarship by identifying challenges with the law in practice and suggesting proposals for reform.

3.1. THE REGULATION OF MUSIC WITHIN WORSHIP

The starting point for considering the music in worship at Church of England parish churches is the selection and ordering of music, since this structures the use of music within the liturgy and services. There are a number of aspects relating to the regulation of music within services which need to be considered. Firstly, the selection of music for inclusion within services - a number of sources (from canon B20 to the General Synod's Legal Advisory Commission's opinion), assist in understanding the current legal regulation of music within the Church of England. Secondly, the ordering of music within the liturgy: which is regulated by canon law, the rubrics and other norms,⁴¹⁰ within the Church of England 'forms of service'.

Whilst a number of law and religion scholars, such as Hill,⁴¹¹ and Bursell,⁴¹² touch upon how the canons treat the regulation of music, they do not consider the provisions in detail. The next section provides an original contribution to knowledge and addresses a lacuna in law and religion scholarship, carrying out a detailed study of the legal regulation of music within worship, including the canons, guidance from General Synod, and rubrics and other norms contained in liturgy books.

3.1.1 The Selection of Music

addressed in the study. It is also important to note that a number of parish churches have no music within their services, and do not have an organist or church musicians. This is often due to parish churches not having sufficient resources for the provision of music, rather than the regulatory burden being too great for musical provision.

⁴¹⁰ A discussion of the definition for the rubrics is considered further in the section addressing "Guidance within the liturgy" below.

⁴¹¹ Mark Hill, *Ecclesiastical Law* (4th Edition, Oxford, Oxford University Press, 2018) paras 3.65 and 3.66.

⁴¹² Rupert Bursell, *Liturgy, Order and the Law* (Oxford, Clarendon Press, 1996) 80 - 81.

Canon B20 forms the starting point for a consideration of the music within Church of England parish churches. Canon B20 paragraph 2 (B20.2) deals with the selection and ordering of music within services, whilst canon B20.3 sets out the minister's duties in ensuring that appropriate music is selected for worship.

Canon B20.2 states that where a church has an organist, choirmaster or director of music (although these terms are not defined in the canon), the minister shall pay due heed to his or her advice and assistance in choosing 'chants, hymns, anthems, and other settings', and in ordering the music included in the service. However, the canon expressly states that the final responsibility and decision regarding the music rests with the minister. In other words, the minister has a duty to consult with the music director or organist, but the minister has the final decision regarding the selection of music. There are a number of issues arising out of this canon: (1) what is meant by the word 'minister'? (2) what is meant by the phrase 'to pay due heed' and how far does this duty extend? and (3) what is meant by the phrase 'chants, hymns, anthems and other settings'?

Firstly, what is meant by the word 'minister'? Does this mean the incumbent of the parish or benefice, or the minister who will be officiating at the particular service?⁴¹³ The wording of canon B20.2 is unclear. The phrase 'the minister' has been given differing meanings in different contexts.⁴¹⁴

One possible interpretation is that since canon B20.2 does not specify that the duty to consult and decide attaches to the minister of the parish,⁴¹⁵ it is referring to the minister who is actually taking the service. If the minister of the parish is not taking a particular service one

⁴¹³ If they are in fact not one and the same person. The different offices of minister may include: incumbent (with common tenure), (licensed) priest-in-charge, etc.

⁴¹⁴ See Halsbury's Laws of England, 5th ed., 2011, vol 34 para 382, note 1, which states 'the word 'minister' has different meanings according to the context: see, for example, Legal Opinions concerning the Church of England (Church House Publishing, 8th Edn, 2007) 49 – 53, 368 – 375. It may apply to a bishop, priest or deacon (Revised Canons Ecclesiastical, Canon C1; *Read v Bishop of Lincoln* (1889) 14 PD 148), or to the officiant at the service (see eg Canon B8), or it may be given a particular meaning (see eg the Church Representation Rules r 44).' and para 451, note 2.

⁴¹⁵ As is the case in canon B35, which addresses the solemnisation of marriage. In particular canon B35.5 states: when matrimony is to be solemnized in any church, it belongs to the minister of the parish to decide what music shall be played, what hymns or anthems shall be sung, or what furnishings or flowers should be placed in or about the church for the occasion'.

possible conclusion is that it should fall to the officiant, who is actually present at the service,⁴¹⁶ to determine whether the music is suitable for the service. Doe argues that ‘when the incumbent has consented to a cleric officiating, the right to control directly the ordering of liturgical acts and music at a particular service of public worship belongs to the officiating minister.’⁴¹⁷ He continues that ‘whether a particular part of the service is to be said or sung, therefore, is a matter for the discretion of the officiating minister, whether this is the incumbent or any other minister to whom consent to officiate has been given’.⁴¹⁸ Doe concludes that once consent has been given to a particular minister to officiate, it is for that minister to direct the service.⁴¹⁹

By way of contrast, the Opinion of the Legal Advisory Commission of the Church of England (“LAC”)⁴²⁰ sets out its view on the correct interpretation of the term ‘minister’ in Canon B20. It states since canon B35, which states that ‘when matrimony is to be solemnised in any church, it belongs to the *minister of the parish* to decide what music shall be played, what hymns or anthems are sung...’, speaks of the ‘minister of the parish’ and ‘as both canon B20 and canon B35 are concerned with music in church, it is the Commission’s view that canon B20 should be read in the same way’.⁴²¹ It continues that ‘in the Commission’s view

⁴¹⁶ i.e. the priest, deacons, lay ministers, readers, etc taking the service.

⁴¹⁷ Doe cites H. Cripps, *A Practical Treatise on the Law relating to the Church and Clergy* (8th edn, London, 1937) 514: ‘The manner in which the services are to be performed is at the direction and discretion of the officiating minister, subject to any directions from the ordinary’. See N. Doe, *The Law of the Church in Wales* (University of Wales Press, Cardiff, 2002) 226. Whilst Doe’s study specifically relates to the Church in Wales, and so is not binding on decisions made in relation to the Church of England, it may be persuasive authority in similar circumstances in the Church of England.

⁴¹⁸ He cites the following cases as precedents for this conclusion: *Hutchins v Denziloe and Loveland* (1792) 2 Hag Con 170, where the case concerned the directions of the ‘officiating and licensed curate’; *Wood v Headingley-cum-Burley Burial Board* [1892] 1 QB 729; and *Wyndham v Cole* (1875) 1 PD 130.

⁴¹⁹ N. Doe, *The Law of the Church in Wales* (University of Wales Press, Cardiff, 2002) 227.

⁴²⁰ The purpose of the Legal Advisory Commission of the General Synod of the Church of England is to provide advice on matters of general interest to the Church which are referred to it by the Synod or one of the Houses of the General Synod: i.e. the House of Bishops, House of Clergy or House of Laity; by any of the Church Institutions; by the Church’s legal officers; or by other officers such as archdeacons and diocesan secretaries. The Commission’s advice has been published in consolidated form as Legal Opinions concerning the Church of England. These opinions are considered authoritative. See “Legal Opinions and other guidance” on Church of England website: <https://www.churchofengland.org/about/leadership-and-governance/legal-resources/legal-opinions-and-other-guidance>, accessed 9 July 2024.

⁴²¹ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians”, 4 April 2017. <https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

Canon B1.2,⁴²² does not permit the person conducting the service to overrule any decision already made by the minister of the parish but is primarily concerned with the actual performance of the worship, especially by the congregation'.⁴²³ Furthermore, the term 'minister' 'does not include a curate or assistant priest even during a vacancy in the benefice. It does include a priest-in-charge...and a team vicar assigned a special cure of souls.'⁴²⁴

This interpretation has also been endorsed by canon law scholars such as Bursell and Hill. Bursell suggests that this canon imposes a duty on the incumbent of a parish because the phrase 'minister' in canons B20.1 and 2 are clearly referring to the incumbent.⁴²⁵ He argues that the reference to banishing all irreverence in the practice of the music,⁴²⁶ does not appear to be a reference to the visiting minister.⁴²⁷ Like the LAC, Hill compares this canon with canon B35.5,⁴²⁸ and since canon B35.5 specifies that it is the minister of the parish that has the decision/duty regarding the music selected, canon should be read in the same way. Furthermore, as seen in chapter 2, this view has been endorsed by legal commentators: it has long been accepted as set out in Blunt revised by Phillimore (1873) that 'it rests with the *incumbent* to control all those parts of the Divine Service which are not actually performed by the clergy'.⁴²⁹ Accordingly, if the service book permits a set text to be said or sung, the officiant can choose how this is to be performed.

In light of the guidance provided by the LAC, (given the LAC was appointed by the General Synod to provide the opinion on parish music and musicians), and on the views of canon law scholars, it is likely that in the future the term 'minister' will be interpreted to mean the incumbent rather than the minister conducting the service. Whilst canon B20 is silent

⁴²² Canon B1 paragraph 2 imposes a duty on the minister conducting the service to "endeavour to ensure that the worship offered glorifies God and edifies the people".

⁴²³ See para 6, General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017.

<https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

⁴²⁴ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 4.

⁴²⁵ Although, he does not provide a legal basis for this statement.

⁴²⁶ This phrase is considered in more detail in section 1.2 'The appropriateness of the music'.

⁴²⁷ Rupert Bursell, *Liturgy, Order and the Law* (Oxford, Clarendon Press, 1996) 80, f.n. 206.

⁴²⁸ Mark Hill, *Ecclesiastical Law* (3rd Edition, Oxford: Oxford University Press; 2007) 94; canon B35 para 5.

⁴²⁹ See Rev J. Blunt, and W. Phillimore, *The Book of Church Law being an exposition of the Legal Rights and Duties of the Parochial Clergy and the Laity* (Rivingtons, London, 1873) 322.

regarding the precise definition of the term ‘minister’, and LAC does not cite any case law or legal principles to support its position, I suggest that in the majority of cases the preferred definition of minister will be the minister of the parish. This is because, if canon B20 is taken as a whole, canon B20.1 clearly refers to the minister of the parish as having the function of appointing the organist or director of music. It is submitted that this cannot be an “officiating minister”. Therefore, applying the principle of *noscitur a sociis* the minister selecting the music should be the minister of the parish.

In any event, the decision about which music should be included in a service ultimately rests with the minister of the parish rather than the organist or music director.⁴³⁰ The practices outlined above indicate that whilst the minister has a duty to consult the musicians about the music to be included in a church service, the final decision regarding its selection rests with the minister.

Secondly, whilst the minister has a duty to pay due heed to the organist or music director, and to take their advice about the music chosen for services, and in the ordering of music, do they have an obligation to follow the organist’s advice? On a strict interpretation of canon B20.2, the answer is ‘no’. It states: ‘the final responsibility and decision in these matters rests with the minister’: it does not continue ‘or whoever the minister chooses’. However, whilst the minister, through his theological training, may be presumed to consider the appropriateness of the words of certain hymns, anthems and/or other settings, (and to determine the most appropriate ordering of the service), unless the minister has received specific training in liturgical music, or has experience of church choral music, it is unlikely that he will be in a better position than an experienced director of music or organist, to decide the best musical setting for the choir, or whether the choir would be capable of singing a particular liturgical setting or anthem.⁴³¹

How does this apply in practice? Here we turn to the responses to the Parish Church Questionnaires. In relation to music for the *congregation*, this is chosen by the minister *and*

⁴³⁰ Or indeed the bride and groom in the case of a marriage ceremony.

⁴³¹ It is important here to compare the situation where the organist or director of music has many years’ experience of working with church choirs, and an in depth understanding of liturgical practices, with a church which engages a young ‘pianist’ to accompany hymns who has no experience of running a church choir nor an understanding of how the liturgy works.

director of music/organist jointly, and in a smaller number of cases by the priest acting alone.⁴³² In churches with a choir, the music sung by the choir is selected in most cases by the director of music or organist alone, or by the priest and director of music/organist jointly (i.e. not by the priest alone).⁴³³ Where the priest allows the director of music to select music alone this is a breach of the strict requirement in canon B20 that the minister has final responsibility for selecting the music. In these instances, the priest is delegating his or her responsibility for selecting the music to the director of music. Canon B20.2 does not expressly permit the priest to delegate the responsibility of choosing the music. It could be argued that by delegating the selection and ordering of the music, the priest is fettering his or her discretion. However, the practice adopted by many churches, is a pragmatic solution because the director of music will often have vast musical training and experience, and it may be classified as ‘customary law’. This is also in accordance with the suggestion included in the *Archbishops’ Commission’s Report on Church Music*, that whilst ‘the ultimate responsibility for the ordering of music in worship rests with the incumbent...It is difficult, and possibly unwise, for one person to attempt omnipotence in an area of the Church’s life in which there have been so many recent changes in rapid succession. Responsibility could be shared with a body made up of certain ex-officio members (the clergy, the director of music, others with particular responsibilities in worship), and representatives of the PCC, the congregation and particular constituencies such as the youth group’.⁴³⁴ Given the importance of music within worship, I suggest that it may be sensible for the Church of England to consider amending canon B20 to incorporate a more collaborative approach to the selection of music into the law.

⁴³² In 27 churches the music was selected by the priest and director of music jointly, in 14 churches by the director of music/organist alone, in 7 churches by the priest alone, and in a small number of cases by a worship committee, or in collaboration between a pastor, service leader and band leader.

⁴³³ In 35 churches the music for the choir was selected by the director of music alone, whereas it was selected by the priest and director of music/organist jointly in 10 churches. In 34 of the churches which responded to the questionnaires, the priest felt able to determine the suitability of the music for the choir or congregation’s capabilities, in comparison to six instances where the priest did not feel able to do so. One priest indicated that they felt able to decide for the congregational elements, whereas they did not feel able to decide the suitability for the choral elements. Furthermore, 38 of the Directors of Music had received formal musical training for the post, compared to only 14 priests having received any formal musical training.

⁴³⁴ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 189.

Furthermore, according to the wording of canon B20.2 the minister only has a duty to consult ‘where there is an organist, choirmaster or director of music. In churches without an organist, the minister will not have a duty to consult.

Thirdly, what is meant by the phrase ‘chants, hymns, anthems or other settings’? Canon B20.2 does not define this phrase. There is no guidance from the LAC about what this should include.⁴³⁵ The Church of England does not provide a formal definition of a hymn, chant or anthem. In popular usage, a ‘hymn’ is defined as ‘a song of praise that Christians sing to God’,⁴³⁶ whilst an anthem is ‘a religious song sung by a choir with organ music’,⁴³⁷ and a chant is defined as a religious prayer or song, sung to a simple tune.⁴³⁸ It appears that the types of music to which canon B20.2 applies are songs or prayers with religious words, set to music. The terminology used in Canon B20.2, of ‘chants, hymns and anthems’ is most fitting for churches with a traditional choral set up, rather than churches engaging more modern musical settings such as worship bands. Whilst it could be argued that the phrase ‘and other settings’ covers ‘worship music’ or ‘worship songs’ played in a more modern setting; it would be beneficial to amend the canon to provide more inclusive wording.⁴³⁹

3.1.2 The Appropriateness of the Music

Canon B20.3 states that the ‘minister’ has a duty to ensure that ‘only such chants, hymns, anthems, and other settings are chosen as are appropriate, both in relation to the words and the music, for the solemn act of worship and prayer in the House of God as well as to the

⁴³⁵ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017.
<https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

⁴³⁶ Cambridge Dictionary Online: <https://dictionary.cambridge.org/dictionary/english/hymn> accessed 30 July 2024.

⁴³⁷ Cambridge Dictionary Online: <https://dictionary.cambridge.org/dictionary/english/anthem>, accessed 30 July 2024.

⁴³⁸ Cambridge Dictionary Online: <https://dictionary.cambridge.org/dictionary/english/chant>, accessed 30 July 2024.

⁴³⁹ Further reasons for amending this canon, and proposed wording will be addressed later in this chapter.

congregation assembled for that purpose; and to banish all irreverence in the practice and in the performance of the same'.⁴⁴⁰

What criteria should the minister use when deciding whether the music and words are appropriate for the 'solemn act of worship and prayer in the House of God and to the 'congregation assembled for that purpose'? Canon B20.3 does not set out criteria. In addition, LAC is silent regarding criteria to be applied when reaching these decisions. Bursell suggests that if 'an officiating minister were to realise that bawdy words were being sung to the hymn tune he would be under a duty to ensure that it stopped; if necessary, he ought to discontinue the service until all danger of such behaviour has ceased' (although this is in contradiction to his argument in relation to canon B20.2).⁴⁴¹ Although not explicitly stated in the canon, this suggests that only words which are fitting to the House of God, or for the purpose of worshipping God should be included, and accordingly words, which are obscene, or vulgar should not be used. Similarly, music which conjures inappropriate images should not be permitted. This is fitting with the suggestion by the *Archbishops' Commission on Church Music* that 'those responsible for the choice of hymns and worship songs be guided by the quality of their doctrinal content, language and musical idiom, and that both the new and old be included in the repertoire'.⁴⁴² However, no further guidance is given regarding criteria for this decision. It is likely that this will depend on the views of the individual priest and will vary depending on what each individual priest considers to be appropriate.⁴⁴³ As a result, it is possible that a hymn one priest considers acceptable for the liturgy, will be deemed inappropriate by another priest. This may lead to uncertainty and confusion.

3.1.3 Musicians to follow direction of minister

⁴⁴⁰ Canon B20 para 3.

⁴⁴¹ R. Bursell, *Liturgy, Order and the Law* (Clarendon Press, Oxford, 1996) 80.

⁴⁴² *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 253.

⁴⁴³ The parish churches questionnaires did not address the criteria ministers apply when deciding the appropriateness of the words and music of hymns and other musical items. It is suggested that this is an area that would potentially benefit from further research.

Canon B20.2 makes it clear that the final decision for all matters regarding ordering and selecting music for services rests with the minister. It is implicit in this canon and canon B20.3 (if the music has words) that this extends to the music before and after the service, as well as incidental music contained within the service.⁴⁴⁴ Bursell states: ‘an organist may not play the organ immediately before, during or immediately after a service contrary to the directions of the incumbent’.⁴⁴⁵ Furthermore, according to Bursell, the organist has a duty to recognise the incumbent’s or parish priest’s authority in all matters relating to the service ‘including what parts are to be said and sung and the amount of musical elaboration suited to the needs of the congregation’.⁴⁴⁶ If the minister arbitrarily forbids the organist to play, or acts in an arbitrary fashion, the organist may appeal to the Ordinary.⁴⁴⁷ However, the organist is still required to follow the minister’s instructions until he/she receives further guidance from the Bishop.⁴⁴⁸

In summary, canon B20 provides high level⁴⁴⁹ rules governing music within services. Whilst the minister has a duty to consult the organist or director of music to ensure that appropriate music (by way of hymns, chants, anthems or other settings) are selected for the service, both in respect of words and music, the final decision for selecting and ordering the music rests with the minister. This can be summarised as ‘the clergy decide whilst the laity guide’. There are a number of issues arising due to the lack of clarity over certain words and phrases in the canon.⁴⁵⁰ Further guidance is provided in the LAC regarding how some words and phrases should be interpreted. However, there is a lack of certainty due to the potential for this to be interpreted in different ways. For this reason, it would be helpful to amend canon B20 to provide further clarity,⁴⁵¹ or for further guidance to be issued by the Church of England.⁴⁵²

⁴⁴⁴ i.e. including music which is not sung but performed on an instrument.

⁴⁴⁵ R. Bursell, *Liturgy, Order and the Law* (Oxford, Clarendon Press, 1996) 81. He cites *Wyndham v Cole (1875) 1 P.D. 130* as precedent for this position.

⁴⁴⁶ *Ibid.*, 81.

⁴⁴⁷ See *Wyndham v Cole (1875) 1 PD 130*, per Sir Robert Philimore.

⁴⁴⁸ *Wyndham v Cole (1875) 1 PD 130*, per Sir Robert Philimore.

⁴⁴⁹ The rules in Canon B20 have been classified as “high level” because they simply set out broad regulations for the selection of music within services. They do not provide any detail regarding criteria to be applied when making this selection.

⁴⁵⁰ Such as, what is meant by the term “minister”, and what is meant by the phrase “chants, hymns, anthems or other settings”

⁴⁵¹ A suggestion regarding how the canon should be revised is included in the conclusion to this chapter.

⁴⁵² Suggested amendments to the wording of canon B20.2 and B20.3 are provided in the conclusion to this chapter.

3.1.4 The ordering of Music within the Holy Communion Service⁴⁵³

As addressed above, canons B20.2 and 3 provide the general rule that the minister is responsible for ordering the music within services.⁴⁵⁴ Furthermore, under canon B3, decisions regarding the forms of service to be used in a church are taken jointly by the minister and PCC.⁴⁵⁵ Other than specifying the forms of service permitted within the Church of England, the canons do not provide a more detailed description of the ordering of music within services. For more detailed guidance, it is necessary to look at references to music within the authorised liturgical books. This includes rubrics contained within the service books, which are defined as ‘all directions and instructions contained in the [service] book and all tables, prefaces, rules, calendars and other contents thereof’.⁴⁵⁶ The rubrics provide rules within the service books which must be followed when ordering the service, and so are mandatory. Additionally, other norms are included, providing suggestions for practical use. This next section analyses the rubrics and other norms, such as directions and notes, within certain Church of England liturgies to assess references to music within these texts, and consider the regulation of the ordering of music within the liturgy.⁴⁵⁷ This is an area which has not received comprehensive consideration by law and religion scholars. This study is unique in providing a detailed comparison of how music is regulated within the authorised Church of England liturgies.

There are several liturgies legally approved for use within Church of England services, under Canon B1.⁴⁵⁸ This study focuses on those contained in the following instruments: the *Book of*

⁴⁵³ Whilst it is acknowledged that there are a number of different services in use within the Church of England, such as the ‘statutory offices’ of morning and evening prayer, as well as the ‘occasional offices’ of baptism, marriage and burial, this study is limited to the Holy Communion Service because this is the form of service most often encountered in parish churches and it was necessary to limit the scope of the study.

⁴⁵⁴ See Canon B20.2, and for a more detailed consideration above under “The selection of music”.

⁴⁵⁵ See Canon B3.1.

⁴⁵⁶ S.5(2)(b) Church of England (Worship and Doctrine) Measure, 1974.

⁴⁵⁷ It is to be noted that the rubrics to the liturgies also apply to the music within cathedrals or college chapels, if these liturgies are adopted within the services.

⁴⁵⁸ Under Canon B1, the following forms of service are authorised for use in the Church of England:

Common Prayer, the *Alternative Service Book*,⁴⁵⁹ and *Common Worship*. This next section analyses how each of these service books deals with music within their liturgies.

The Book of Common Prayer⁴⁶⁰

The *Book of Common Prayer* (“BCP”) was first published in 1549, and until the twentieth century, was the only form of worship authorised within the Church of England.⁴⁶¹ As set out above, it is one of the forms of liturgy authorised for use in the Church of England under Canon B1. The rubrics contained within the BCP therefore regulate the ordering of music within the liturgy. The most recent version of the BCP is from 1662, and this is still authorised for use today.

The section headed ‘Concerning the Service of the Church’ in the 1662 BCP states: ‘all things shall be read *and sung* in the Church in the English Tongue,⁴⁶² to the end that the

-
- (a) the forms of service contained in the Book of Common Prayer;
 - (b) the shortened forms of Morning and Evening Prayer which were set out in the Schedule to the Act of Uniformity Amendment Act 1872;
 - (c) the form of service authorised by Royal Warrant for use upon the anniversary of the day of the accession of the reigning Sovereign;
 - (d) any form of service approved under Canon B2 subject to any amendments so approved;
 - (e) any form of service approved under Canon B4 subject to any amendments so approved; and
 - (f) any form of service authorised by the archbishops under Canon B 5A, to the extent permitted by such authorisation.

Furthermore, under Canon B2, it shall be lawful for General Synod to approve forms of service for use in the Church of England and to amend any form of service approved by Synod under that canon. It is also possible for General Synod to approve the use of such form of service for a limited period, or without limitation of period.

⁴⁵⁹ Although this was replaced in 2000 and is no longer an authorised form of service book, the references to music within the service book provide a useful indication of how music was treated within the liturgy between 1980 and 2000, and so forms a useful source for this study.

⁴⁶⁰ I have limited my review to the Holy Communion service, since this is the service most frequently used in modern day Sunday services, and is therefore the service most frequently encountered by the worshipping congregation. It is possible that a number of congregations may use different forms of service which have received approval by the bishop, or there may be forms of service which have received approval for experimental use under Canon B5. However, for the purposes of this study, I have limited my review to the Book of Common Prayer, the Alternative Service Book and Common Worship as this will help to trace the format of the service through from 1662 to the current authorised form of service.

⁴⁶¹ See Chapter 2, and Church of England website: <https://www.churchofengland.org/prayer-and-worship/worship-texts-and-resources/where-liturgy-comes#:~:text=The%20ASB%20was%20authorized%20first,the%20general%20title%20Common%20Worship>. Accessed 19 July 2024.

⁴⁶² However, in practice, some Latin texts are permitted for use within the service.

Congregation may be thereby edified'.⁴⁶³ This suggests that certain parts of the service are intended to be sung, although this is not mandatory.⁴⁶⁴ However, there are very few rubrics within the Holy Communion Service that specify that certain texts must be sung. For example, the introduction to the Sanctus and Benedictus states:

'After each of which Prefaces shall immediately be sung or said:

It then provides the text:

Therefore with Angels and Archangels, and with all the company of heaven, we laud and magnify thy glorious Name; evermore praising thee and saying...'

This is the only place where the option to sing is indicated before the option to say the text. Since the authors of the 1662 BCP did not follow the same pattern throughout the service,⁴⁶⁵ this suggests that the preference is for this section to be sung.

The introduction to the Gloria states: 'then shall be said or sung', indicating the minister may decide whether this section should be said or sung. The order of words places the stipulation that this should be 'said' or 'sung'. One possible interpretation is that the preference is for this to be said rather than sung. However, if a comparison is made with the 1552 BCP, it appears that this phrase has been copied across to the 1662 version.⁴⁶⁶ So it is possible that the authors of the 1662 BCP did not intend there to be a preference for this phrase to be said. In any event, this section is said or sung by the congregation rather than by the priest alone.

An overview of the 1662 BCP service reveals that the congregation has very limited participation. The congregation joins in with the words 'Lord, have mercy upon us, and

⁴⁶³ *The Book of Common Prayer* (Cambridge, Cambridge University Press, 2011) x.

⁴⁶⁴ The mandatory part of this phrase attaches to the fact that everything must be in the "English tongue".

⁴⁶⁵ A comparison of the rubric in the 1552 Book of Common Prayer at this section stated 'After whiche preface, shal folowe immediatly', and in the 1559 Book of Common Prayer stated 'Here shall follow the proper Preface, according to the time, if there be any specially appointed, or else immediatly shall follow:' Neither of these previous versions of the Book of Common Prayer specifies how this section is to be uttered, i.e. said or sung. It is in the 1662 that this term is introduced.

⁴⁶⁶ See chapter 2 table comparing 1549 and 1552 BCPs.

incline our hearts to keep this law’, in response to each of the ten commandments. The introduction to this section states: ‘Then shall the Minister turning to the People, rehearse distinctly all the ten commandments; and the People, still kneeling shall, after every Commandment ask God mercy for their transgression...’⁴⁶⁷ The wording does not specify whether this should be said or sung. In addition, the congregation join in the Gloria. However, the remainder of the service is conducted by the priest alone.

There is also no indication of a point where a hymn must be sung by the congregation during the service in the BCP Holy Communion service. This further highlights that there is limited participation by the congregation. This is relevant to the use of music within services because one of the theological reasons for including music in the services is to encourage the active participation of the congregation, as this assists in their understanding of the service.⁴⁶⁸

Alternative Service Book⁴⁶⁹

The *Alternative Service Book* (“ASB”) was introduced in 1980 to supplement the BCP, and (as its title suggests) it provides an alternative liturgy for public worship.⁴⁷⁰

The Notes⁴⁷¹ section of the ASB,⁴⁷² states: ‘where rubrics indicate that a section is to be ‘said’, this must be understood to include ‘or sung’ and vice versa’.⁴⁷³ It continues: ‘where

⁴⁶⁷ *The Book of Common Prayer* (Cambridge: Cambridge University Press, 2011).

⁴⁶⁸ This is explored in more detail in chapter 1.

⁴⁶⁹ Whilst the ASB was replaced by Common Worship in 2000, and so is no longer one of the authorised forms of service, it has been included in this study so that we can trace how the liturgy developed to the present day Holy Communion liturgy.

⁴⁷⁰ The Preface states: ‘The Church of England has traditionally sought to maintain a balance between the old and the new. For the first time since the Act of Uniformity this balance in its public worship is now officially expressed in two books, rather than one. The *Alternative Service Book* (1980), as its name implies, is intended to supplement the *Book of Common Prayer*, not to supersede it’. *The Alternative Service Book 1980*, (Hodder & Stoughton, London, 1980) 9. However, as set out below, the ASB was replaced in 2000 by Common Worship, and so is no longer an authorised service of the Church of England. However, it has been included in this study, as it provides a bridge between 1980 and 2000 when Common Worship was introduced and so helps to trace the development of the treatment of music within the liturgy.

⁴⁷¹ The Notes section provides directions for the person conducting the service to follow for the proper conduct of worship.

⁴⁷² The normative part of the service is ‘notes’ section. The notes provide guidance to those interpreting the liturgy within the ASB. They provide insight into the intentions of those writing the liturgy and so any guidance in the notes section should be followed when using the ASB.

⁴⁷³ *The Alternative Service Book 1980* (Hodder & Stoughton, London, 1980) 32.

parts of a service are sung to well-known settings, the traditional words for which they were composed may be used'. If placed in context, the fact that ASB followed BCP 1662 and used more modern English language than BCP 1662, this phrase could be interpreted as allowing ministers to use the more traditional *English* texts included in BCP 1662. Alternatively, it could be interpreted as permitting Latin texts, where the music was written by pre-Reformation composers (who would have been writing for Latin texts).⁴⁷⁴ In any event, the language used in this section of ASB is permissive, which shows a relaxing of the liturgy from BCP.

Furthermore, the notes state: 'various points are indicated for the singing of hymns; but, if occasion requires, they may be sung at other points also'. This indicates hymns may be sung at appropriate points of the service at the minister's discretion. It allows flexibility for the minister to break up the service using hymns, although, of course, the minister has a duty to comply with the requirements of canon B20 when selecting appropriate hymns.⁴⁷⁵ The use of the phrase 'they [hymns] *may be sung at other points also*' suggests that the expectation is that hymns will be sung within the service, but additional hymns may be added by the minister if desired. However, this is not an unlimited discretion: canon B5.1 states, 'the minister who is to conduct the service may in his discretion make and use variations which are not of substantial importance in any form of service authorized by Canon B1 according to particular circumstances',⁴⁷⁶ and so limits variations that a minister may make.

At the Preparation,⁴⁷⁷ the 'rubric' indicates: 'at the entry of the ministers an appropriate sentence may be used; and a hymn, a canticle, or a psalm may be sung'. The text also specifies other points where a 'hymn' 'may' be sung: following the New Testament reading;⁴⁷⁸ at the preparation of the gifts;⁴⁷⁹ during the distribution of the elements;⁴⁸⁰ and after communion.⁴⁸¹ In accordance with the general notes, the language used for including

⁴⁷⁴ See Chapter 2.

⁴⁷⁵ See section on the selection of music above.

⁴⁷⁶ Canon B5.1.

⁴⁷⁷ This is the section at the start of the service, which 'prepares' the congregation and minister for worship.

⁴⁷⁸ 'a canticle, a hymn, or a psalm may be used'.

⁴⁷⁹ 'a hymn may be sung'.

⁴⁸⁰ 'hymns and anthems may be sung'.

⁴⁸¹ 'a hymn may be sung'.

hymns in the service is permissive, i.e. they *may* be included at the points indicated. This provides flexibility for the minister to include hymns at the most appropriate points, and suggests that whilst hymns and music are not strictly speaking required at these points, neither are they forbidden.

Following the confession, the ‘Kyrie eleison may be said’, after which, ‘the Gloria in excelsis may be said’. Whilst on a strict interpretation of this wording the preference is for these sections to be said (as it does not indicate that they may be sung), given the notes section states that where the rubrics indicate a section is to be said, this must be understood to include that it may be ‘sung’. Therefore, even though it does not explicitly state that these sections may be sung, this is permitted. The preface to the Eucharistic Prayer introduces the ‘Sanctus’ with the words ‘we proclaim your great and glorious name, for ever praising you and saying:...’ However, following the relevant wording for the congregation, the rubrics indicate that ‘this anthem may also be used: Blessed is he who comes in the name of the Lord. Hosanna in the highest’. This suggests that this section should be sung, since one definition of an anthem is ‘a piece of sacred vocal music, usually with words taken from the Scriptures’.⁴⁸² Furthermore, later in the service, the rubrics indicate that either immediately following breaking the bread or during the distribution, ‘one of the following anthems may be said: Lamb of God you take away the sin of the world: have mercy on us...’ The fact that this section uses the term anthem, which is defined as ‘a religious song sung by a choir with organ music’ indicates that it may be sung (as well as the indication in the notes section that anything which is stated to be ‘said’, should also be understood to read ‘sung’). It therefore appears that there is a lack of clarity to some of the terminology used in the ASB. In particular, the use of the phrase that ‘one of the following anthems may be said’ is inconsistent with the definition of an anthem.

Common Worship

From 2000 ASB was replaced by a new form of services: *Common Worship*.⁴⁸³ The preference in *Common Worship* is for texts, where possible to be sung: the preface states:

⁴⁸² <https://www.dictionary.com/browse/anthem?s=t>

⁴⁸³ See introduction to the Church of England Liturgy on the Church of England website: <https://www.churchofengland.org/prayer-and-worship/worship-texts-and-resources/where-liturgy->

‘*Common Worship* provides texts, contemporary as well as traditional, which are resonant and memorable, so that they will enter and remain in the Church of England’s corporate memory – *especially if they are sung*’.⁴⁸⁴ One of the theological reasons for including music within the liturgy is that the combination of music with the words helps to make the liturgical texts more memorable.⁴⁸⁵ This contributes to the effectiveness of the text’s proclamation, and educates the congregation. This is set out in a canonically approved liturgical preface rather than in a formal law.

Furthermore, the ‘notes’ to the Holy Eucharist in *Common Worship*,⁴⁸⁶ states: ‘in addition to the places where they are printed in the service, traditional versions of texts may be used’. Since the preface indicates that ‘texts’ in Common Worship ‘may be sung’, this includes musical settings of the texts. This is similar to the wording included in ASB, addressed above. The wording is permissive.

There are a number of points throughout the liturgy where the rubrics indicate that a hymn may be sung: at the beginning of the service: ‘at the entry of the ministers a hymn may be sung’; during the preparation of the table and the presentation of the gifts ‘a hymn may be sung’; during the distribution of Holy Communion ‘hymns and anthems may be sung’ and a hymn ‘may be sung’ at the dismissal. The ‘Rules for Regulating Authorized Forms of Service’,⁴⁸⁷ contained within *Common Worship* clarify the word ‘hymns’,⁴⁸⁸ they state:⁴⁸⁹

1. Any reference in authorized provision to the use of hymns shall be construed as including the use of texts described as songs, chants, canticles.

[comes#:~:text=The%20ASB%20was%20authorized%20first,the%20general%20title%20Common%20Worship](#) Accessed 19 July 2024.

⁴⁸⁴ It continues: ‘It is when the framework of worship is clear and familiar and the texts are known by heart that the poetry of praise and the passion of prayer can transcend the printed word. Then worship can take wing and become the living sacrifice of ourselves to the God whose majesty is beyond compare and whose truth is from everlasting’. *Common Worship: Services and Prayers for the Church of England* (London, Church House Publishing, 2000) x.

⁴⁸⁵ This is explored further in chapter 1.

⁴⁸⁶ The normative part of this service book are included in the form of ‘notes’ at the beginning of the liturgy.

⁴⁸⁷ Since this section is titled ‘rules’, this implies that anything included in this section must be followed, and so these rules are binding on those organising the service.

⁴⁸⁸ A definition for the words ‘hymns’ and ‘anthems’ is provided in section 1.1.

⁴⁸⁹ <https://www.churchofengland.org/sites/default/files/2017-11/mvlectionary524-591.pdf> p 525, accessed 21 August 2018

2. *If occasion requires, hymns may be sung at points other than those indicated in particular forms of service...*

The language used is permissive, suggesting that hymns (including songs, chants, and canticles) *may* be used at these points. The minister⁴⁹⁰ has an option to include a hymn at each of these points if appropriate. This provides the minister with discretion to decide where in the service a hymn is most appropriate and how many to include. In addition, the ‘rules’ set out that within the authorized services, the phrase ‘a hymn’ can include texts described as ‘songs, chants and canticles’. Again, this provides flexibility for the minister to insert alternative music at these points. This is reiterated in the ‘notes’ section, which indicates that in relation to ‘hymns, psalms, and canticles’,⁴⁹¹ there are certain points throughout the service book which indicate where they may be sung, ‘but they may occur elsewhere’.⁴⁹² Finally, the rules state: ‘*if occasion requires, hymns may be sung at points other than those indicated in particular forms of service*’. This suggests that this is the exception rather than the norm. However, further rules are not provided setting out when it would be.⁴⁹³

The language used in the rubrics in *Common Worship* are deliberately left open as to whether certain sections are ‘said’ or ‘sung’. Phrases such as: ‘the Kyrie may be used’, ‘the Gloria in excelsis may be used’, ‘an acclamation may herald the Gospel reading’, ‘the president praises God for his mighty acts and all respond, Holy, holy, holy Lord...’, ‘the Prayer continues and leads into the doxology to which all respond boldly: Amen’, or ‘the Agnus Dei may be used as the bread is broken’. The rubrics do not state that a prayer *must* be ‘said’, ‘sung’ or whether it *may* be ‘said or sung’. By using language which is vague as to how the priest, congregation, or choir is to pronounce specific texts, *Common Worship* provides flexibility for those preparing the service to decide whether certain sections of the liturgy may be sung, or if it is more appropriate for these words to be said. Furthermore, the ‘Rules for Regulating

⁴⁹⁰ See above – in accordance with canon B20 the minister has a duty to consult the organist or the director of music in this regard, but the final decision rests with the minister.

⁴⁹¹ It appears that this is referring to different types of musical settings that the author anticipated would be included in the liturgy. It is interesting that it does not include the terms ‘anthems’ or ‘songs’ in this list of musical settings. I suggest that these should be included in this list of settings.

⁴⁹² *Common Worship: Services and Prayers for the Church of England* (London, Church House Publishing, 2000) 330.

⁴⁹³ It is also important to remember that all of the provisions set out in the authorised service booklets are subject to the terms of canon B20.2 and 3.

Authorized Forms of Service’ within *Common Worship*, provides that: ‘where rubrics indicate that a text is to be ‘said’ this must be understood to include ‘or sung’ and vice versa’.⁴⁹⁴ Again, this points to a flexibility regarding structuring the liturgy.

The ‘rules regulating authorized forms of service’, give one final indication that the Church permits certain sections of the liturgy to be sung: they state: ‘where parts of a service make use of well-known and traditional texts, other translations or versions, particularly when used in musical compositions, may be used’.⁴⁹⁵

In summary, the whole Common Worship regime may be characterised as permissive.

A Comparison of the Service Books as to Holy Communion

Section	Book of Common Prayer 1662	Alternative Service Book	Common Worship
Introit/Preparation		“At the entry of the ministers an appropriate sentence may be used; and a hymn, a canticle or a psalm may be sung”	“At the entry of the ministers a hymn may be sung”
Kyrie eleison		“Kyrie eleison may be said” [but see notes: said may include sung]	“Or, with suitable penitential sentences, the Kyrie eleison may be used”
Gloria in excelsis	“Then shall be said or sung...” N.B this is placed after	“Gloria in excelsis may be said” [but see notes: said may include sung]	“The Gloria in excelsis may be used”

⁴⁹⁴ <https://www.churchofengland.org/sites/default/files/2017-11/mvlectionary524-591.pdf> p 525, accessed 21 August 2018

⁴⁹⁵ <https://www.churchofengland.org/sites/default/files/2017-11/mvlectionary524-591.pdf> p 525, accessed 21 August 2018

	communion in the 1662 service.		
Creed	<i>“And the Gospel ended, shall be sung or said the Creed”</i>	<i>“The Nicene creed is said on Sundays and other Holy Days, and may be said on other days”</i>	<i>“On Sundays and Principal Holy Days an authorized translation of the Nicene Creed is used, or on occasion the Apostles’ Creed or an authorized Affirmation of Faith may be used”</i>
Offertory	<i>“Then shall the Priest return to the Lord’s Table, and begin the Offertory, saying one or more of these Sentences following, as he thinketh most convenient in his discretion”</i>	<i>“The president may praise God for his gifts in appropriate words to which all respond... ”</i>	<i>“One or more of the prayers at the preparation of the table may be used”</i>
Sanctus	<i>“Here shall follow the proper Preface, according to the time, if there be an specially appointed, or else immediately shall follow:”</i>	<i>“Proper preface, the priest introduces this: ‘we proclaim your great and glorious name, for ever praising you and saying:”</i> [but see notes: said may include sung, and this section is described as an ‘anthem’]	<i>“The president praises God for his mighty acts and all respond...Holy, holy, holy Lord...”</i>

Agnus Dei		<p><i>“Either here or during the distribution one of the following anthems may be said” [but see notes: said may include sung, and this section is described as an ‘anthem’]</i></p>	<p><i>“The Agnus Dei may be used as the bread is broken.”</i></p>
Communion		<p><i>“During the distribution hymns and anthems may be sung.”</i></p>	<p><i>“During the distribution hymns and anthems may be sung.”</i></p>
Hymns and Anthems		<p>Hymns, canticles, or psalms may be sung at the following points: At entrance of minister; and Following the New Testament reading. A hymn may be sung at: The preparation of the gifts; and After communion. Hymns and anthems may be sung during the distribution of communion.</p>	<p>A hymn may be sung at the following points: At the entry of the minister; At the preparation of the Table and taking of the bread and wine; and At the beginning of the dismissal. During the distribution hymns and anthems may be sung.</p>

In summary, whilst Canon B20.2 states the minister has final responsibility for ordering services, including the musical elements, the rubrics and other norms contained within

Church of England service books provide further detail regarding music's ordering within the liturgy. This section considers the rubrics and other norms,⁴⁹⁶ of three liturgical texts containing forms of service for the administration of Holy Communion within the Church of England,⁴⁹⁷ to compare the treatment of the musical elements. There are a number of norms common to the three services: firstly, the rubrics are clear that the use of music within the liturgy (including hymns, anthems, songs, chants or canticles) is permitted. Secondly, they demonstrate flexibility, since hymns and other sacred songs can be moved within the liturgy, and the 'notes' state that any texts which are stated to be said are to be understood as to also mean 'sung' However, there are limits to this flexibility, for example, the choir or congregation are not permitted to sing/say parts of the Eucharistic Prayer, which can only be said by the priest. Thirdly, the 'notes' to the *ASB* and *Common Worship* state that different translations and versions of well-known liturgical texts may be used, particularly when a musical setting of the text is included in the service, provided the meaning of the text is still discernible. It is clear from the 'rubrics' in the three forms of service that there is a great deal of flexibility in relation to ordering the music within the services. This ensures that the use of music within the services can be tailored to the needs of the particular church.⁴⁹⁸

⁴⁹⁶ Such as directions and notes.

⁴⁹⁷ As has been set out above, whilst the *ASB* is no longer an authorised form of service under Canon B1, it was an authorised form of service from 1980 until 2000, when it was replaced by *Common Worship*. Therefore, in order to carry out a detailed study of the use of music within the forms of service from 1662 until the present day it is necessary to consider the *ASB*.

⁴⁹⁸ As set out above, there are a number of different services in use within the Church of England, such as the 'statutory offices' of morning and evening prayer, as well as the 'occasional offices' of baptism, marriage and burial. This study is limited to the Holy Communion Service because this is the form of service most often encountered in parish churches and it was necessary to limit the scope of the study.

3.2. THE REGULATION OF PARISH CHURCH MUSICIANS

When considering the law relating to church musicians, including their appointment, rights and duties, and termination of their position,⁴⁹⁹ it is necessary to consider a number of different sources. This includes the Church's national law: the Church of England Canons, national state law pertaining to employment rights, the LAC Opinion, relevant case law, and liturgical norms in the service books.⁵⁰⁰ This section considers these sources and how they govern: (1) the appointment and classes of church musicians, (2) the rights and duties imposed on those individuals and the PCC, and (3) the termination of the position of those musicians. This is an area which has received limited consideration by law and religion scholars. Hill's *Ecclesiastical Law* only has two paragraphs dedicated to this topic,⁵⁰¹ and Bursell's *Liturgy, Order and the Law* only considers the requirements of canon B20 applicable to the liturgy, it does not consider issues pertaining to the appointment and termination of the position of organist, choirmaster or director of music.⁵⁰² Furthermore, the *Report of the Archbishops' Commission on Church Music* does not address legal issues surrounding the appointment and termination of these positions, despite the fact that this is a crucial aspect of parish church music.⁵⁰³ A detailed consideration of this area is important to anybody dealing with parish church musicians so that they understand the rights and duties that may attach to particular positions and do not find themselves in breach of the law. This section provides a comprehensive consideration of this topic and addresses a lacuna in law and religion scholarship.

⁴⁹⁹ Although, the previous section has considered the role of the minister in relation to church music under Canon B20.

⁵⁰⁰ This was addressed in the previous section "1.4 The ordering of Music within the Holy Communion Service".

⁵⁰¹ See M. Hill, *Ecclesiastical Law*, paras 3.65 and 3.66.

⁵⁰² R. Bursell, *Liturgy, Order and the Law* (Oxford, Clarendon Press, 1996) 80 – 81.

⁵⁰³ The closest it comes is mentioning the remuneration of church organists, although it does not address the legal implications the remuneration of church musician has, this will be addressed below – see *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 78.

3.2.1 Appointment

The starting point for considering the legal position regarding the appointment of church musicians is the canons. Canon B20.1 sets out provisions for the appointment of an organist, choirmaster, or director of music in parish churches.⁵⁰⁴ Additionally, in certain circumstances, musicians may rely on contract law and/or employment law, particularly if they have a written employment contract.⁵⁰⁵ As above, it is important to note that canon B20.1 only applies to parish churches. The canon specifies that it does not apply to ‘cathedrals or collegiate churches’. However, provisions of contract law, and employment law may also apply to cathedrals and collegiate churches.

The Law

Canon Law

Canon B20.1 states that in churches,⁵⁰⁶ the ‘functions’ of appointing an organist, choirmaster or director of music are exercised by the minister with the agreement of the parochial church council (PCC).⁵⁰⁷ The minister is responsible for appointing the organist, choirmaster or director of music (by whichever name called), with the agreement of the PCC.⁵⁰⁸ The use of the word ‘functions’ seems important, because it suggests that the minister and PCC do not have a duty to appoint an organist, choirmaster or music director, but if they decide that one should be appointed they have the ‘function’ of appointing, i.e. the post of organist is not mandatory in a parish church, but the canon permits the minister and PCC to appoint one. Furthermore, the Parochial Church Councils (Powers) Measure 1956, states: ‘it shall be the duty of the minister and the parochial church council to consult together on matters of general

⁵⁰⁴ Although as is set out above, this canon does not apply to cathedrals or collegiate chapels where the issue is governed by the statutes of the individual cathedral or chapel. It is also important to note that the organist and director of music or organist may be the same individual (i.e. there may be one position) or there may be more than one post.

⁵⁰⁵ see R. Leach, and B. Williams, *Everything Else an Organist should know* (Epsom, Organist Publications, 2005) 80. Whilst this provides practical guidance for organists, it does not provide a detailed consideration of the law.

⁵⁰⁶ Other than in a cathedral or collegiate colleges or chapels (where the matter is governed by the statutes or customs of the particular circumstances).

⁵⁰⁷ Canon B20 paragraph 1.

⁵⁰⁸ And therefore has a correlative right to make the appointment.

concern and importance to the parish'.⁵⁰⁹ The functions of the PCC include: 'co-operation with the minister in promoting in the parish the whole mission of the Church, pastoral, evangelistic, social and ecumenical'.⁵¹⁰ Therefore, the minister and PCC are required to co-operate regarding the appointment. However, it seems that if the PCC disagrees with the minister's proposed candidate, it can veto the appointment, i.e. the minister appoints the organist, choirmaster, or director of music with the prior consent of the PCC. The canon does not explain how this process should be carried out. Although, in accordance with the PCC (Powers) Measure 1956, the agreement of the PCC needs to be obtained via a resolution at a PCC meeting before the candidate is appointed.⁵¹¹

There are a number of further issues arising out of Canon B20.1. Firstly, what happens if someone other than the minister purports to appoint an organist? Secondly, which musicians does the canon apply to? Thirdly, what happens if an organist needs to be appointed during an interregnum?

Firstly, according to the LAC, a purported appointment of an organist by anyone other than the minister,⁵¹² is *ultra vires*. Nevertheless, the LAC states a legally enforceable unwritten contract may come into existence by the conduct of the parties if the minister and PCC continue to act in accordance with the appointment.⁵¹³ The LAC Opinion appears to diverge from a strict interpretation of canon B20, although it does not provide any reasoning for this stance.⁵¹⁴ However, the LAC's position is in keeping with contract law.⁵¹⁵ The legal position is uncertain as different readings of the canon and LAC/contract law could lead to different interpretations. It is likely that if this issue ever arose, the Church of England would follow the position set out in the LAC Opinion. A review of canon B20.1 is needed to determine whether it should be amended to remove any uncertainty or contradiction.

⁵⁰⁹ S.2(1) Parochial Church Councils (Powers) Measure 1956.

⁵¹⁰ S.2(2)(a) Parochial Church Councils (Powers) Measure 1956.

⁵¹¹ S.3(3) Parochial Church Councils (Powers) Measure 1956.

⁵¹² For example, by the archdeacon or the PCC.

⁵¹³ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 10.

⁵¹⁴ The wording of Canon B20 indicates that only the minister, with the agreement of the PCC, can appoint an organist, choirmaster, or director of music. This suggests that no-one else can appoint such musicians.

⁵¹⁵ This is addressed in more detail in the next section below.

Secondly, canon B20.1 explicitly refers to ‘any organist, choirmaster (by whatever name called) or director of music’. The LAC states since this canon is entitled ‘of the musicians and music of the church’ means ‘the Canon...should be understood as including all musicians in similar positions. References in this opinion to ‘the organist’ therefore include all such musicians and music directors and the term “choirmaster” includes choir mistresses and choir directors.’⁵¹⁶ It seems canon B20.1 is intended to include individuals whose responsibilities are to play the organ for services, and/or to direct the choir, i.e. those *leading* music within church services. However, it is not clear what happens in churches without a traditional choral arrangement, such as those with a worship band. Presumably, canon B20.1 includes the leader of a worship band on the basis that this is an equivalent position to a director of music. Given canon B20 was last amended in 1988, it clearly needs to be amended to take into account changes in musical practices, and to include new modes of worship, to remove any uncertainty.⁵¹⁷ I provide suggested amendments in the conclusion to this chapter.

Furthermore, LAC highlights that canon B20.1 does not refer to choristers (in fact it does not expressly mention the parish at all).⁵¹⁸ Since canon B20 is ‘of the musicians...of the church’, this suggests choristers should be included in the definition of ‘musicians...of the church’. However, considering canon B20 as a whole, canons B20.2 and 3 appear to mean the leader of the music, rather than choir members. Accordingly, it appears that the provisions of canon B20 do not apply to the appointment of choir members. Whilst this is a logical conclusion, the canon is unclear because its title is ‘Of the musicians and music of the church’. It also leaves a lacuna in the law regarding those volunteering as church musicians, although it is unlikely that this is a problem in practice.

Thirdly, canon B20.1 does not set out what happens during an interregnum, or the suspension of a minister if an organist is not already appointed. The LAC states in these circumstances,

⁵¹⁶ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017. <https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

⁵¹⁷ For example, many parish churches included in the questionnaires use a worship band, consisting of guitars, drums and piano, with backing singers, using music which is appropriate to this arrangement, rather than the traditional organ and choir.

⁵¹⁸ If the church has a choir.

the churchwardens or PCC⁵¹⁹ ‘may invite an organist to play during services, although it should always be made clear that this is on an ad hoc basis until there is a minister who may make a formal appointment’.⁵²⁰ This contradicts the position in canon B20.1 which states it is the minister who appoints the organist. Amendment is needed to bring it in line with current practices and to avoid confusion. Again, suggested amendments are addressed in the conclusion to this chapter.

Contract Law

In addition to the provisions set out in canon B20.1, in some circumstances the relationship between organist, choirmaster or director of music and the employer may be governed by a contract of employment. It is the PCC that enters into the contract with the church musician. If a PCC is considered to have entered into a contract for the performance of services with a church musician,⁵²¹ then the relationship between the parties will be governed by the contract of employment. It is therefore necessary to consider what is a contract of employment, and when it comes into existence.

A contract is a legally binding agreement voluntarily entered into between two equal parties with an intention to create legal relations. In the case of an employer/employee relationship this is between the user of labour,⁵²² and the provider of labour.⁵²³ In the context of church musicians, LAC provides its opinion on whether the agreement between organist, choirmaster

⁵¹⁹ Presumably, this reference to the churchwardens and PCC is because the decision making process of a parish is carried out by the PCC during an interregnum.

⁵²⁰ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 7. LAC does not include any legal basis for this statement in this opinion. However, it is likely that this statement is reached following Canon B20(2) – see argument in section headed “The selection of music” above. Furthermore, this is an exception to the position adopted by LAC that the term ‘minister’ will always mean the priest of the parish, see section 1.1 above.

⁵²¹ The distinction between a ‘contract of services’ which refers to an employer/employee relationship, and a ‘contract for services’ which refers to contractors, such as freelance workers is an important one for determining if the organist will have “employment” rights, and if an employer/employee relationship exists. See <https://www.cipd.org/uk/knowledge/factsheets/terms-conditions-contracts-factsheet/#:~:text=A%20contract%20of%20employment%20is,%2C%20for%20example%2C%20freelance%20workers>.

⁵²² In this case the church/PCC.

⁵²³ In this case the organist, or choirmaster. D. Lewis, and M. Sargeant, *Employment Law* (London, Routledge, Ninth edition, 2020) 69.

or director of music and the PCC will constitute a contract of employment. LAC states any agreement entered into between the organist and the PCC,⁵²⁴ will, in the majority of cases, be considered a contract of employment, regardless of whether it is set out in writing.⁵²⁵

Presumably the organist's appointment by the minister is the offer, and it is not until the individual accepts the position of organist that a binding agreement comes into effect. The LAC recommends that any agreement between a church musician and the PCC is reduced to writing and is signed by both parties, to ensure certainty. Whilst not addressed in the LAC opinion, the minister cannot be one of the contracting parties (even though he is stated to appoint the organist, etc). One logical reason is because the minister may move to a different parish church, whilst the organist continues in post in the parish church i.e. an organist may remain in post during the time of several priests (and there may be periods of interregnum where there is no priest). If the 'employer' for the purposes of the contract were the priest, then the contract would end when a priest moved to a different parish. Furthermore, if an organist receives remuneration for his/her services, then it is the PCC that has the liability to pay the organist's wages, not the priest. Therefore, the contracting party must be the PCC.

On the assumption that there is a contract between a church musician and the PCC, this should contain a number of basic provisions.⁵²⁶ It is possible to vary a written contract

⁵²⁴ Although LAC does not address when this agreement comes into existence.

⁵²⁵ The court in *Ready-Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance* [1968] 1 All ER 433 stated that 'A contract of employment exists if these three conditions are fulfilled: (i) the servant agrees that, in consideration of a wage or other remuneration, he will provide his own work and skill in the performance of some service for his master; (ii) he agrees, expressly or impliedly, that in the performance of that service he will be subject to the other's control in a sufficient degree to make that other master; (iii) the other provisions of the contract are consistent with it being a contract of service'.

⁵²⁶ According to the LAC this includes the following: (a) the names of the parties to the contract; (b) confirmation of the PCC's agreement to the appointment of the organist by the minister; (c) the date upon which the agreement commences; (d) the amount of remuneration (or other entitlement) on the date of appointment and when it is payable; (e) a clause setting out that, in accordance with Canon B20 paragraph 1, the termination of the agreement is exercisable by the minister with the agreement of the PCC except in circumstances where the archdeacon of the relevant archdeaconry considers that the agreement of the PCC should be dispensed with; (f) the notice period required by either the minister or the organist to terminate the appointment (in the absence of conduct amounting to gross misconduct on the part of the organist or other repudiatory breach), this should be the same period for both parties; (g) a term, in accordance with Canon B20 paragraph 3, that although the minister of the parish must pay attention to the views of the organist in relation to the choice of music, the final decision is that of the minister;

verbally or by the conduct of the parties, which can create problems if a church musician agrees to carry out duties outside the terms of the contract regularly, since these duties may over time become incorporated into the contract.⁵²⁷

There are a number of instances (particularly in smaller churches, where the organist is a volunteer, or plays on an ad hoc basis) where neither the parish nor the organist intend to enter into a legally binding employment contract. The LAC recommends that oral agreements should be avoided wherever possible.⁵²⁸ In these circumstances LAC suggests that the parties set out in writing that there is no intention to enter into a legal employment relationship; it states this is particularly important if the organist or director of music receives remuneration for their work.⁵²⁹ However, in circumstances where the organist is a volunteer and does not receive remuneration for playing the organ, it is unlikely that they will be receiving ‘consideration’ (one of the requirements for an enforceable contract to come into existence) for the services provided. In these circumstances, it is difficult to envisage a court holding that there is a contract of employment. If, however, a dispute arose between the parties which came before a civil court or employment tribunal, it would look at the facts of the specific case and what had occurred in practice to determine if an employer/employee relationship

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- (h) a term, in accordance with Canon B1, paragraph 2, that the minister conducting the service has the final decision whether the worship, including the music, offers glory to God and edifies the people;
 - (i) the duties and rights of the organist;
 - (j) a condition setting out what conduct would amount to gross misconduct, and what behaviour will amount to repudiatory breach;
 - (k) a pre-condition stating that the appointment is subject to the organist providing a satisfactory DBS certificate prior to taking up the post and thereafter taking part in ongoing safeguarding training; and
 - (l) a statement that the PCC is required to adhere to the House of Bishops’ guidance on the safeguarding of children and vulnerable adults.

See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 13. It appears that this guidance is in keeping with the template employment contract contained on the RSCM website.

⁵²⁷ Leach and Williams give the following by way of example: if an organist was engaged to play in a set list of services, which did not include carol services for the local school. However, for ten years, the organist had played for this service. It is possible to argue that this course of conduct could have established a variation of the contract through custom and in practice that may mean that the organist will be required to play for this service in the future. See R. Leach, and B. Williams, *Everything Else an Organist should know* (Epsom, Organist Publications, 2005) 82.

⁵²⁸ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 12. This is presumably to provide certainty as to the terms of the contract, and so that all parties are aware of the provisions governing the relationship.

⁵²⁹ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 2.

existed, rather than solely looking at any written agreement between the parties. It is a well-established principle that ‘the labels parties attach to the arrangement are not determinative of employment status’.⁵³⁰ It follows that there may be a contract of employment even though the parties have specifically stated in writing that they do not intend for there to be one, or they have not used the word ‘employment’ in the contract.⁵³¹

In addition, whilst not stated in canon B20.1, it is essential that before being appointed, all organists and choir directors (whether employed or not) apply for an appropriate DBS check and provide a certificate demonstrating this. After appointment, they must agree to participate in ongoing diocesan approved training in accordance with House of Bishops when required by the safeguarding policy and provide certificates. Each diocese has its own policy for carrying out DBS checks. Furthermore, the PCC must adhere to House of Bishops guidance and comply with parish safeguarding policies as well as obtaining guidance from the diocesan safeguarding officer when necessary. Failure to carry out adequate DBS checks and to put in place reasonable steps to manage any risk could expose the PCC to legal liability in the event that a child or an adult at risk is harmed.⁵³²

It is unsatisfactory that the norms regarding best practice for the appointment of the organist, director of music or choirmaster are contained in the LAC, which a number of ministers and PCCs may not be aware of. Given the importance of many of the issues contained in LAC’s guidance (and how prescriptive many of these issues are),⁵³³ it would be beneficial to legislate for these requirements,⁵³⁴ to ensure that they are clear and available to those employing church musicians.

Practice

⁵³⁰ *Sholl v PCC of St Michael’s with St James, Croydon* [2011] ET 2330072/2010. This case is considered in more detail later in this chapter under the section on “Termination”.

⁵³¹ This is set out in the LAC opinion (paragraph 12).

⁵³² See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 33.

⁵³³ Such as the need for DBS checks, and specifying a number of provisions which should be contained in the organist’s contract.

⁵³⁴ Rather than to contain them in a form of advice that may be ‘invisible’ to many involved in the employment of church musicians.

Whilst canon B20.1 has general provisions regarding the appointment of an organist, etc, it does not contain detailed procedures to be followed for their appointment. It is therefore necessary to consider what happens in practice. From the responses to the Parish Church Questionnaires,⁵³⁵ it appears that in the majority of instances an organist/director of music's appointment is made through advertisement, and candidates are interviewed and auditioned for the post, in some cases by a panel consisting of a combination of the priest, churchwarden, choir member and member of the church committee, or by the priest alone.⁵³⁶ Some confirmed that they use a template contract which has been put together by the Royal School of Church Music ("RSCM") and is contained on its website.⁵³⁷ The RSCM draft contract covers all the recommendations set out in the LAC Opinion (and in the recommendations in the *Archbishops' Commission's Report on Church Music*).⁵³⁸

In contrast, the procedure for appointing choir members, where membership is often voluntary, appears much less formal. In many instances, appointment is at the sole discretion of the director of music (occasionally following consultation with the incumbent), with an informal audition held in some instances. Often, if an individual wants to sing in the church choir they join on an open invitation. In instances where a church has a professional choir, choristers are hired for each occasion at an agreed rate, they are retained for that service and if they are not required for future services then there is no compulsion to retain them again. Given canon B20.1 does not appear to address the appointment of voluntary choir members (see above), this practice is not contrary to the canonical position, and appears to be legitimate custom.

Whilst canon B20.1 sets out general provisions regarding the appointment of an organist, choirmaster or director of music, it does not contain detailed procedures for appointing these individuals. It is necessary to consider LAC opinion and what happens in practice to determine this process. From the responses to the Parish Churches Questionnaires, it appears

⁵³⁵ In particular, see questions 27 - 28 contained in the Parish Churches Questionnaire at Appendix 2.

⁵³⁶ However, a number of priests indicated that a new organist had not been appointed for many years, and so they had not been through the process themselves, with one stating that they were not sure of the process because they had never had to either appoint or dismiss an organist.

⁵³⁷ See https://www.rscm.org.uk/wp-content/uploads/Employed_Contract_Musicians.pdf accessed 23 July 2024.

⁵³⁸ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992).

that in the majority of instances appointment is through an advertisement, and candidates are interviewed and auditioned for the post. In some cases, this is by a panel consisting of a combination of the priest, churchwarden, choir member and member of the church committee, or by the priest alone.⁵³⁹ This highlights that there are a number of inconsistencies between canon B20.1, and the LAC opinion on the appointment of church musicians, and practice. The LAC opinion takes the line that any agreement between a PCC and organist will in nearly all circumstances constitute an employment contract, and it therefore focuses on the need to reduce the agreement into writing.⁵⁴⁰ It does not consider whether a contract actually comes into existence if an organist volunteers and does not receive remuneration. A review of canon B20.1 (and the guidance given on this area) is needed to ensure that it is up to date with the most recent practices, to avoid inconsistencies between the canonical provisions and what happens in practice, and to provide clarity in an extremely important area of the law.

3.2.2 Duties and Rights of Parish Church Musicians

Once appointed, church musicians must adhere to a number of duties and they benefit from a number of rights. Canon B20 does not explicitly set out the organist or choirmaster's duties and rights, once appointed. No reason is given for this. However, the canons cannot bind the laity,⁵⁴¹ and since the organist is very often a lay person, they cannot be bound by the canons. It is also possibly for this reason that the LAC states that the organist's duties should be set out in the contract.⁵⁴² However, there are a number of rights which are implicit from the canon. It states: 'where there is an organist, choirmaster, or director of music the minister *shall* pay due heed to his advice or assistance in the choosing of hymns...' The organist or choirmaster has a right to be consulted by the minister when selecting appropriate music for the service.

⁵³⁹ This information was obtained from the responses to questions 27 – 28 of the Parish Church Questionnaires – see Appendix 2.

⁵⁴⁰ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 12.

⁵⁴¹ See *Middleton v Croft* [1815] 95 E.R. 211, Lord Hardwicke C.J. 'we are all of the opinion, that the canons made in 1603, not being confirmed by Parliament, do not proprio bind the laity'.

⁵⁴² Although LAC does not cite *Middleton v Croft* [1815] 95 E.R. 211 as authority for this

Since canon B20 contains limited provision regarding an organist's etc. duties and rights, it is necessary to look to other Church of England sources for guidance. LAC states the organist's duties in more detail. They include: to recognise the authority of the minister in all matters relating to the conduct of the service, to play the organ (or take such part in the service as his or her position requires) at agreed services; and to organise or assist at choir practice, if required.⁵⁴³ If the organist is also the choir director, they will have additional duties.⁵⁴⁴ It does not cite any legal authority for these recommendations, and so the basis for these recommendations is not clear.

LAC states that the choirmaster or choir director 'must' arrange suitable choir practices for the choir, and the choirmaster's written agreement should specify the practices. There is a correlative right for members of the choir to have sufficient practices for church services. However, it is not clear who can enforce the requirement to hold sufficient practices. Since the requirement to hold rehearsals is not set out in canon B20, this is not a canonical duty; it is a contractual duty. But the contract is between the PCC and the organist or choirmaster, so if he/she stopped holding practices, or did not hold sufficient rehearsals, it would be for the PCC to enforce the terms of the contract, not members of the choir. Similarly, who decides if the organist or choirmaster has held sufficient rehearsals, or is conducting the practices to the required standard? If this term is set out in the organist's written agreement, it would be for the PCC to enforce.⁵⁴⁵

⁵⁴³ The General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 19 sets out that the organist's duties include: '(a) to devote his or her best efforts towards securing a devout and appropriate rendering of the musical portions of the church services so far as the means available permit; (b) to recognise the authority of the minister in all matters relating to the conduct of the service, including what parts are to be said and sung respectively and the amount of musical elaboration suited to the needs of the congregation; (c) to play the organ (or take such part in the service as his or her position requires) at all chief services on Sundays, the Great Festivals and major Holy Days as defined in the terms of the agreement; (d) to play the organ (or take such part in the service as his or her position requires) at such services on the Lesser Festivals and weekdays (including occasional services) as the organist's agreement with the PCC requires; and (e) to assist the choirmaster and/or choir director (if any) at choir practice, if the offices are distinct.'

⁵⁴⁴ In this case, his/her duties will also include: (a) the training of the choir; (b) the conduct of suitable practices as specified in the written agreement; and (c) generally, the advancement of the interests of the church in musical matters. See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 20.

⁵⁴⁵ The PCC's powers are set out in more detail in section 4.3 below. This position will also be compared with the position of an Organist or Director of Music in the cathedrals in chapter 4.

LAC also points to the fact that an organist's 'entitlement to remuneration or fees for occasional services (such as weddings or funerals) has on occasion proved to be a contentious issue'. It recommends that 'it is best practice that any contract entered into specifically deals with entitlement to play at such services with entitlement to remuneration (if any) for such services.⁵⁴⁶ Furthermore, LAC states the use of the organ at weddings, funerals and other services of a similar character is 'subject to the approval of the minister'.⁵⁴⁷ In addition, LAC states that the use of the organ should be granted to the organist for the purposes of: (a) his/her own private practice; (b) the occasional practice of the organist's friends; and (c) the instruction of the organist's pupils.⁵⁴⁸

In addition to the rights set out in an employment contract, if a church musician is classified as an employee, they are entitled to additional statutory rights under employment law.⁵⁴⁹ There is a distinction between employees,⁵⁵⁰ workers,⁵⁵¹ and self-employed or independent contractors. The individual's status will affect, a number of issues, including: whether the individual has the benefit of the statutory rights available only to employees.⁵⁵² In determining if an individual is an employee, a worker or is self-employed the overriding consideration is the substance of the relationship between the parties.⁵⁵³

In summary, once appointed, an organist or director of music acquires a number of rights, and must adhere to a number of duties when carrying out their appointment. These duties and rights are not explicitly set out in canon B20, although some are implicit from the canon. Instead, LAC has detailed provisions regarding the rights and duties attaching to the position

⁵⁴⁶ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 26.

⁵⁴⁷ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 28.

⁵⁴⁸ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 25. Although the opinion states that care should be taken by the organist and PCC to comply with safeguarding requirements.

⁵⁴⁹ *English employment law: overview* on Practical Law: <http://uk.practicallaw.com/4-200-2142>

⁵⁵⁰ As defined by s230(1) of the Employment Rights Act 1996

⁵⁵¹ As defined by s230(3) of the Employment Rights Act 1996

⁵⁵² Such as the right to statutory redundancy pay, protection on the transfer of undertakings, or vicarious liability of the employer for the employee's tortious acts. See *Statutory rights of employees, employee shareholders and workers* on Practical Law: <http://uk.practicallaw.com/9-200-2149>

⁵⁵³ *Ibid.*

of organist etc, with additional duties attaching if the individual is also the director of music and recommends that they are incorporated into an agreement, or contract. Furthermore, if the individual is classified as an employee, they are entitled to a number of additional statutory rights under employment law. It would be beneficial to have a clear point of reference stating the rights and duties attaching to the position of organist or director of music, to ensure certainty, clarity and consistency across all parishes.

3.2.3 The Powers and Duties of the Parochial Church Council

The PCC has a number of powers and duties in relation to the role of the organist, choirmaster or director of music. Canon B20.1 states the appointment of the organist, etc is exercised 'by the minister, with the agreement of the parochial church council'. Therefore, the PCC has a right to be consulted regarding the appointment of the organist etc, and, it would seem, may agree or refuse that appointment before their appointment. Canon B20 does not explicitly set out the PCC's powers and duties with regard to the organist, etc, once they have been appointed. However, beyond this power to refuse, there are no specific powers in the canon. It is therefore necessary to look to alternative sources to identify the PCC's powers and duties in this respect. This is an area of law which has not received detailed consideration from law and religion scholars.

In the event that the relationship between an organist, etc, and the PCC is (if the agreement is a contract of employment) an employment relationship, then the PCC will have a number of obligations which it must comply with in addition to those in canon B20 or the contract. For example, where an employee begins employment, the employer,⁵⁵⁴ not later than two months after commencement must give to the employee a written statement of specific particulars of employment.⁵⁵⁵ These include any terms or conditions relating to holidays and holiday pay, incapacity for work due to sickness or injury and pension and pension schemes.⁵⁵⁶

⁵⁵⁴ In this case, the PCC.

⁵⁵⁵ Employment Rights Act 1996, ss 1, 2 and 3.

⁵⁵⁶ Employment Rights Act 1996, s.1(4)(d).

Furthermore, where changes to the terms of employment are agreed, the employer must provide details of these changes to the employee within one month.⁵⁵⁷ Every payment to an employee must be accompanied by an itemised pay slip, or statement providing specific particulars of the payment.⁵⁵⁸

If an organist has a contract or other arrangement for work or services personally for reward and is aged between 16 and 24, then he/she is entitled to the national minimum wage. If, on the other hand they are aged over 25 they are entitled to the national living wage.⁵⁵⁹ This provision is not applicable if the employer (i.e. the PCC) is a charity *and* the organist receives no monetary payment of any description or only receives expenses actually incurred in the performance of his or her duties, and receives no benefit (other than in relation to subsistence or accommodation) in any kind (although the right to use the church organ for personal practice or for the purposes of teaching would be counted as a benefit).⁵⁶⁰ Aside from the LAC Opinion,⁵⁶¹ there is no further extensive guidance by bodies such the RSCM for organists in relation to employment issues.⁵⁶²

3.2.4 Termination

Once a church musician has been appointed, there may come a time where it is desirable to terminate that position; either where there is no longer a need for the position, or the relationship between the minister and the church musician becomes untenable. As with the appointment of musicians, the starting point for a consideration of the legal position is the canons. Canon B20.1 sets out provisions relating to the termination of an organist, etc. in

⁵⁵⁷ Employment Rights Act 1996, s.4.

⁵⁵⁸ Employment Rights Act 1996, s.8.

⁵⁵⁹ National Minimum Wages Act 1998, s.1.

⁵⁶⁰ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017, Appendix 1 (d).

⁵⁶¹ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017.

⁵⁶² Although the RSCM has provided a summary of the General Synod Legal Advisory Commission opinion, see <https://www.rscm.org.uk/our-resources/guidance-information/paying-church-musicians/new-legal-guidance-on-church-musicians/>.

parish churches.⁵⁶³ In addition to the provisions set out in the canons, in certain circumstances, musicians within the Church of England may rely on contract law and/or employment law, particularly if they have entered into a written contract.⁵⁶⁴ For example, if the PCC refuses or neglects to pay the organist's fees, then he/she may be able to bring a claim for breach of contract to enforce the terms of the employment contract.⁵⁶⁵

3.2.4.1 Termination of the post of organist, choirmaster or director of music

The Law

Canon Law

Canon B20.1 stipulates that an organist's appointment may be terminated by the minister, with the agreement of the PCC,⁵⁶⁶ except in the event that the archdeacon considers that the circumstances mean that the PCC's agreement should be dispensed with. In that situation the archdeacon may direct accordingly. Therefore, under canon law the minister has the right to terminate the appointment of church musicians, in some circumstances unilaterally. The LAC explains that the stipulation that the archdeacon may dispense with the agreement of the PCC in certain circumstances is to cover the situation where there cannot be a 'fair' or proper discussion of the matter in the PCC.⁵⁶⁷ In this case, the minister may ask the archdeacon to dispense with the PCC's agreement and the decision becomes solely the minister's.⁵⁶⁸ Given

⁵⁶³ Or chapels other than in cathedral or collegiate chapels where the issue is governed by the statutes of the individual cathedral or chapel

⁵⁶⁴ see R. Leach, and B. Williams, *Everything Else an Organist should know* (Epsom, Organist Publications, 2005) 80.

⁵⁶⁵ Issues relating to dispute resolution are addressed in more detail in chapter 6.

⁵⁶⁶ The PCC's agreement to the termination of the organist's appointment was introduced as a requirement in 1988 'to prohibit "shot-gun" dismissals or summary dismissal by the minister acting solely on his or her own initiative'. See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 16.

⁵⁶⁷ See canon B20.1. In the event that the archdeacon is also the minister, the function of the archdeacon must be exercised by the diocesan bishop.

⁵⁶⁸ The situation which the General Synod anticipated in introducing this provision included where there was a dispute concerning the choir and many of the members of the choir are also members of the PCC, or where an improper relationship has developed and for the sake of discretion and in order to avoid scandal it is desirable for only one person to consider the position, i.e. the archdeacon, rather than the issue be circulated to a number of individuals within the PCC. See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 18.

the PCC is the employer, the ability for the minister to terminate an organist's employment without reference to the PCC where the archdeacon agrees that this can be dispensed with (when the PCC is the party to the employment contract, and the one with the liability to pay the organist) seems inconsistent with employment law. The example given where the PCC's agreement could be dispensed with is where there is a dispute involving a choir member and a number of members of the choir are also on the PCC. However, the consequences of not discussing this at a PCC meeting could lead to further dispute.⁵⁶⁹ This provision is contradictory, and although it is unlikely to come up often, the outcome if this canonical provision is followed is likely to be unsatisfactory.

Employment Law

The dismissal of a church musician may also be governed by employment law. It is therefore important to determine whether a church musician may be classified as an employee.⁵⁷⁰ If the organist, etc has been employed for two years or more, the minister and PCC must be satisfied before terminating the employment that the dismissal is a 'fair dismissal' for the purposes of employment law.⁵⁷¹ This section considers factors that will be taken into account to determine if a church musician is an employee.

The employment status of church musicians is not necessarily straightforward. If the organist has a clearly defined employment contract, is required to play for a specified number of services each week and receives a defined remuneration package and rights, then it may be fairly obvious that they are an employee. However, where the organist is a volunteer, or plays on an ad hoc basis, without receiving any remuneration and does not receive any discernible rights then it may not be quite so easy to determine whether they are an employee.

If there is a dispute as to whether an employer/employee relationship exists, this decision ultimately falls to a civil employment court or employment tribunal. Every case is determined

⁵⁶⁹ Issues relating to dispute resolution are dealt with in more detail in chapter 6.

⁵⁷⁰ The issue of whether an individual will be classified as an employee is considered later in this section.

⁵⁷¹ See General Synod Legal Advisory Commission opinion "Parish Music: organists and choirmasters and church musicians, 4 April 2017, para 17. This topic will be explored in further detail later in this chapter.

on its facts. It is, however, possible to define factors that a court or tribunal will consider by looking at previous case law.

Case Law

Case law suggests that if any factors point to the church musician being an employee, even if this was not what the parties intended, then a tribunal is likely to determine the church musician is an employee. A 2008 Church of England case,⁵⁷² involved an unfair dismissal claim brought by an organist following their dismissal.⁵⁷³ The employment tribunal⁵⁷⁴ accepted that an employment relationship did exist. The PCC argued that the organist was self-employed and that as a result, employment rights available to other employees were not available to the organist. Whilst the tribunal accepted that the organist was paid without deductions under the PAYE system, it also looked at other factors. In particular, the tribunal considered the amount of control exercised by the minister of the church under Canon B20 and concluded that an employment relationship existed.⁵⁷⁵ Following this case, if a minister exercises control of a church musician in accordance with the provisions of Canon B20, it is likely that an employment tribunal will determine that the church musician is an employee, and therefore that they have acquired additional statutory rights attributable to employees.

Another case, *Sholl v PCC of St Michael & All Angels*⁵⁷⁶ determined that there may be an employment contract even if the parties have never stated that there should be one, or the word ‘employment’ is never used. Dr Sholl was appointed as director of music of a Church of England parish church. The appointment was for a minimum of five years with an annual

⁵⁷² An order in the case prevented publication of any information that could identify the church or the organist, and the tribunal’s ruling was issued as A v B and C, see <https://www.churchtimes.co.uk/articles/2008/22-february/news/uk/tribunal-rules-that-unnamed-organist-was-an-employee>.

⁵⁷³ <https://www.churchtimes.co.uk/articles/2008/22-february/news/uk/tribunal-rules-that-unnamed-organist-was-an-employee> accessed 5 September 2018.

⁵⁷⁴ in a preliminary hearing to determine whether the organist was entitled to claim the statutory benefits that apply to employees.

⁵⁷⁵ An order in this case, prevented the publication of any information that might identify the church or the organist. Information obtained from <https://www.churchtimes.co.uk/articles/2008/22-february/news/uk/tribunal-rules-that-unnamed-organist-was-an-employee> accessed 5 September 2018.

⁵⁷⁶ *Sholl v PCC of St Michael’s with St James, Croydon* [2011] ET 2330072/2010.

stipend of £14,000 and a draft contract was drawn up.⁵⁷⁷ Dr Sholl never signed the contract. However, after considering the provisions of canon B20.1 and the role of the minister in controlling the director of music's duties, the employment tribunal felt that these were significant factors in determining the existence of a contract of service, and held that on balance, he was an employee.⁵⁷⁸

The tribunal applying the legal criteria will determine on the facts of each individual case whether a church musician is an employee or not and so the employment status of church musicians is not clear-cut. It will depend on how frequently the musician is engaged to perform, the duties he/she is required to carry out and the nature of the relationship. Arguably,⁵⁷⁹ if the minister,⁵⁸⁰ exercises control over the organist in accordance with the provisions of Canon B20.1, then it is likely that a tribunal will conclude that the organist is employed. Although in each of the cases explored above, the organist received remuneration for services provided to the parish. I suggest, that if an organist does not receive payment and is a volunteer, then it is difficult to conceive that an employer/employee relationship exists.

Practice

⁵⁷⁷ The draft contract contained the following provisions: "There being no master and servant relationship [and] no part of this Agreement shall be deemed to constitute a contract of employment; the Director of Music shall be responsible for his own income tax and National Insurance arrangements; subject to the general direction of the Vicar the Director of Music shall be responsible for the care, control and general oversight of all the music in the Church; and the agreement was subject to the provisions of Canon B20. See *Sholl v PCC of St Michael's with St James, Croydon* [2011] ET 2330072/2010.

⁵⁷⁸ cited on <http://www.law.cf.ac.uk/clr/networks/lrsncd11.html>, see http://www.churcheslegislation.org.uk/files/publications/CLAS_Employment_of_Church_Workers_May_2013.pdf. Factors consistent with there being an employment contract included: Dr Sholl was paid monthly in arrears; the payment clearly had the character of a contractual remuneration; he had no financial risk; he was not required to provide equipment, materials or premises; he had a package of rights to holiday pay, sick pay and notice; and the vicar had himself described Dr Sholl's status as "employed". See Pocklington D and Cranmer F, "Parish Music Guidance: employment issues" in *Law & Religion UK*, 30 May 2017, - this is an analysis of the LAC Opinion on the employment of church musicians - <http://www.lawandreligionuk.com/2017/06/12/parish-music-guidance-employment-issues/#Sholl%20v%20PCC%20of%20St%20Michael's%20with%20St%20James,%20Croydon> accessed 5 September 2018.

⁵⁷⁹ in light of the 2008 judgment and the case of *Sholl v PCC of St Michael's with St James, Croydon* [2011] ET 2330072/2010

⁵⁸⁰ Who is acting on behalf of the PCC as employer.

We now turn to the Parish Church Questionnaires. Whilst Canon B20.1 sets out general provisions regarding termination of an organist's appointment, it does not contain detailed procedures for termination. Nor does LAC provide detailed guidance regarding procedures upon termination. It is therefore necessary to consider what happens in practice.⁵⁸¹ Approximately 50% of churches responding to the questionnaire have a policy in place for terminating an appointment. In those parish churches, the removal of an individual from post is addressed in the contract; others indicated that there was a three month notice period to end the contract. Some priests indicated that their church followed grievance procedures if they needed to remove the organist from post.⁵⁸² Broadly similar procedures are followed by the various churches upon termination, although there are slight variations in the detail followed. Whilst it is desirable for the process of dismissing an organist, etc to be flexible so that the process is not stifling on individual churches, the lack of guidance in this area can lead to confusion, if different approaches are adopted by different churches. The advantage of churches following the same procedure in relation to the appointment and dismissal of organists is that it ensures clarity. This is particularly important in churches where organists, choirmasters or directors of music are not appointed frequently: if the priest is not sure about how the process works this is where things can go wrong which may lead to future disputes. Therefore, although it is encouraging that many churches do have a written procedure for the termination of a position, it would be beneficial for General Synod to have written guidance setting out the procedure to be followed. This would ensure consistency between churches, and certainty as to how the church will deal with those whose positions are being terminated.

⁵⁸¹ I therefore addressed how this matter is dealt with in practice by asking parish priests what policy is followed in their churches on termination of a particular church musician's position. See questions 27 and 28 in the Parish Churches Questionnaire, at Appendix 2.

⁵⁸² In those parish churches, the removal of an individual from post was covered by terms in the contract; others indicated that one party needed to give three months' notice to end the contract. Some priests indicated that their church followed grievance procedures if they needed to remove the organist from post. One priest pointed out that they have needed to remove an organist in the past, and the policy used was that the rector removed the organist from post following the agreement of the PCC, "however, this does leave a difficulty if any appeal were made under employment procedures, as the need for PCC agreement means there are no trustees who have not been involved in the decision to hear an appeal". This is a summary of the responses submitted to question 27 of the questionnaire – see appendix 2.

3.2.4.2 Termination of the position of Choir Members

The Law

Canon B20.1 has provisions for the termination of an appointment of an organist, etc. The LAC opinion states that this does not apply to choir members.⁵⁸³ It seems likely that this is because the majority of parish church choirs are voluntary. If choristers singing in a parish church choir are professional singers who are paid and hold a contract, then their appointment may be terminated in accordance with the contract. However, if a chorister is a volunteer, then it appears that there are no canonical means of removing that individual from the choir.⁵⁸⁴

Practice

We now turn to the Parish Church Questionnaires.⁵⁸⁵ In comparison to the termination of the post of organist, etc, fewer churches have a policy for dismissing choir members. Some priests indicated the only reason for dismissal would be on safeguarding grounds, in which case Church of England safeguarding policies would be followed.⁵⁸⁶ In circumstances where choir members are retained on a voluntary basis, this can lead to a problem if the relationship breaks down between the choir member and director of music/organist or priest because there is no mechanism in place to remove that individual from the choir. This leads to the potentially very public and nuclear option of having to involve the archdeacon, or forcibly removing the individual (if that is possible).⁵⁸⁷

In summary, canon B20.1 contains broad provisions regarding the appointment of the organist, choirmaster or director of music, and for the termination of those positions at parish

⁵⁸³ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians, 4 April 2017.
<https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

⁵⁸⁴ If there is a safeguarding issue then this will be dealt with under the Church of England’s safeguarding policies, which are addressed in more detail in chapter 6.

⁵⁸⁵ This issue was addressed in the questionnaires circulated to selected parish churches. See questions 27 - 30 in the Parish Churches Questionnaire, set out in appendix 2.

⁵⁸⁶ The issue of safeguarding is considered in more detail in chapter 6.

⁵⁸⁷ Dispute Resolution is dealt with in chapter 6.

churches. It does not contain explicit details of the rights and duties that attach to these positions once appointed. The LAC provides more detailed guidance regarding which musicians canon B20.1 applies to. It also suggests provisions that should be included in the musician's contract of employment entered into between the PCC and the church musician if there is a contract of employment. From the LAC opinion it is possible to ascertain certain duties and rights which belong to the organist or choirmaster and the PCC. However, they do not set out the procedure that should be followed by ministers and PCC's in appointing church musicians, or in relation to terminating those posts. It seems that, in practice parish churches follow a broadly similar framework for appointing church musicians, and it has been suggested that in the event that they did have to terminate a position, they would follow the grievance procedure.⁵⁸⁸ It is unsatisfactory that a formal national policy is not in place for parish churches to follow in relation to the appointment and termination of organists, choirmasters or directors of music, and it would be beneficial for parish churches to have a similar framework to follow in relation to both the appointment and termination of these positions. Whilst it may not be appropriate to include these in the canons since this may prevent the flexibility required, it may be beneficial for LAC (as it provides legal guidance to General Synod) to update its advice to include recommendations for procedures to follow.

⁵⁸⁸ See response to Parish Churches Questionnaire, and analysis of responses above, questions included in Appendix 2.

CONCLUSION

This chapter assesses the legal provisions relating to music and musicians within parish churches. The starting point is canon B20 entitled ‘Of the Musicians and Music of the Church’. Whilst canon B20 has three paragraphs, for the purposes of elucidation, they can be divided into two topics: the selection and ordering of music within worship (canons B20.2 and B20.3), and the appointment and termination of the post of organist, choirmaster or director of music (canon B20.1). The first section considers the selection and ordering of music within worship: reviewing the canons, which only give broad provisions for the selection of music, as well as analysing the rubrics contained within liturgical books. Whilst it is clear from these documents that music is permitted, encouraged and sometimes required within Church of England liturgy, there is significant flexibility within the authorized forms of service regarding where hymns or other musical settings should be included. The second section considers the appointment and termination of posts of organist, choirmaster and director of music, i.e. those involved in the musical aspects of the church. It assesses canon B20.1 dealing with the appointment, and termination of these positions, as well as their duties and rights. Again, the provisions set out in canon B20 are very broad. It is therefore necessary to consider the LAC opinion for more detailed guidance about the requirements for a contract of employment, and what should be set out in the contract. A number of inconsistencies have been highlighted in relation to canon B20, particularly regarding termination, and the unsatisfactory position that a minister may (with consent of the archdeacon) terminate a position without the agreement of the PCC (which is the employing party). It is submitted that this provision needs to be revisited to consider this inconsistency.

Turning to whether there is any need for any amendment to canon B20, this issue was addressed in the Parish Churches Questionnaires. A number of senior priests indicated that until they had received my questionnaire, they had not been aware of canon B20.⁵⁸⁹ One priest indicated that music is not an issue that should be dealt with by church law, and so this canon is redundant. I submit that the whole purpose of the canons and legal regulation is to

⁵⁸⁹ One response stated that “canons are pretty irrelevant to church life”. Another indicated that “I think it is a question for a past age. Canons are church law and shouldn’t be about this sort of nuance and detail. You would be imposing something universal and theological that is just not relevant here”. Another response seemed to capture the issue perfectly when stating that “much is done by trust of the relationship between clergy and DOM, which is fine in 90%+ of cases”.

ensure that music within the church functions effectively and to enable the smooth running of the day-to-day life of the church, or the liturgy. Without the law, the church, liturgy and worship cannot function effectively. It is important that parties have very clear parameters to assist in the day-to-day running of the church. The fact that in the vast majority of cases, the churches follows the canons (even though they may not be aware of the canons)⁵⁹⁰ is testament to the fact that the canons are relevant.

One response to the Parish Church Questionnaires stressed that canon B20 is written ‘for a time and age that does not have bands, worship teams, small orchestral [accompaniment]...but an age of the organist, choir and choir (master)’. This suggests the canon needs amending to bring it in line with current musical practices.

In line with this, I propose that canon B20.2 should be amended to read [amendments are underlined]:

“~~Where there is an organist, choirmaster or director of music t~~[T]he minister shall pay due heed to ~~his~~the advice and assistance of any individuals appointed to supervise music within the church in the choosing selection of chants, hymns, anthems and other settings, the musical elements of the service and in the ordering of the music of the church; but at all times the final responsibility and decision in these matters rests with the minister”

This would ensure the canon is inclusive of different styles and forms of music incorporated into worship.

And Canon B20.3 should be amended to incorporate more fully the theology of music as follows: [amendments are underlined]

It is the duty of the minister to ensure that ~~only such chants, hymns, anthems and other settings are chosen as are~~ appropriate musical items, both in relation to the words and the music, to ~~the solemn act~~ reflect music’s purpose within worship to glorify God and to sanctify the people, to emphasise key elements of the liturgy and to enhance prayer in the House of God as well as to the congregation

⁵⁹⁰ This was one of the responses received to the Parish Churches Questionnaire.

assembled for that purpose; and to banish all irreverence in the practice and in the performance of the same.

In summary, canon B20 provides broad and generic provisions regulating church musicians and the selection of music within Church of England parish churches. This is important to ensure there is flexibility for ministers in selecting and ordering the music within worship and with regard to appointing appropriate musicians to their position. However, given this canon was last amended over 30 years ago, and given the significant developments in music included within the church services during the intervening period, canon B20 is in need of reform.

CHAPTER 4 - THE REGULATION OF MUSIC IN ENGLAND'S ANGLICAN CATHEDRALS

INTRODUCTION

The Cathedrals Working Group (2018) attests to the importance of cathedrals to the Church of England's worshipping life.⁵⁹¹ Cathedrals are described as the 'shop windows of the Church of England', because worship conducted at them is frequently broadcast on our televisions and radios, and cathedrals are the setting for many public occasions, as well as being visited by thousands each year.⁵⁹² One of the appeals of cathedrals is the high quality and varied music included in worship, particularly through their choirs. There have been many studies of cathedrals, from a variety of perspectives. Some scholars, such as Nicholas Orme⁵⁹³ or Stanford Lehmburg,⁵⁹⁴ trace the history of cathedrals from their foundation. Others, such as Martin Thomas⁵⁹⁵ or Edmund Fellowes,⁵⁹⁶ trace the history of music performed in cathedrals during a specific period. Simon Jenkins⁵⁹⁷ highlights the architecture of cathedrals, whilst Norman Doe⁵⁹⁸ provides a critique of the laws applicable to the cathedrals. Music in these cathedrals was addressed very briefly in the 1992 report of the *Archbishops' Commission on Church Music*,⁵⁹⁹ as well as receiving a mention in the 1994 report of the *Archbishops' Commission on Cathedrals*.⁶⁰⁰ Neither of these reports provide a detailed explanation of the legal governance of music in cathedrals. It is clear that none of these studies provide a comprehensive review of the legal framework governing music at

⁵⁹¹ See the Cathedrals Working Group report published in 2018, https://www.churchofengland.org/sites/default/files/2018-06/Cathedrals%20Working%20Group%20-%20Final%20Report_0.pdf, accessed 4 January 2023.

⁵⁹² *Heritage & Renewal: The Report of the Archbishops' Commission on Cathedrals* (Church House Publishing, London, 1994) 17.

⁵⁹³ N. Orme, *The History of England's Cathedrals* (Yale University Press, 2024).

⁵⁹⁴ S. Lehmburg, *English Cathedrals: A History* (Hambledon Continuum, 2005).

⁵⁹⁵ M. Thomas, *English Cathedral Music in the Twentieth Century* (Routledge, 2015).

⁵⁹⁶ E. Fellowes, *English Cathedral Music* (Methuen Young Books, London, 1969).

⁵⁹⁷ S. Jenkins, *England's Cathedrals* (Little, Brown, 2016).

⁵⁹⁸ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018).

⁵⁹⁹ *In Tune With Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 86 – 92 and 256.

⁶⁰⁰ *Heritage & Renewal: The Report of the Archbishops' Commission on Cathedrals* (Church House Publishing, London, 1994) 51 – 56.

cathedrals.⁶⁰¹ Furthermore, this is an area that has not received any detailed consideration by law and religion scholars. A detailed study of the legal framework of music and musicians in cathedrals is essential to correct this deficit in scholarship. It is also necessary for any consideration of the regulation of music in the Church of England. This chapter therefore is an original contribution to knowledge providing a comprehensive consideration and analysis of the regulation of music within the Church of England cathedrals, as well as identifying problems with the law in practice and suggesting areas for improvement or reform within the cathedral legal instruments.

This chapter reviews the legal framework for music in cathedrals in three sections: first, the extent to which legal instruments applicable to cathedrals recognise the importance of music; secondly, how national law and cathedral domestic laws govern the individuals involved in the musical life of cathedrals; thirdly, the ways that national law and the cathedral constitutions and statutes govern the various bodies involved in cathedral musical life.⁶⁰² This chapter also considers how the legal instruments apply practically, in the everyday life of music at the cathedrals. To achieve this, questionnaires were sent to the deans and directors of music at each of the 42 cathedrals (the Cathedrals Questionnaires) and 8 responses were received.⁶⁰³ The responses are integrated into discussion within the three sections.

Before turning to the specific issues relating to music at the cathedrals it is necessary to set out briefly the various sources of law governing cathedrals.⁶⁰⁴ These consist of a variety of different legal instruments. First, Acts of Parliament (such as the Charities Act 2011) and General Synod Measures (such as the Cathedrals Measure 2021) apply to all cathedrals. The two main pieces of primary legislation applicable to the cathedrals are the Cathedrals

⁶⁰¹ Although, Doe's book does provide a brief section from pages 123 – 129 outlining the law relating to the musicians and cathedral music.

⁶⁰² It is important to note that this chapter has been limited to the areas which are likely to have an impact on the musical life of the cathedral and so is not an exhaustive study of all legislation affecting the cathedrals.

⁶⁰³ A list of the cathedrals contacted and a copy of the questionnaires sent to the cathedrals is included at Appendix 3.

⁶⁰⁴ For a more detailed consideration of the history of the legal instruments governing the Church of England Cathedrals and the current sources of law see N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 23 – 35.

Measure 2021, and the Care of Cathedrals Measure 2011.⁶⁰⁵ Secondly, each cathedral has its own constitution and statutes: its domestic laws, as well as soft-law produced by the national bodies or the cathedrals such as policy documents and guidance (e.g. Opinions by the Legal Advisory Commission of the Church of England). Finally, the cathedrals may have their own traditions or customs, which are relevant to a consideration of their musical life. It is these cathedral legal instruments which are considered in this chapter. This chapter focuses on Church law applicable to the cathedrals, in particular the cathedral legal instruments. It does not provide a detailed consideration of the interaction between Church law and secular law or criminal law in relation to the regulation of music at the cathedrals.

4.1 THE IMPORTANCE OF MUSIC TO CATHEDRAL LIFE

Music is important in cathedral daily life: it is incorporated into worship through services led by the choir, and in particular through daily choral services. The Commission on Cathedrals (1994) states: ‘at the centre of the life of the cathedral is the daily offering of worship and praise – Eucharist, Morning Prayer and on most days Choral Evensong. The offering of daily choral worship in cathedrals is one of the most significant contributions made by this country to European culture’.⁶⁰⁶ Music is also described as ‘the indispensable handmaid of great worship with its ability to inspire and to express aspirations and emotions better than words, and its universality able to transcend religious, intellectual and social barriers’.⁶⁰⁷ In addition, the chapter on cathedral music in the *Archbishops’ Commission’s Report on Church Music* states: ‘At the heart of what is commonly called the Anglican tradition of church music are the cathedrals, collegiate and choral foundations and Royal Peculiars of the Church of England. They represent a continuity of worship and music stretching back to a period well before the Reformation. They have had an enormous influence on the music of this country, both sacred and secular... The distinctive contribution which our cathedrals make to Western culture is the more significant because of a world-wide recognition that they represent

⁶⁰⁵ See N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 24. The primary Act applicable to the issues addressed in this chapter is the Cathedrals Measure 2021 and so will be considered in more detail throughout this chapter.

⁶⁰⁶ *Heritage & Renewal: The Report of the Archbishops’ Commission on Cathedrals* (Church House Publishing, London, 1994) 51.

⁶⁰⁷ *Ibid.*, 21.

something unique'.⁶⁰⁸ Although, music's contribution to cathedral worshipping life is not explicitly stated in the cathedral domestic laws, they do recognise its importance implicitly. This section considers first, the Cathedral's purpose as set out in the Cathedral's Measure 2021, and cathedral statutes, secondly, the Preambles to the cathedral statutes, and thirdly, the cathedral websites to identify the extent to which the cathedrals recognise music's importance.

4.1.1 The Cathedrals' Purpose and Objects

The opening section of the Cathedrals Measure 2021 states the cathedrals' ecclesiastical purpose. Whilst the Measure does not expressly mention music in its statement of the cathedrals' purposes, it implicitly recognises the important role music plays in cathedral musical life. It states an individual whose role is derived from the Measure, in exercising that function 'shall have due regard to: (a) the fact that the cathedral is the...centre of worship and mission; and (b) the importance of each cathedral's role in providing a focus for the life and work of the Church of England in the diocese'.⁶⁰⁹ This exact provision is also set out in all the cathedral constitutions.⁶¹⁰ Furthermore, later sections deal with music explicitly. In addition, cathedral domestic laws are clear and consistent stating that the cathedrals are the centre for worship and mission in the diocese, as well as being a focus for the life and work of the Church of England.

As seen in Chapter 1, music plays a crucial role in enhancing worship, and furthering the mission of the Church of England.⁶¹¹ Under these provisions of the Measure, all cathedral statutes place a duty on individuals whose office is set out in the Cathedrals Measure 2021 to pay due heed to the importance of worship and mission when carrying out their functions (including those relating to music). By stressing the importance of worship and mission in

⁶⁰⁸ *In Tune With Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 86.

⁶⁰⁹ S.1 Cathedrals Measure 2021.

⁶¹⁰ See, for example Article 1 St Edmundsbury Constitution

⁶¹¹ This was discussed in more detail in chapter 1, and in particular this was given as one of the theological reasons for incorporating music into worship.

cathedral life and work, the Cathedrals Measure 2021 and cathedral legal instruments implicitly acknowledge the importance of music.

4.1.2 The Cathedral Constitution Preambles

Several cathedral constitution preambles set out their history, mission and ministry, as well as the development of their legal instruments.⁶¹² The majority of preambles do not mention music at all despite its importance to cathedral worshipping life,⁶¹³ whilst in others, the essential role music plays in cathedral life may lie beneath the surface. In the Preamble to Salisbury's constitution,⁶¹⁴ whilst music is not explicitly stated as one of the cathedral's objectives, it explains: 'all who work in the service of the Cathedral do so to the glory of God'. I suggest that this includes the musical elements of services. Similarly, the Preamble to St Edmundsbury's constitution represents the cathedral 'as a living sign of the body of Christ, through worship to the glory of God, mission for the love of God's people....' etc. As explored in chapter 1, two theological reasons for music within worship are to help glorify God and assist in praise and thanksgiving, and as a tool for mission.⁶¹⁵ The preambles therefore implicitly recognise the theological importance of music within worship.

In contrast, a minority of constitution preambles expressly mention music. Bristol's statutes (rather than its constitution) specifically mention the role of music within cathedral life: 'The Chapter recognises the core contribution of music to the worship, life and work of the Cathedral and will encourage, enhance and facilitate that contribution through the Cathedral's

⁶¹² N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 8. The preamble to Coventry Cathedral Constitution, dated 13 March 2023, see <https://www.coventrycathedral.org.uk/uploads/media/Coventry-Cathedral-Constitution-FINAL.PDF>, accessed 26 January 2024.

⁶¹³ For example, the Preambles to the Constitutions of Worcester and Durham do not mention music at all.

⁶¹⁴ the Preamble to the Constitution of Salisbury Cathedral, which states: 'The Cathedral is a holy place in which day by day worship is offered, the word of God proclaimed, the sacraments are administered, and all people are made welcome in the name of Jesus Christ...All who work in the service of the Cathedral do so to the glory of God...', dated July 2023.

⁶¹⁵ See Chapter 1.

choirs and musicians and by such other means as it decides from time to time'.⁶¹⁶ However, apart from the mandatory provision for the cathedral to appoint a director of music,⁶¹⁷ Bristol's statutes make no further provision for the appointment of musicians. Arguably, this statement is no more than 'window dressing', and the rhetoric has no real normative impact on decision-making. However, the fact that the statutes acknowledge music's important contribution to cathedral life implies that chapter should give it due consideration in decision-making, which enhances music.

It would be beneficial for all cathedral constitutions or statutes explicitly to acknowledge the importance of music to cathedral worshipping life. This would also reflect the recommendation in the Archbishops' Report on Church Music that 'cathedrals, with their resources and a long tradition of church music, be expected to set an example of the highest possible standards of worship and music'.⁶¹⁸

4.1.3 The Cathedral Websites

Each cathedral has a website containing significant information about its life and functions. It provides an extra-legal window to cathedral life and is a starting point for understanding the importance of music in the cathedrals. Different approaches are adopted by different cathedrals. In some, the importance of music within cathedral life is explicitly acknowledged, whereas, at others it is implicit. This extra-legal material helps us better understand, and contextualise how the cathedrals regulate music since it offers insight into how the cathedrals view the role of music within worship and their approach to its inclusion in services.

An explicit reference to music's importance is found on Birmingham's website: 'Music is at the very heart of our common life together... We value and treasure the English Choral tradition, which is one of the envies of the world... our musicians strive... to reach the very

⁶¹⁶ Statute 36 Bristol Cathedral Statutes 2023 – see https://bristol-cathedral.co.uk/wp-content/uploads/2023/10/Constitution_and_Statutes_July2023.pdf - accessed 1 December 2023.

⁶¹⁷ See the section addressing the role of the Director of Music below.

⁶¹⁸ *In Tune With Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992) 256.

highest standards of choral music, that God's name may be glorified in our praise and prayer'.⁶¹⁹ Similarly, Portsmouth's website states: 'English Cathedrals uphold a unique and 1000 year old ministry of daily use of music within services... Music is at the heart of the Cathedral's many cathedral and diocesan responsibilities'.⁶²⁰

In contrast, references to music's importance are implicit on Coventry's website: the cathedral's values include: 'Art and Creativity – expressing the life of God amongst us in ways beyond words'.⁶²¹ In other words, the website suggests that the 'arts', and therefore one might presume music can transcend time and space, enabling us to glimpse the Glory of God in a way which is not possible through the use of the spoken Word alone.⁶²²

In summary, music plays a crucial role within worship at each of the cathedrals, helping to further the cathedral's mission in the diocese. This is firstly, implicitly reflected in the cathedrals' purpose and objects as set out in the Cathedrals Measure 2021. Secondly, whilst the cathedral preambles do not all explicitly state the importance of music to the cathedral's mission and worship, they implicitly acknowledge how important music is to cathedral life. Thirdly, the cathedral websites (extra-legal material) explicitly highlight the important role afforded music within cathedral life. Given the central role attributed to cathedral music and the significant contribution it makes to European culture it would be beneficial for the cathedral legal instruments explicitly to acknowledge this because it will help promote music at the cathedrals.

⁶¹⁹ Information obtained from Birmingham Cathedral website: see <http://www.birminghamcathedral.com/cathedralchoir/> accessed 13 December 2017.

⁶²⁰ <https://www.portsmouthcathedral.org.uk/music>

⁶²¹ The full list of values is as follows: Hospitality – of both people and ideas
Diversity – embracing and welcoming difference in practising Reconciliation
Excellence – always reaching beyond our present practice and experience
Faith and Spirituality – being open to the challenge and resources of God
Art and Creativity – expressing the life of God amongst us in ways beyond words
Risk Taking – confidently stepping out of the familiar in the service of God
See <http://www.coventrycathedral.org.uk/wpsite/our-vision/> accessed on 15 January 2018.

⁶²² Again, this is one of the theological reasons for including music within worship, identified in chapter 1. This is yet another example of the close relationship between theology and music.

4.2 INDIVIDUALS INVOLVED IN THE MUSICAL LIFE OF CATHEDRALS

There are a number of individuals involved in cathedral music. This section considers the extent to which national legislation, and cathedral domestic laws govern the roles of the individuals involved in cathedral musical life. It explores the roles of the dean, precentor, succentor, director of music, assistant organist and organ scholar; lay clerks and choral scholars; and child choristers. Finally, it briefly addresses the bishop's role as it impacts on cathedral musical life. There are also a number of bodies which are involved in cathedral musical life, section 4.3 considers their impact on music in the cathedrals.

4.2.1 The Dean

The cathedral dean is the senior priest in charge of the cathedral. According to the Cathedrals Measure 2021, 'the dean of a cathedral continues to be its principal dignitary, next after the bishop'.⁶²³ All cathedrals must have a dean, who must govern and direct the 'life and work of the cathedral'.⁶²⁴ The dean's role is to oversee the daily life of the cathedral, including ordering services. This includes the musical elements of worship. Therefore, whilst national law does not expressly state that the dean is responsible for the musical elements of worship and the musicians, this is implicit. This section addresses these elements of the dean's role: first, the Church of England Canons, secondly the Cathedrals Measure 2021, and thirdly the cathedral constitutions and statutes.

The starting point in determining the dean's duties is the Church of England canons. Canon C21 states the dean shall ensure the diligent observance of the statutes and laudable customs of the Church, the statutes of the realm concerning ecclesiastical order, and any stipulations given by the bishop on his/her visitation.⁶²⁵ He/she shall preach the Word of God and perform all the duties required of their office.⁶²⁶ Finally, the dean 'shall provide...that during the time of divine service...all things be done with such reverence, care and solemnity as

⁶²³ S.12(1) Cathedrals Measure 2021.

⁶²⁴ Ibid.

⁶²⁵ Canon C21(2).

⁶²⁶ Canon C21(3).

shall set forth the honour and glory of Almighty God'.⁶²⁷ Whilst canon C21 does not explicitly mention music, the dean's duties impact on musical elements of services: the requirement that all things are carried out with 'such reverence, care and solemnity' during divine service includes the selection of music, the performance of the musical elements, and the proper discharge of functions exercised by those directly involved in the provision of music. Accordingly, the dean has a duty to ensure that the musical elements of worship are carried out reverently and with sufficient solemnity.⁶²⁸

Secondly, the Cathedrals Measure 2021 states the dean must govern and direct the cathedral's life and work.⁶²⁹ This is replicated in all cathedral constitutions and statutes, which are consistent in their treatment of the dean's duties.⁶³⁰ In addition, in accordance with the Cathedrals Measure 2021, the ordering of cathedral services cannot be amended without the dean's consent.⁶³¹ National law, and cathedral domestic laws stipulate that the dean's role is to oversee everything relating to the cathedral. Whilst not explicitly stating that the dean oversees the cathedral's musical life, this is implicit. The dean must oversee work undertaken by other clergy and cathedral staff, including the musicians. In addition, they have the final say over worship and services conducted in the cathedral, which includes the ordering of, and selection of music. However, from the responses to the Cathedrals Questionnaires, it appears that in practice the dean has a limited role in selecting music for worship. As seen below, the role of determining the detail of the musical aspects of services often falls to the director of music and/or precentor.⁶³²

⁶²⁷ Canon C21(4).

⁶²⁸ As is the case with Canon C20 in relation to the selection of music within the parish churches - see the relevant sections in chapter 4 on Canon B20 paragraph 3.

⁶²⁹ In particular, the dean must ensure Divine Service is duly performed at the Cathedral; ensure the constitution and statutes are faithfully observed; oversee the work undertaken by the clergy and staff of the cathedral in relation to the cathedral; maintain good order and proper reverence in the Cathedral; secure the pastoral care of all members of the cathedral community; provide leadership on matters relating to the safeguarding of any children or vulnerable adults who work, volunteer or worship in the cathedral or who visit the cathedral; and to take all decisions necessary to deal with an emergency affecting the cathedral, pending consideration of the matter by the Chapter. S.12(2)(a) – (g) Cathedrals Measure 2021.

⁶³⁰ See, for example, Article 18 of Salisbury Cathedral's Constitution and statutes 2023, Article 18 Ely Cathedral's draft Constitution and draft statute 2.

⁶³¹ S. 12(3)(a) Cathedrals Measure 2021.

⁶³² In the responses received to the questionnaires sent to the cathedrals, at the majority of cathedrals the selection of music is the responsibility of the Precentor or the Director of Music with the Dean having no involvement in the choice of music. At one cathedral, the Dean simply has oversight of the music selected, and at another the Dean collaborates with the Precentor or Director of Music.

The dean's role, as set out in the national law and cathedral domestic laws is to oversee everything at the cathedrals, including work undertaken by clergy and staff, and worship within the cathedral. Whilst not explicitly stating that the dean has oversight of musical elements of cathedral life, it clearly includes overseeing the cathedral musicians and music in worship. Therefore, the dean has oversight of cathedral music.

4.2.2 The Precentor

It is generally understood that the precentor is the member of the cathedral clergy who, 'has oversight and day-to-day responsibility for worship and overall pastoral responsibility for the music staff, lay clerks, choristers and their families'.⁶³³ The origin of the word 'precentor' or 'cantor' comes from the term 'chanter', and from at least the Middle Ages, this was applied to 'the dignitary in charge of the song, who frequently held the second place in the chapter after the dean, archdeacon or provost'.⁶³⁴ One of the precentor's main responsibilities is to facilitate and oversee regular worship at the cathedral; this includes ensuring the music and liturgy are appropriate. He/she is one of the cathedral's residentiary canons. Given the precentor oversees cathedral daily liturgical and musical life, and has pastoral responsibility for the musicians, he/she plays an important role in the cathedral's musical life. This section considers the Cathedrals Measure 2021, the cathedral legal instruments, and additional documents addressing the precentor's role, to examine the extent to which they regulate the precentor's responsibilities relating to cathedral musical life.

Under the Cathedrals Measure 2021, each cathedral must have at least two full-time equivalent residentiary canons engaged exclusively on cathedral duties.⁶³⁵ Whilst the Measure does not explicitly state that a cathedral must have a precentor, in practice, the vast majority, if not all cathedrals have one.⁶³⁶ *Heritage & Renewal*, states: 'it has to be stressed

⁶³³ See e.g. N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 124.

⁶³⁴ K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 159.

⁶³⁵ S.14(1) Cathedrals Measure 2021.

⁶³⁶ Those cathedrals which did not specifically list a precentor in the "who's who" section of their websites, list a "Canon for Worship" or equivalent. For example, see Coventry, Carlisle, Rochester and Newcastle.

that music together with architecture and movement need to be perceived as integral parts of the liturgy. We therefore recommend that one member of the chapter should have executive line management responsibility for the liturgy, and that he or she should be the member to whom the director of music specifically refers...In addition to his or her musical and liturgical activities, the liturgist should take an active pastoral interest in the members of the music department and their families'.⁶³⁷ Whilst *Heritage & Renewal* does not specifically mention the precentor, it is the precentor that undertakes this duty, as his/her role is to have oversight of the day-to-day running of worship, and to take overall responsibility for the musicians. It is therefore recommended that each cathedral has member of clergy who oversees the music department.

Since the Measure does not make specific reference to the requirement for a precentor, nor his/her rights and duties, we must turn to other sources for additional provisions regarding the office of precentor.

As with the dean, the starting point for considering the precentor's duties, as one of the residentiary canons, is the Church of England Canons.⁶³⁸ Under canon C21 the residentiary canons shall preach the Word of God and perform all the duties required of their office. In addition, they 'shall provide...that during the time of divine service...all things be done with such reverence, care and solemnity as shall set forth the honour and glory of Almighty God'.⁶³⁹ Since the precentor is specifically stated in the canon to be responsible for oversight of worship, he/she has a duty to ensure the musical elements of worship are conducted with due reverence and care, and that appropriate music is selected.

In relation to the office of precentor, the cathedral constitutions and statutes fall into two categories: a small number specifically mention the precentor, setting out specific duties, however, the vast majority do not include specific provisions. Instead, the precentor's rights and duties are addressed as one of the 'Residentiary Canons'.

⁶³⁷ *Heritage & Renewal: The Report of the Archbishops' Commission on Cathedrals* (Church House Publishing, London, 1994) 54.

⁶³⁸ The specific duties have been set out above in the section on the deans, and so shall not be repeated here.

⁶³⁹ Canon C21(4).

Durham's statutes fall into the first category: 'The Chapter may confer upon any Residentiary Canon the major dignity of "Vice Dean", "Precentor", "Chancellor", "Pastor" or Librarian'. Those appointed must direct and oversee 'such areas of work in the Cathedral as the Chapter may from time to time determine in accordance with the Chapter's policies'.⁶⁴⁰ No further detail is given about the precentor's role and duties. Similarly, Worcester's statutes state: 'The Chapter may, with the agreement of the Bishop confer a particular canonical title upon a residentiary canon. The titles Vice-Dean, Precentor, Canon Librarian, and Canon Theologian especially belong to the historic custom of the Cathedral'.⁶⁴¹ The chapter has a power, but not a duty to appoint a precentor, and to determine his or her duties. In addition, the statutes of St Edmundsbury specifically set out the precentor's duties.⁶⁴²

Secondly, are the cathedrals whose legal instruments do not specifically mention the precentor, but they are governed by general provisions relating to the residentiary canons. For example, Rochester's statutes state the residentiary canons 'shall undertake such duties in the cathedral as shall be agreed at the time of their appointment', and the duties may be varied 'as the Chapter shall determine after consultation'.⁶⁴³ Furthermore, the residentiary canons shall 'endeavour to strengthen the whole corporate life, worship and work of the Cathedral and to promote the mission and ministry of the Cathedral in the Diocese and civic communities'.⁶⁴⁴ The statutes are very generic. This provides flexibility for chapter to determine the precentor's duties, and to change these if necessary. In contrast, Norwich's statutes include more detailed provisions: each of the residentiary canons⁶⁴⁵ 'shall celebrate

⁶⁴⁰ Statute 32(1), Durham Cathedral Statutes, dated 4 August 2023.

⁶⁴¹ Statute 29, Worcester Cathedral Statutes, dated December 2023.

⁶⁴² These include: 'responsibility for the liturgical and musical life of the Cathedral and oversight of the Cathedral's routine pattern of worship and the organisation of special services. He or she shall also collaborate with the Director of Music and Assistant Director of Music in the provision of music at the cathedral' See statute 3(3)(b) St Edmundsbury Cathedral Statutes, dated January 2023.

⁶⁴³ See, for example, statute 3(4) Rochester Cathedral Statutes, dated 6 November 2023, <https://static1.squarespace.com/static/5947b11429687fede4242124/t/65439975cf310424bb23d426/1698929018223/Statutes+-+Nov+2023.pdf>, accessed 1 December 2023. Similarly, the statutes of Ely Cathedral simply state that the duties of the residentiary canons shall be determined by the Chapter after consultation with the canons. Statute 35(1) Ely Cathedral, see <https://cdn.elycathedral.org/uploads/pdfs/Governance/Ely-Cathedral-Constitution-and-Statutes-2022.pdf?v=1667150860> accessed 16 January 2024.

⁶⁴⁴ See Statute 3(5) Rochester Cathedral Statutes 6 November 2023, <https://static1.squarespace.com/static/5947b11429687fede4242124/t/65439975cf310424bb23d426/1698929018223/Statutes+-+Nov+2023.pdf>, accessed 1 December 2023.

⁶⁴⁵ The precentor is included as a residentiary canon.

Holy Communion and preach in the Cathedral as the Chapter shall from time to time determine'.⁶⁴⁶ Furthermore, they must each serve a period of residence as determined by chapter. During this period, 'their responsibilities *shall* include: (a) to ensure, in consultation with the Precentor that regular worship takes place in the Cathedral at the appointed times and in the appointed manner; (b) to lead Morning Prayer daily; (c) to lead intercessions at Evening Prayer daily; (d) to be the person with whom the Sacrist and the vergers consult when immediate help is required; (e) to deputise in the temporary absence of both the Dean and the Vice-Dean in all matters relating to the Cathedral'.⁶⁴⁷

Whilst cathedral statutes provide a framework setting out the precentor's duties, job descriptions provide more detail. A job description for the office of precentor at Truro states: 'As Head of Worship, the Precentor will promote the highest standards in liturgy and choral worship. They will have overall responsibility for the Cathedral's worship and music teams which include thirty-six Choristers, their parents, twelve Lay Vicars/Choral Scholars and their families, as well as the servers and the daily worshipping community'. The precentor's duties include: being responsible 'for all aspects of the worshipping and liturgical life of the Cathedral, maintaining and developing its high standards of liturgy and its strong choral tradition'; as well as overseeing 'the management and development of the Music Department'.⁶⁴⁸ The precentor oversees music and worship at the cathedrals and is pastorally responsible for the musicians.

⁶⁴⁶ See Statute IV.1 Norwich Cathedral Statutes 2023. <https://cdn.sanity.io/files/98nevsj3/production/c674301e09be663e241907e39fa9c0f6f5b288c8.pdf> accessed 16 January 2014. Similar provision is included in the statutes of Gloucester cathedral: "Provision of Divine Service and preaching is the responsibility of the Dean as shared with the residentiary canons and in particular the Canon Precentor. Preaching in the cathedral is expected regularly of residentiary canons"; Statute 28 Gloucester Cathedral, see https://a.storyblok.com/f/114140/x/a02e451bba/_doc_173469735-1-_gc-statutes-25-april-for-consultation.PDF, accessed 16 January 2024.

⁶⁴⁷ Statue IV.6 Norwich Cathedral, see <https://cdn.sanity.io/files/98nevsj3/production/c674301e09be663e241907e39fa9c0f6f5b288c8.pdf> accessed 16 January 2014.

⁶⁴⁸ This requires the precentor to work closely with the director of music 'who is responsible for the day to day life of the Cathedral Choir'; preparing the rotas and music lists ensuring the day to day running of the Cathedral's worship and attending choral services regularly. Finally, the precentor is required to maintain and develop relationships with partner schools on all matters relating to the Choir. Canon Precentor job application form for Truro Cathedral – September 2015 version, document kindly provided by dean of Truro cathedral.

In summary, the cathedrals are not required to have a precentor under national law. However, in practice the majority appoint a precentor, or a ‘Canon of Worship’. He/she is a residentiary canon of the cathedral.⁶⁴⁹ The cathedral legal instruments can be divided into: those with specific provisions for the precentor and his/her duties; and those without specific provisions relating to the precentor, but where general provisions for the residentiary canons are applicable. A number of norms can be deduced from an amalgamation of the formal laws and job descriptions: the precentor is the head of the Music and Liturgy department,⁶⁵⁰ and the precentor’s duties include: (a) overseeing the cathedral’s worshipping and liturgical life, (b) maintaining and developing the cathedral’s high standards of liturgy and its strong choral tradition; (c) overseeing the management and development of the Music Department.

4.2.3 The Succentor

Historically, nine cathedrals included a ‘succentor’ who acted as an assistant to the precentor.⁶⁵¹ Today, nine of the cathedrals specifically list a succentor amongst their chapter clergy on their websites: Christ Church, Durham, Gloucester, Lincoln, Southwark, St Paul’s, Southwark, Truro and York Minster.⁶⁵² The succentor’s role is to assist the precentor preparing and conducting the liturgy, or assuming responsibility for the precentor’s duties when he/she is absent. The succentor is appointed as a minor canon,⁶⁵³ of the cathedral. Given the precentor has pastoral oversight for the musicians, as well as responsibility for the liturgy and music included in worship, the succentor, as the precentor’s assistant, is directly involved in cathedral musical life. This section considers the Cathedrals Measure 2021, and the cathedral legal instruments,⁶⁵⁴ to address the extent to which they regulate the succentor’s

⁶⁴⁹ The Cathedrals Measure 2021 states that every cathedral must have at least two residentiary canons. S.14(1) Cathedrals Measure 2021.

⁶⁵⁰ See reference in Canon Precentor job application form for Truro Cathedral.

⁶⁵¹ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 12.

⁶⁵² I reviewed the sections addressing “who’s who” on all the Cathedral websites, to see if a succentor was listed within the clergy, or if the Cathedral website mentioned the office of succentor. The review of the cathedral websites was conducted on 13 August 2024.

⁶⁵³ A minor canon is defined as one of the junior clergy in a cathedral, see

<https://www.collinsdictionary.com/dictionary/english/minor-canon>

⁶⁵⁴ Of those cathedrals with a succentor.

role as it relates to the cathedral's musical life. It addresses, first the succentor's appointment; and secondly their duties.

First, regarding the succentor's appointment, this is not set out in the Cathedrals Measure 2021. Furthermore, very few cathedral legal instruments specifically mention the succentor's role. This is not surprising given only nine cathedrals have a succentor. On the one hand, only the statutes of York Minster, and Southwark have specific provisions relating to the succentor. York Minster's statutes set out detailed provisions regarding the appointment of a "Succentor Canonicorum".⁶⁵⁵ Southwark statutes state a succentor 'may be appointed by the Chapter on such terms in respect of tenure, remuneration and duties as the Chapter may determine, and shall be designated as a Minor Canon'.⁶⁵⁶ At both York Minster and Southwark, chapter has a discretion regarding whether to appoint a succentor.

On the other hand, are the cathedrals whose statutes do specifically provide for the succentor's appointment, but where they provide chapter with a power to appoint individuals to this office (when such office exists) under a general provision. At Durham, the statutes provide: 'The Chapter may appoint persons whether ordained or lay to fulfil specific liturgical functions in the Cathedral, with such title as may from time to time be given. The terms of appointment in each instance shall be determined by the Chapter'.⁶⁵⁷ In other words, chapter has a general power (but not a duty) to appoint persons to specific liturgical functions, which may include an individual to assist the precentor, i.e. a succentor.

⁶⁵⁵ The statutes of York Minster state that the office may be occupied by one person appointed in either of the following ways: 'A Canon Residentiary, not being one of the major Dignitaries may, if requested by Chapter, be appointed by the Archbishop to the office of Succentor Canonicorum. This office is for a maximum term of seven years, but this may be extended for further periods. The terms of office and tenure are to be set out in a deed of appointment signed by the Archbishop and approved by the Chapter. Alternatively, a clerk in Holy Orders who has retired and is in receipt of a clergy pension, but who resides in or near the city of York and is therefore able to undertake the duties in the Cathedral, may be appointed as Succentor Canonicorum. In this instance, the terms and conditions of service shall be determined by the chapter and shall be reviewed annually.'

⁶⁵⁶ Statute 40(1) Southwark Cathedral Statutes, dated 13 July 2022, accessed 30 January 2024.

⁶⁵⁷ See Statute 32(2) Durham Cathedral Statutes, accessed 13 August 2024.

However, the majority of cathedrals with a succentor, do not have any provision in their legal instruments for a succentor, but it is clear that one is appointed. St Paul's cathedral appoints a succentor,⁶⁵⁸ but a succentor is not mentioned in the constitution or statutes.

Secondly, regarding the succentor's duties, on one hand these are explicitly mentioned in Southwark's statutes: it shall be the succentor's duty 'in the absence of the Precentor or if the Precentor so directs' to 'be responsible in co-operation with the Director of Music for the pastoral care of the members of the choir; and to arrange for the performance of the music for the Services in the Cathedral Church'.⁶⁵⁹

On the other hand, whilst St Paul's legal instruments do not specifically set out the succentor's role, the cathedral's website states: 'with the Precentor and the Sacrist, the Succentor has a share in the planning, management, and delivery of our daily and special services, especially those of a musical nature. He also shares responsibility with the Precentor, for caring for Cathedrals Musicians, which includes supporting our visiting Choirs and assisting in the appointment of organists and the Vicars Choral'.⁶⁶⁰ The succentor plays a prominent role in the cathedral's musical life, including planning the musical elements of worship, and being responsible for the pastoral care of cathedral musicians.

In summary, a handful of cathedrals appoint a succentor, to assist the precentor with regards music in cathedral worship, and in his/her pastoral responsibility for cathedral musicians. National law is silent regarding the succentor's appointment, and where the cathedral domestic laws mention his/her appointment, they provide chapter with a power, but not a duty to appoint someone to this office. Only Southwark's statutes specifically set out the succentor's duties, which include assisting the precentor in overseeing music performed at the cathedral, and in taking responsibility for the pastoral care of the musicians. It is not surprising that so few cathedral statutes mention the succentor's role, since only nine appoint

⁶⁵⁸ See the St Paul's cathedral website: <https://www.stpauls.co.uk/cathedral-ministers>, accessed 16 January 2024.

⁶⁵⁹ Statute 40 (2) Southwark Cathedral Statutes, dated 13 July 2022, accessed 30 January 2024. Furthermore, in the event that the succentor is acting for the precentor, he/she shall have all the powers vested in the precentor and shall have precedence over the cathedral chaplains. Statute 40(3) Southwark Cathedral Statutes, dated 13 July 2022, accessed 30 January 2024.

⁶⁶⁰ See 'Who's Who' on St Paul's Cathedral website: <https://www.stpauls.co.uk/cathedral-ministers>, accessed 13 August 2024.

one. However, it would be beneficial if cathedrals appointing a succentor set out his/her specific duties within their legal instruments, as this would provide greater certainty.

4.2.4 The Director of Music

Under the Cathedrals Measure 2021, each cathedral's constitution must provide for the appointment of a person 'having the function of supervising music in the cathedral'.⁶⁶¹ As a matter of practice, the person supervising music may be given the title: director of music,⁶⁶² or organist/master of the choristers.⁶⁶³ The director of music is 'responsible to Chapter through the precentor for the selection, provision and performance of music, and the principal trainer and director of the cathedral choirs, sharing pastoral oversight with and reporting to the precentor'.⁶⁶⁴ As the person supervising cathedral music, the director of music's role explicitly concerns cathedral musical life. This section considers how cathedral legal instruments regulate the director of music. Firstly, addressing the director of music's appointment, and secondly, examining his/her duties and rights. It also analyses how effective those legal instruments are at regulating the director of music's role.

Firstly, regarding the director of music's appointment, as required by the Cathedrals Measure 2021, every cathedral constitution sets out that a director of music '*shall* be appointed by the Chapter on such terms and conditions in respect of tenure, remuneration and duties as Chapter shall determine'.⁶⁶⁵ Chapter has a duty to appoint a director of music, and a right to determine, and amend the director of music's specific responsibilities.⁶⁶⁶

⁶⁶¹ S.5(1)(g) Cathedrals Measure 2021.

⁶⁶² As in the case of Lichfield Cathedral (Article 11), Salisbury Cathedral (Article 17), St Paul's Cathedral, Exeter Cathedral (Article 36(1)).

⁶⁶³ As in Chichester Cathedral (Article 16) or Wells Cathedral (Article 11(2)).

⁶⁶⁴ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 124.

⁶⁶⁵ See, for example, Article 26 of Southwark Cathedral, dated 13 July 2022, the constitutions of St Albans Cathedral, Birmingham, Liverpool, Coventry and Derby. Article 26 Salisbury Cathedral Constitution. Similar provisions are set out at Article 26 of Chester Cathedral's Constitution

⁶⁶⁶ rather than allowing the Chapter a discretion as to whether the role should be filled or not.

Whilst all cathedral legal instruments state an individual must be appointed for the purpose of supervising music at cathedrals, they do not identify the procedure for, nor whether there must be a written instrument setting out the procedure for the director of music's appointment or dismissal. The Cathedral Questionnaires addressed this issue.⁶⁶⁷ Four of the seven cathedrals responding do not have a written policy or guidance for the director of music's appointment or dismissal, two do have a written policy, and one does not have a policy for appointment, but does have a written policy for dismissal.⁶⁶⁸ They all follow a similar procedure for the director of music's appointment.⁶⁶⁹ Furthermore, in many instances, the procedure for dismissal is set out in the employment contract, or employment handbook.⁶⁷⁰ In practice, it appears all cathedrals responding to the Cathedral Questionnaire follow a similar procedure, albeit the finer details, may be contained in different documents.

Secondly, regarding the director of music's duties, whilst the Cathedrals Measure 2021 states this is to supervise cathedral music, it does not contain further details. There is significant variety in the extent to which those duties are expanded in the cathedral legal instruments. It is possible to deduce a number of norms regarding how the constitutions and statutes address the director of music's duties. In the first category, cathedral legal instruments are silent regarding the director of music's duties. In the second, the statutes provide the dean, precentor, or chapter with a power to determine his/her responsibilities, without any further detail. In the third, cathedral statutes provide detail about the specific duties attaching to the office of director of music.

The statutes of Ely, Gloucester, Norwich, Rochester and Worcester are typical of cathedrals in the first category, being silent as to duties. The phrase in the Measure that a director of

⁶⁶⁷ See question 20 of the Cathedrals Questionnaires. The questionnaires sent to the Deans and Directors of Music at each of the Church of England cathedrals are included at Appendix 3, together with a description of the cathedrals contacted and the methodology of my approach.

⁶⁶⁸ See question 20 of the Cathedrals Questionnaire, at Appendix 3.

⁶⁶⁹ An advertisement is circulated, followed by an interview and audition. Furthermore, in all cases, the Director of Music has an employment contract. See question 19 of the Cathedrals Questionnaire, at Appendix 3.

⁶⁷⁰ Furthermore, one cathedral indicated that in the event that it does become necessary to dismiss the Director of Music, this is in accordance with the cathedral's disciplinary process. In another cathedral, both parties were required to give three months' notice unless the position was subject to a redundancy or dismissal procedure, which would follow the cathedral's policy. See question 19 of the Cathedrals Questionnaire, at Appendix 3.

music has the function of ‘supervising music in the cathedral’,⁶⁷¹ is extremely broad and could include a wide range of tasks. This allows the chapter or dean a flexibility to determine and amend the director of music’s responsibilities.⁶⁷²

Secondly, a small number of cathedral statutes state that chapter, the dean, or precentor will determine the director of music’s responsibilities, without expanding further. At Canterbury these ‘duties will be specified in his or her role description as may be amended from time to time’.⁶⁷³ Wells’ constitution is similar.⁶⁷⁴ Whilst Southwark falls into this category, the statutes expand this slightly, including limited details of the director of music’s right to involvement in the selection of choir members. They state that the director of music is subject to the control of the dean and shall perform such duties as the precentor may determine.⁶⁷⁵ They continue that, together with the precentor, the director of music has the right to nominate any lay clerks, chanters and choristers, although it is the chapter that appoints individuals to these positions and determines their terms in respect of tenure, remuneration and duties.⁶⁷⁶ What is unclear is whether the precentor and director of music must agree on the nominee before he/she is nominated to the chapter,⁶⁷⁷ or whether the director of music and precentor may put forward separate candidates. It is also not clear what happens in the event that the precentor and director cannot agree upon an individual to be nominated to one of these positions.⁶⁷⁸

In the third category, are cathedral statutes stating the director of music’s duties in detail. Carlisle’s statutes state the director of music is responsible for ‘management and oversight of

⁶⁷¹ S.5(1)(g) Cathedrals Measure 2021.

⁶⁷² Whilst all the cathedrals include traditional choral music at present, as a wider variety of music is now being included in services, this potentially allows Chapter the flexibility to include guitars, musical ensembles, string groups, and even “rock” bands to accompany the singing in services.

⁶⁷³ Statute 42(1) Canterbury Cathedral Statutes, dated July 2023, https://www.canterbury-cathedral.org/media/50jly2jh/canterbury-statutes-july_final_26-7-2023-v2.pdf, accessed 16 January 2024.

⁶⁷⁴ ‘The Chapter must appoint a Director of Music to supervise music in the Cathedral’. Article 27 Wells Cathedral Constitution, dated September 2023, accessed 30 January 2024.

⁶⁷⁵ Statute 43(1) Southwark Cathedral Statutes, dated 13 July 2022, see <https://cathedral.southwark.anglican.org/media/3829/southwark-cathedral-statutes-final-dated.pdf>. Accessed 16 January 2024.

⁶⁷⁶ Statute 43(4) Southwark Cathedral Statutes, dated 13 July 2022, accessed 16 January 2024.

⁶⁷⁷ At which point the chapter simply appoints or rejects the individual.

⁶⁷⁸ This issue was not addressed in the Cathedrals Questionnaire, but is an area which would benefit from further study.

the music department, and the selection, practice, and performance of music at such times as are agreed by the Chapter'.⁶⁷⁹ Furthermore, 'under the Dean, the Director of Music shall be responsible for the discipline of the Choir when engaged on Cathedral duties'.⁶⁸⁰ Whilst the director of music is responsible for maintaining the discipline of the choir, the legal instruments do not set out the procedure in the event the he/she is unhappy with a choir member's conduct. Similar provisions are contained in St Edmundsbury's statutes.⁶⁸¹ Guildford's statutes provide the most detailed list of the director of music's responsibilities, including: '(a) shaping the music which supports the liturgy in services at the Cathedral, with the agreement of the Dean or a designated residentiary canon; (b) organising the execution and coordination of music in services at the Cathedral; (c) recommending to the designated residentiary canon persona for appointment as adult singers (lay clerks and choral scholars) and child choristers, whom the Chapter may appoint; and (d) conducting and training the choirs'.⁶⁸² I propose that the better approach is that adopted by Guildford since the director's role is clearly set out in the statutes.

Interestingly, domestic laws rarely expressly prescribe religious qualifications for candidates. None of the cathedral constitutions and statutes contain provision regarding the director of music's religious beliefs. However, Durham's statutes are unusual as they state that the 'the Chapter shall appoint a director of music...who shall be a member in good standing of the Church of England or a church which is not in communion with the Church of England but subscribes to the doctrine of the Holy Trinity'.⁶⁸³ This issue was addressed in the Cathedral

⁶⁷⁹ Statute 35(1) Carlisle Cathedral Statutes, dated April 2022, accessed 30 January 2024.

⁶⁸⁰ Ibid.

⁶⁸¹ They also state the director of music is required to 'regularly consult with the Dean and the Canon Precentor as to the music to be provided in the Cathedral and about the conduct of the Choirs'. Statute 58(1)) St Edmundsbury Cathedral Statutes, dated 2023, accessed 30 January. 2024. The director of music is also responsible for selecting the sub-organist, as well as the choir members: After consultation with the Canon Precentor, and subject to the approval of the Dean, the Director of Music 'shall select the Sub-Organist, who may be known as the Assistant Director of Music'. Statute 58(2). And 'shall be responsible for the recruiting, appointing and training of all Choristers, Lay Clerks and members of the Choirs'. Statute 58(3) St Edmundsbury Cathedral Statutes, dated 2023, accessed 30 January 2024.

⁶⁸² Statute 35(2) Guildford Cathedral Statutes, see <https://www.guildford-cathedral.org/files/Constitution%20and%20Statutes%20Oct%202023/Statutes%2003%20Oct%2023.pdf>, accessed 16 January 2024.

⁶⁸³ Statute 38(1) Durham Cathedral Statutes. See <https://cdn.durhamcathedral.co.uk/uploads/files/Durham-Cathedral-Statutes.pdf?v=1708503160>, accessed 16 August 2024.

Questionnaires.⁶⁸⁴ In practice, it seems that it is important that a director of music is sympathetic to the Christian religion, but it is not essential for them to be a communicant member of the Church of England.⁶⁸⁵ Whilst it is not essential for a director of music to be a communicant member, this enables them to understand the history and context of the service and can help pass on the tradition of the Church of England with integrity. This is in contrast to the parish churches where in more instances the priests were of the view that an individual should be a communicant member of the church.⁶⁸⁶

In summary, under the Cathedrals Measure 2021, each cathedral must appoint a director of music, to supervise cathedral music. All cathedral constitutions are consistent in complying with this requirement. However, the legal instruments vary in the amount of detail contained regarding the director of music's role and duties. They fall into three categories: in the first, the constitutions and/or statutes are silent regarding the director of music's specific duties. In the second, the statutes provide the dean, precentor, or chapter with a power to determine the director's specific responsibilities, without providing further detail. In the third, the director of music's duties are stated in the statutes. Whilst the cathedral statutes vary in the amount of detail contained about the director of music's duties, there are a number of broad principles that can be expressed. The director of music's main function is to supervise cathedral music. This may include: directing and rehearsing the choir; playing a prominent role in selecting music for services;⁶⁸⁷ playing the organ in such services as are required; overseeing discipline within the choir; and in some instances acting as pastoral mentor for the choristers. However, the cathedral constitutions and statutes leave a great deal of flexibility regarding the specific

⁶⁸⁴ See questions 21 and 22 in the Cathedrals Questionnaires, included at Appendix 3. 8 cathedrals responded to the questionnaire.

⁶⁸⁵ All 8 respondents felt it was important that the director of music was sympathetic to the Christian faith, whereas only two respondents felt that it was important that the director of music or organist were a communicant. See questions 21 and 22 of the Cathedrals Questionnaire, at Appendix 3. One response indicated that: 'Cathedrals are deeply inclusive communities – our congregations alone contain people from at least 12 different denominations – and this variety enriches everything we do. So to have people from diverse Christian traditions, and indeed from other faith backgrounds – as long as they could demonstrate sympathy with the Christian faith – would be a further enrichment. This is our approach to the appointment of all lay staff. Reasons for this include that the Director of Music leads the people's worship and as such is 'a minister of religion similar to clergy and licensed lay ministers', it is critical that the music always serves the liturgy and is not 'a separate artefact but integral to it', and that if the Director of Music was not sympathetic to the Christian faith 'it is very difficult to see how they would be able to curate the music appropriately'.

⁶⁸⁶ This is addressed in more detail in chapter 3.

⁶⁸⁷ This may either be alone or in consultation with the precentor or chapter.

duties, which may be set out in more detail in an employment contract. This is desirable since the role may change over time as society changes.

4.2.5 Assistant Organists and Organ Scholars

In addition to the office of director of music, as a matter of practice the cathedrals also appoint assistant organists and/or organ scholars to assist in the provision of music. What follows tests and builds on the claims by Doe that the assistant organist is responsible ‘for playing the organ for worship, accompanying the cathedral choirs, assisting with training and direction of the choirs and carrying out necessary administrative tasks’;⁶⁸⁸ and the organ scholar is responsible ‘for assisting with accompanying, training and directing the choirs, carrying out administrative tasks, and reporting to the Assistant Director of Music’.⁶⁸⁹

Unlike the office of director of music, the Cathedrals Measure 2021 does not specifically state that cathedrals must appoint an assistant organist, or organ scholar – the Measure is silent on the matter. Cathedrals have adopted different approaches to regulating the assistant organist and/or organ scholar: some cathedrals appoint both, whilst others only appoint an assistant organist. Since the cathedrals have a discretion to appoint these individuals, the cathedral domestic laws vary in their treatment. This section considers cathedral legal instruments to identify principles governing their appointment and duties.

A number of cathedral statutes provide for the appointment of an assistant organist, and/or organ scholar. They fall into three categories: those where the director of music has a duty to appoint an assistant organist; those where chapter has a power but not a duty to appoint; and those where the statutes are silent regarding appointment, but where it is apparent from other sources that individuals are appointed to these positions.

1. Director of Music has a duty to appoint

⁶⁸⁸ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 124.

⁶⁸⁹ *Ibid.*, 124.

Very few cathedral statutes impose a duty to appoint an assistant organist. Only St Edmundsbury's statutes state: 'after consultation with the Canon Precentor, and subject to the approval of the Dean, the Director of Music shall select the Assistant Director of Music...upon such terms as to tenure, remuneration and duties as may be determined by the Chapter'. Since there are no qualifications to the provisions, it seems that the director of music has a duty to appoint an assistant director.

2. Chapter has a power, but not a duty to appoint

The majority of cathedral statutes provide chapter with a power but does not impose a duty to appoint an assistant organist. This may be in one of two ways: either through a specific power for chapter to appoint an assistant organist/organ scholar; or they provide a general power for chapter to appoint 'other musicians' without specifying the role.

At Chichester, the statutes empower chapter specifically to appoint: chapter '*may* appoint, after consultation with the Organist, an Assistant Organist, and one or more Organ Scholars, subject to a written agreement'.⁶⁹⁰ Similarly, Salisbury's statutes state that on the recommendation of the precentor and director of music, chapter 'may appoint such number of organists, organ scholars...on such terms as it may from time to time determine'.⁶⁹¹ Similar provisions are made at Winchester,⁶⁹² Rochester,⁶⁹³ and Guildford.⁶⁹⁴

⁶⁹⁰ Statute 49(a) and (b) Chichester Cathedral, statutes dated 26 July 2023, downloaded from Chichester Cathedral website, see [https://www.chichestercathedral.org.uk/about-us/constitution-and-statutes-cathedral-church-holy-trinity-chichester#:~:text=The%20latest%20constitution%20and%20statutes,viewed%20and%2For%20downloaded%20below.&text=Monday%20%2D%20Saturday%20\(9.00am%20%2D,12.30pm%20%2D%20202.30pm\)](https://www.chichestercathedral.org.uk/about-us/constitution-and-statutes-cathedral-church-holy-trinity-chichester#:~:text=The%20latest%20constitution%20and%20statutes,viewed%20and%2For%20downloaded%20below.&text=Monday%20%2D%20Saturday%20(9.00am%20%2D,12.30pm%20%2D%20202.30pm)), accessed 18 January 2024.

⁶⁹¹ Statute 46.3 Salisbury Cathedral Statutes, dated July 2022, <https://www.salisburycathedral.org.uk/app/uploads/2022/07/Salisbury-Cathedral-Statutes-July-2022.pdf>, accessed 20 January 2024.

⁶⁹² Statute 46(1) Winchester Cathedral Statutes states: 'The Chapter may appoint such number of organists on such terms and conditions as it may from time to time determine', dated 4 July 2022. See <https://admin.winchester-cathedral.org.uk/wp-content/uploads/2022/10/Statutes.pdf>, accessed 20 January 2024.

⁶⁹³ 'The Chapter may also appoint an Assistant Director of Music'. Statute 59(2) Rochester Cathedral Statutes, dated 6 November 2023. See <https://static1.squarespace.com/static/5947b11429687fede4242124/t/65439975cf310424bb23d426/1698929018223/Statutes+-+Nov+2023.pdf>, accessed 20 January 2024.

⁶⁹⁴ At Guildford Cathedral, 'the Chapter may, appoint a similarly qualified person, who may be given the title of Sub-Organist', Article 35(3), <https://www.guildford->

Southwark's statutes provide: 'there shall be as many assistant organists, lay clerks, chanters and choristers as the Chapter may determine'. Whilst on the face of it, this places a duty on chapter to appoint an assistant organist, if chapter decided an assistant organist was not required, there would be no obligation to appoint.

In comparison, Exeter's statutes provide a general power for chapter to appoint 'musicians' without specifying their role.⁶⁹⁵ Similar provisions are included in Canterbury's statutes.⁶⁹⁶

Durham Cathedral's statutes have adopted a hybrid of the two approaches. They state: 'the Chapter may appoint at its discretion an organist and any additional musician(s) to assist the director of music in the discharge of their duties'.⁶⁹⁷ The statutes specifically mention the assistant organist, but the organ scholar falls into the general provision.⁶⁹⁸

In all the cathedral statutes falling in this category, chapter has discretion over whether to appoint an assistant organist/organ scholar. This provides flexibility to fill these offices if chapter feels it is necessary. It is also consistent with the position set out in national law. Adopting this approach is beneficial to cathedrals, and it is submitted that all cathedrals should follow this approach dealing with the appointment of assistant organists and organ scholars. This provides clarity, whilst also allowing flexibility in the event that the role needs to change.

3. The constitution or statutes are silent regarding appointment

[cathedral.org/files/Constitution%20and%20Statutes%20Oct%202023/Statutes%2003%20Oct%2023.pdf](https://www.durhamcathedral.co.uk/files/Constitution%20and%20Statutes%20Oct%202023/Statutes%2003%20Oct%2023.pdf), accessed 20 January 2024.

⁶⁹⁵ Chapter 'may appoint *other musicians* at its discretion and shall define their tasks'. Statute 36(2) Exeter Cathedral Statutes.

⁶⁹⁶ Statute 42(2) states that 'Chapter may appoint other musicians to assist the Director of Music and may ascribe titles to these posts. The Director of Music may, with the consent of the Chapter, delegate functions to these musicians or other assistants for the better functioning of the musical life of the Cathedral'.

⁶⁹⁷ Statute 38(3) Durham Cathedral Statutes.

⁶⁹⁸ Although it is clear from Durham Cathedral's website that organ scholars are appointed annually. See: <https://www.durhamcathedral.co.uk/explore/music-at-the-cathedral/cathedral-organ/music-scholarships-3> accessed 18 December 2024.

A minority of cathedral statutes are silent regarding the appointment of an assistant organist/organ scholar, and there is no general provision for the appointment of ‘musicians’. This is lawful because, as seen above, national law is also silent on the matter. Wells’ statutes have no specific provisions for the appointment of an assistant organist/organ scholar. However, it is clear from the cathedral website that organ scholarships are offered.⁶⁹⁹ The position is the same at Derby,⁷⁰⁰ St Paul’s,⁷⁰¹ Lichfield⁷⁰² and Liverpool.⁷⁰³ At all these cathedrals it is clearly envisaged that there will be an assistant organist and at least one organ scholar, even though the legal instruments are silent.

If there is little in the cathedral domestic laws regarding the appointment of an assistant organist/organ scholar, there are fewer provisions regarding their duties. This is not surprising given the majority of cathedrals do not have a duty to appoint individuals to these positions. However, it may be thought surprising in those cathedrals whose laws do provide for these individuals. Indeed, where a cathedral’s statutes do set out the assistant organist or choral scholar’s duties, it is often a general provision stating that their duties are determined by chapter, with no further detail.

Portsmouth’s statutes state: ‘The Chapter may appoint as many...organists, organ scholars,...*on such terms as it may from time to time determine.*’⁷⁰⁴ Chapter has discretion to alter the duties placed upon the organists and organ scholars if needed. Similarly, Guildford’s

⁶⁹⁹ The website states that the senior organ scholar assists in training the choristers and shares in playing for and conducting the daily services. In addition, a junior organ scholarship is offered to a sixth form student at Wells Cathedral School. See Wells Cathedral website: <<http://www.wellscathedral.org.uk/music-the-choir/organ-and-choral-scholarships/>> accessed on 11 September 2017.

⁷⁰⁰ An Assistant Organist is listed as one of the positions on Derby Cathedral’s website: <https://derbycathedral.org/about/team/> accessed 18 December 2024.

⁷⁰¹ An Organist and Organ Scholar are included in the positions at St Paul’s Cathedral: <https://www.stpauls.co.uk/our-musicians> accessed 18 December 2024.

⁷⁰² An Assistant Director of Music/Organist and Assistant Organist are listed in the ‘who’s who’ section on Lichfield’s website: <https://www.lichfield-cathedral.org/worship-music/whos-who#:~:text=Honorary%20Assistant%20Organist%20%2D%20Liam%20Condon.as%20Organ%20Scholar%20in%202019.> Accessed 18 December 2024.

⁷⁰³ Liverpool Cathedral’s website lists a Cathedral Organist (in addition to a separate Director of Music), sub-organist, deputy organist, and organ scholar in the staff section: <https://liverpoolcathedral.org.uk/about-us/our-colleagues-and-community/> accessed 18 December 2024.

⁷⁰⁴ Statute 44(2) Portsmouth Cathedral Statutes, dated 11 December 2023, see <https://static1.squarespace.com/static/5954db70b6ac50caf3ac18e6/t/6576c58923662e2c309b7956/1702282633715/Portsmouth+Statutes+2023+12+11.pdf> accessed 20 January 2024.

statutes state: ‘the duties and terms and conditions of service [of the sub organist] are determined by the Chapter in consultation with the supervisor’.⁷⁰⁵ The statutes of the majority of the other cathedrals have similar provisions.⁷⁰⁶ In contrast, Chester’s statutes are silent regarding both the assistant organist and choral scholars’ appointment and duties.⁷⁰⁷

It is possible to gain a further understanding of the assistant organist/organ scholar’s duties from information on cathedral websites. Guildford’s website explains the sub-organist ‘assists the organist and master of the choristers and takes over in her absence. During services the sub organist can usually be seen playing the organ.’ Furthermore, ‘the organ scholarship is held for one academic year by either an undergraduate gap year student or a postgraduate student. The organ scholar assists the organists, acts as music librarian and holds the position of organist to the Guildford Cathedral Singers’.⁷⁰⁸ Alternatively, cathedrals provide detail job descriptions of the assistant organist’s expected duties.⁷⁰⁹

In summary, in practice and law the majority of cathedrals appoint an assistant organist and/or organ scholar to assist the director of music in the cathedral’s musical provision. There are many similarities between cathedral laws regarding appointment and duties: chapter has the power to appoint; and in all cases, their role is to assist the director of music in the cathedral’s musical provision. Some cathedrals, such as Chichester, Rochester, and Guildford make specific provision for the appointment of individuals to these positions. Others, such as Exeter, have a general power to appoint ‘musicians’. Finally, some, like Derby do not

⁷⁰⁵ Statute 35.3(a) Guildford Cathedral Statutes, <https://www.guildford-cathedral.org/files/Constitution%20and%20Statutes%20Oct%202023/Statutes%2003%20Oct%2023.pdf>, accessed 20 January 2024.

⁷⁰⁶ See for example, Statute 49(1) and (2) Chichester Cathedral Statutes; Statute 43(3) Southwark Cathedral Statutes; Statute 58(2) St Edmundsbury Cathedral Statutes; Statute 59(2) Rochester Cathedral Statutes; Statute 46(3)(b) Salisbury Cathedral Statutes; Statute 36(2) Exeter Cathedral Statutes.

⁷⁰⁷ Although Chester Cathedral’s website lists a sub-organist, and an assistant organist in the “who’s who” page: <https://chestercathedral.com/team>, accessed 20 December 2024. Similarly, Worcester’s statutes are also silent in this regard.

⁷⁰⁸ See Guildford Cathedral website: <https://www.guildford-cathedral.org/music/organists> accessed 20 January 2024.

⁷⁰⁹ See for example the job description of the Assistant Organist’s position at Durham Cathedral: <https://cdn.durhamcathedral.co.uk/uploads/files/Assistant-Organist-Job-Description-and-Person-Specification.pdf?v=1716536169> accessed 6 September 2024.

mention the appointment of an assistant organist/organ scholar in their statutes, although it is clearly envisaged from other sources,⁷¹⁰ that they may be appointed.

4.2.6 Lay Clerks/ Vicars Choral and Choral Scholars

The majority, if not all cathedrals, also employ professional adult singers to sing in the cathedral choir.⁷¹¹ These singers have a variety of titles: lay clerks, lay vicars, song men or vicars choral.⁷¹² They also appoint choral scholars, who receive a stipend or salary for a specific period to sing in the cathedral choir.⁷¹³ As is the position regarding the assistant organist and organ scholars, the Cathedrals Measure 2021 does not specifically require the appointment of lay clerks and choral scholars, i.e. cathedrals are at liberty to make their own norms on this subject as a matter of discretion. This section considers the cathedral legal instruments identifying norms governing the lay clerks and choral scholars' appointment and duties.

The first issue is appointment. When dealing with their appointment, the cathedral legal instruments can be separated into the following categories: those where chapter has a duty to appoint lay clerks and choral scholars; those where chapter has a specific power (but not a duty) to appoint; those providing chapter with a general power to appoint "musicians"; and those which are silent regarding their appointment. The majority of cathedrals either fall into those where the statutes place a duty on chapter to appoint, or where the statutes are silent in this regard.

⁷¹⁰ Such as dealing with chapter's duties.

⁷¹¹ usually to sing the bass, tenor and alto/countertenor lines of the music.

⁷¹² Vicars Choral are not in holy orders; the word 'vicar' in this context is taken from 'vice' which means deputy. The phrase came into common use because historically vicars would stand for the canons, while they were away from the cathedral engaged in their personal affairs or on the King's business. See K. Edwards, *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967) 256.

⁷¹³ This is usually while they are at university, or during a gap year before they apply for universities. For example, the section on Hereford Cathedral's website dedicated to Choral Scholarships states: *The gap year choral scholarships at Hereford Cathedral (one each of alto, tenor and bass) run annually from 1 September to 31 August. The scholarships offer experience of singing daily in the cathedral choir alongside the six lay clerks (who are augmented by three assistant lay clerks at weekends), and they would thus particularly suit singers intending to go on to one of the major university choral foundations* See Hereford Cathedral website: <https://www.herefordcathedral.org/choral-scholarships> accessed 26 February 2023.

1. Chapter has a duty to appoint

The statutes of a significant number of cathedrals place an obligation upon chapter to appoint lay clerks and/or choral scholars.

Within this category, the statutes may be further divided into those stipulating the number of lay clerks chapter must appoint, and those where chapter has a duty to appoint but a discretion regarding the number it may appoint. As such, on the one hand, Carlisle's statutes state: 'There shall be up to six lay clerks and there may be up to three choral scholars'.⁷¹⁴ Likewise, Salisbury's statutes place an obligation on chapter to appoint 'not less than six Lay Vicars'.⁷¹⁵ York Minster's statutes are similar.⁷¹⁶ Furthermore, at York Minster, the appointment of a Vicar Choral will be subject to a probationary period determined by chapter;⁷¹⁷ this is the only cathedral specifying a probationary period for any musical post.

On the other hand, Norwich's statutes state: 'there shall be as many Lay Clerks and Choral Scholars as the Chapter considers suitable, after consultation with the Master of Music'.⁷¹⁸

⁷¹⁴ Statute 35(4) Carlisle Cathedral Statutes, dated April 2022, accessed 1 February 2024. It continues: 'they shall be recommended to the Chapter by the Director of Music, in consultation with the designated member of Chapter. If approved they shall be appointed by the Chapter'.

⁷¹⁵ Statute 46(3)(a) Salisbury Cathedral Statutes, <https://www.salisburycathedral.org.uk/app/uploads/2022/07/Salisbury-Cathedral-Statutes-July-2022.pdf>, accessed 20 January 2024.

⁷¹⁶ They state that 'Vicars Choral *shall* be recommended for appointment to the Dean by the Precentor and the Director of Music, and *shall* be appointed by the Chapter on such terms as may be specified in an agreement signed by each Vicar Choral at the time of appointment'. Statute 37(1) York Minster, dated 29 September 2022, <https://grpl-york-minster.s3.amazonaws.com/uploads/2023/08/YORK-MINSTER-Constitution-and-Statutes-in-force-with-effect-from-29-Sept-2022.pdf>, accessed 20 January 2024.

⁷¹⁷ Statute 37(1) York Minster, dated 29 September 2022, <https://grpl-york-minster.s3.amazonaws.com/uploads/2023/08/YORK-MINSTER-Constitution-and-Statutes-in-force-with-effect-from-29-Sept-2022.pdf>, accessed 20 January 2024.

⁷¹⁸ Statute XIX.1 Norwich Cathedral Statutes, <https://cdn.sanity.io/files/98newsj3/production/c674301e09be663e241907e39fa9c0f6f5b288c8.pdf> accessed 20 January 2024. It is possible to gain more understanding from the cathedral's website, which sets out that included in the music department are six Lay Clerks and six Choral Scholars. Information included in Norwich Cathedral website <<https://www.cathedral.org.uk/worship/music> accessed 8 November 2017.

Similar provisions are made in the statutes of Southwark,⁷¹⁹ Winchester.⁷²⁰ and Canterbury.⁷²¹

2. Chapter has a specific power to appoint

The statutes of a minority of cathedrals provide chapter with a power to appoint lay clerks and/or choral scholars, but do not place an obligation on chapter to make such appointments. At Chichester ‘Any number of Lay Vicars or Singing Clerks *may* be appointed by Chapter after consultation with the Organist and Master of the Choristers on such terms as the Chapter may determine’.⁷²² Similar provisions are contained in the statutes of Wells,⁷²³ Portsmouth⁷²⁴ and Rochester.⁷²⁵ At these cathedrals, chapter has a discretion regarding whether, and how many lay clerks to appoint.⁷²⁶

⁷¹⁹ Statute 12(2)(c) Southwark Cathedral Statutes - Lay clerks, Chanters and Choristers shall be appointed by Chapter on the nomination of the Precentor and the Director of Music, upon such terms in respect of tenure, remuneration and duties as the Chapter may determine’

⁷²⁰ ‘Lay clerks *shall* be appointed to sing in the Choir of the Cathedral by the Chapter on the recommendation of the Precentor and the Director of Music in such numbers and on such terms and conditions as the Chapter may from time to time determine’. See Statute 46(4) Winchester Cathedral Statutes, <https://admin.winchester-cathedral.org.uk/wp-content/uploads/2022/10/Statutes.pdf>, accessed 20 January 2024.

⁷²¹ ‘The Chapter must appoint adult singers, known as Lay Clerks, as members of the Cathedral Choir on such terms and conditions as it determines’. See Statute 42(1) Canterbury Cathedral Statutes, https://www.canterbury-cathedral.org/media/50jly2jh/canterbury-statutes-july_final-26-7-2023-v2.pdf, accessed 20 January 2024.

⁷²² Statute 50(1) Chichester Cathedral Statutes, dated 26.07.23, accessed from Chichester Cathedral website, 20 January 2024.

⁷²³ They state: ‘The Chapter *may* appoint such number of vicars choral...and choral scholars on such terms and conditions as it may, from time to time, determine’. See Statute 33(1) Wells Cathedral Statutes, dated 30 November 2023, <https://www.wellscathedral.org.uk/wp-content/uploads/2023/12/2023-Wells-Cathedral-Statutes.pdf>, accessed 20 January 2024.

⁷²⁴ Statute 44(2) of Portsmouth Cathedral states that ‘The Chapter may appoint as many vergers, organists, organ scholars, choral scholars, lay clerks, choristers and probationary choristers on such terms as it may from time to time determine’. See <https://static1.squarespace.com/static/5954db70b6ac50caf3ac18e6/t/6576c58923662e2c309b7956/1702282633715/Portsmouth+Statutes+2023+12+11.pdf>, accessed 20 January 2024.

⁷²⁵ Statute 59(2) of Rochester Cathedral Statutes states that ‘the Chapter may also appoint...Principal Lay Clerks and Deputy Lay Clerks and additional musicians and other staff to support the Cathedral choirs during sung services...’, see <https://static1.squarespace.com/static/5947b11429687fede4242124/t/65439975cf310424bb23d426/1698929018223/Statutes+-+Nov+2023.pdf>, accessed 20 January 2024.

⁷²⁶ If Chapter decided that no Lay Clerks should be appointed to the choir, then under the statutes this is permitted. Furthermore, the statutes do not make provision for who is to select or appoint the lay clerks.

In comparison to the appointment of the lay clerks, the chapter at York Minster ‘may, in consultation with the Director of Music and the Precentor, award a Choral Scholarship to one or more students of the University of York or the York St John University or any other institution of Higher Education on such terms as may from time to time be agreed by the Chapter and the educational institution concerned’.⁷²⁷ The position is similar at Canterbury, where chapter ‘may, after consultation with the Director of Music, award choral scholarships. The number and conditions of such scholarships are determined by the Chapter’.⁷²⁸

3. Chapter has a general power to appoint musicians

At a minority of cathedrals, the statutes provide a general power for chapter to appoint ‘musicians’ (the precise role is not defined in the statutes). Whilst Exeter’s do not specifically provide for the appointment of lay clerks, or choral scholars, they state: ‘the Chapter may appoint *other musicians* at its discretion’.⁷²⁹ Similarly, whilst Derby’s statutes do not specifically mention the appointment of lay clerks or choral scholars, they state: ‘the formation of Cathedral Choirs, their duties and terms of service shall be decided by the Chapter in consultation with the Organist and Director of Music’.⁷³⁰ Although their statutes do not make specific provision for their appointment, in practice both these cathedrals nevertheless have lay clerks and choral scholars.⁷³¹

4. Statutes silent regarding appointment

⁷²⁷ Statute 37(2) York Minster, dated 29 September 2022, <https://grpl-york-minster.s3.amazonaws.com/uploads/2023/08/YORK-MINSTER-Constitution-and-Statutes-in-force-with-effect-from-29-Sept-2022.pdf>, accessed 20 January 2024.

⁷²⁸ Statute 42(6) Canterbury Cathedral Statutes, dated July 2023. https://www.canterbury-cathedral.org/media/50jly2jh/canterbury-statutes-july_final_26-7-2023-v2.pdf, accessed 20 January 2024.

⁷²⁹ Statute 36(2) Exeter Cathedral Statutes, dated August 2023, <https://www.exeter-cathedral.org.uk/wp-content/uploads/2023/08/The-Statutes.pdf>, accessed 20 January 2024.

⁷³⁰ Statute 9.2 Derby Cathedral Statutes, <https://derbycathedral.org/app/uploads/2022/04/CONSTITUTION-AND-STATUTES-2009.pdf>, accessed 20 January 2024.

⁷³¹ It is clear from Exeter’s website that as well as having “Lay Vicars”, Choral Scholars are appointed, <https://www.exeter-cathedral.org.uk/music/choirs/cathedral-choir/> - accessed 20 August 2024. In addition, Derby’s website states that it has 6 Lay clerks: <https://derbycathedral.org/worship-music/cathedral-choir/> accessed 20 August 2024;

A majority of cathedral statutes are silent regarding the appointment of lay clerks/choral scholars, and they do not contain a general power to appoint ‘additional musicians’. At Guildford, Exeter and Derby,⁷³² the statutes do not provide for their appointment, although they state that chapter has an obligation to maintain a choir, and it is clear from the cathedral websites that lay clerks/choral scholars are appointed.⁷³³ Similarly, the statutes of Birmingham, Chester, Coventry, Ely, Gloucester, Liverpool and Worcester have no provisions specifically addressing the appointment of lay clerks/choral scholars. However, it is clear from their websites that these cathedrals have a choir.⁷³⁴ It seems chapter is able to appoint lay clerks and choral scholars under general provisions allowing it to ‘oversee the administration of the affairs of the Cathedral’. Whilst St Edmundsbury’s statutes do not specifically set out the lay clerks’ duties they state ‘the Director of Music shall be responsible for the recruiting, appointing and training of all...Lay Clerks and members of the Choirs’. Although this does not specifically set out their duties, arguably it implies that the director of music will determine the lay clerk’s duties.⁷³⁵

Whilst the cathedrals’ legal instruments may not contain specific details about how lay clerks/choral scholars are appointed, in some circumstances this information may be found in other sources. When conducting the Cathedral Questionnaires, I asked each cathedral if they had a policy in place for the appointment or dismissal of lay clerks. Five out of the eight cathedrals responding have a policy or guidance.⁷³⁶ Although this comes in varying forms: most cathedrals have formal, written policies.⁷³⁷ At most cathedrals, lay clerks are appointed

⁷³² See Article 35 titled ‘Music, choir etc’, <https://www.guildford-cathedral.org/files/Constitution%20and%20Statutes%20Oct%202023/Statutes%2003%20Oct%2023.pdf>, accessed 20 January 2024.

⁷³³ See, for example <https://www.guildford-cathedral.org/music/choir/lay-clerks> which states ‘The lay clerks consist of 2 Alto, 2 tenor and 2 bass professional singers employed by Guildford Cathedral’ - accessed 20 August 2024. Also see <https://www.exeter-cathedral.org.uk/music/choirs/cathedral-choir/>

⁷³⁴ For example, see <http://www.birminghamcathedral.com/cathedralchoir/> accessed 13 December 2017.

⁷³⁵ Statute 58(3) St Edmundsbury statutes.

⁷³⁶ See question 30 of the Cathedrals Questionnaire, included at Appendix 3. Although only one of the cathedrals which responded fell into the category of cathedrals whose statutes are silent regarding the appointment of Lay Clerks and Choral Scholars.

⁷³⁷ Seven of the cathedrals responding have a formal and/or written policy, whereas in two cases this may be informal or unwritten

or nominated by the director of music and precentor.⁷³⁸ As is the case with the director of music, all cathedrals responding to the Cathedrals Questionnaire, follow similar procedures for appointing and dismissing lay clerks.⁷³⁹ Therefore, in practice, lay clerks are treated in the same way as other cathedral employees.

The second issue is how cathedral domestic laws deal with lay clerks/choral scholars' duties. Their duties are primarily to sing at various cathedral services. The amount of detail in cathedral statutes regarding these duties varies. Some specifically set out what the lay clerks' duties are. Hereford's statutes state: 'the principal duty of the Lay Clerks shall be to sing, under the direction of the Organist, at the daily offices and the Eucharist in the Cathedral and elsewhere whenever required. It shall be their duty to carry on the tradition of maintaining the highest standards of performance of music in the Cathedral'.⁷⁴⁰ Similarly, at Carlisle: 'The lay clerks and choral scholars shall attend such practices and take part in such sung services in the Cathedral as appointed by the Chapter and in services sung by the Cathedral choir elsewhere by agreement with the Chapter'.⁷⁴¹ Similar provisions are included in Southwark,⁷⁴² Southwell Minster,⁷⁴³ and York Minster's statutes.⁷⁴⁴

⁷³⁸ This appointment may be made formally by the Chapter. In one instance the appointment is made by the Director of Music alone, and in another, by the Chapter on the recommendation of the Director of Music.

⁷³⁹ This is through an advertisement of the post, followed by an audition and interview and they are required to undergo DBS clearance, safeguarding training and a character reference. In one instance the Lay Clerks undertake a three-month probationary period and an annual review. In addition, whilst this is not dealt with in the statutes, the dismissal of Lay Clerks appears to follow a similar procedure at all the cathedrals: removal is in accordance with the cathedral's grievance or disciplinary process and is the same as for other cathedral staff. One response indicated that they are 'subject to the same processes of dismissal as other Cathedral employees'. See question 29 of the Cathedrals Questionnaire, included at Appendix 3. Although, as is set out above, only one of the cathedrals which responded fell into the category of cathedrals whose statutes are silent regarding the appointment of Lay Clerks and Choral Scholars.

⁷⁴⁰ Statute VIII(2) Hereford Cathedral Statutes.

⁷⁴¹ Statute 35(5) Carlisle Cathedral Statutes, dated April 2022.

⁷⁴² See Statute 43(4) Southwark statutes.

⁷⁴³ Statute 45(4) Southwell Minster statutes.

⁷⁴⁴ Statute 37(2) York Minster. statutes

Many cathedral statutes are silent regarding both appointment and duties of the lay clerks. The statutes of St Paul's are typical of cathedrals falling within this category,⁷⁴⁵ as are Gloucester, Worcester, and Norwich.⁷⁴⁶

From the responses received to the Cathedral Questionnaires, it is clear that, in practice, the lay clerks' duties are set out in their employment contracts.⁷⁴⁷ However, they vary in the procedure and who determines those duties.⁷⁴⁸ They were all unanimous that the lay clerks' duties include: singing at a set number of rehearsals and services.⁷⁴⁹

In summary, whilst the cathedral statutes vary in the level of detail about the lay clerks/choral scholars' appointment and duties, general principles can be extracted from the cathedral statutes. Their appointment is in the keeping of chapter, either by means of a duty or a power. Furthermore, their duties include: singing at specified cathedral services and additional special services as required, as well as attending rehearsals to prepare for such services.

4.2.7 Child Choristers

In addition to the lay clerks, who sing the alto, tenor and bass lines, the cathedrals have historically appointed child choristers to sing the treble line. Today, they appoint a number of boy choristers, girl choristers or a mixture of both, often selected from a school attached to

⁷⁴⁵ For example, Statute 47 (dealing with "Music, Choir etc") of St Paul's statutes are silent regarding the appointment or duties of the Lay Clerks and Choral Scholars.

⁷⁴⁶ Although in practice all of these cathedrals have lay clerks.

⁷⁴⁷ See question 32 of the Cathedrals Questionnaire, included at Appendix 3.

⁷⁴⁸ See question 31 of the Cathedrals Questionnaire, included at Appendix 3. In the majority of cathedrals this is decided by the Director of Music alone (in one case in consultation with the Precentor), in another two cathedrals the Chapter is also involved in setting out the duties, and in one instance this decision is through a collaboration of the Chapter, Dean, Precentor, Director of Music and Lay Clerks.

⁷⁴⁹ See question 33 of the Cathedrals Questionnaire, included at Appendix 3. In some cathedrals, the number of services and rehearsals or the number of hours' attendance is specified, in others this is set out as a requirement to sing in services 'as and when required' or 'as directed by the Director of Music'. Again, some cathedrals specified that they are required to provide a suitable deputy if they are unable to attend services, and some cathedrals set a maximum number of absences per term. One cathedral provided further specifications that they are 'to ensure fitness for duty by practising and learning the music beforehand; to undergo mandatory safeguarding training and other training as required by the cathedral'.

the cathedral. The Cathedrals Measure 2021 does not specifically require the appointment of child choristers.⁷⁵⁰ Cathedral legal instruments adopt varying approaches to issues relating to the choristers. This section considers cathedral legal instruments to identify norms governing the appointment, duties and provision for the educational needs of choristers.

4.2.7.1 Appointment

Regarding the appointment of choristers, the cathedral statutes can be divided into: those where the cathedral,⁷⁵¹ has a duty to appoint; those where chapter has a power, but not a duty to appoint whether through specifically providing for the appointment of choristers or through a general power; and those where the statutes do not mention their appointment, but where it is clear from other sources that choristers are appointed.

1. The Cathedral has a duty to appoint

Within this category, the cathedrals can be further divided into those where the director of music has a responsibility for appointing choristers, and those where chapter has this duty. York Minster's statutes are typical of cathedrals falling in the first category: 'The Choristers *shall* be chosen and entered as Probationers by the Director of Music after agreement with the Precentor'.⁷⁵² Similar provisions are contained in the statutes of St Edmundsbury,⁷⁵³ Canterbury,⁷⁵⁴ and Carlisle.⁷⁵⁵ At both Canterbury and Carlisle, whilst chapter determines the

⁷⁵⁰ As is the position regarding the Assistant Organist, Lay Clerks, Organ Scholars, and Choral Scholars.

⁷⁵¹ This may be stated to be the Chapter, the Director of Music and/or the Precentor. This distinction will be considered in more detail below.

⁷⁵² Statute 37(4) York Minster Statutes, dated 29 September 2022, <https://grpl-york-minster.s3.amazonaws.com/uploads/2023/08/YORK-MINSTER-Constitution-and-Statutes-in-force-with-effect-from-29-Sept-2022.pdf>, accessed 21 January 2024.

⁷⁵³ 'The Director of Music *shall* be responsible for the recruiting, appointing and training all the choristers'. Statute 58(3) St Edmundsbury Cathedral Statutes, dated January 2023.

⁷⁵⁴ 'Choristers, both boys and girls *will* be selected by the Director of Music and admitted as Probationers in the first instance. It is for the Chapter to determine the number of boy and girl choristers and Probationers, their age of admission and tenure'. Statute 42(4) Canterbury Cathedral Statutes, dated 26 July 2023, accessed 22 January 2024.

⁷⁵⁵ Which state: 'There shall be up to twenty boy choristers and up to twenty girl choristers and as many probationers as the Chapter may determine. The choristers shall be chosen and entered as probationers by the Director of Music in consultation with the Dean and, if approved, shall be appointed by the Chapter on the recommendation of the Director of Music'. Statute 35(6) Carlisle Cathedral Statutes, dated April 2022, accessed 22 January 2024.

number of choristers, it is the director of music who is responsible for selecting them (i.e. there is a duty to appoint, but the duty is placed on different entities/individuals).

In contrast, at Southwark, choristers ‘shall be appointed *by the Chapter* on the nomination of the Precentor and Director of Music upon such terms in respect of tenure, remuneration and duties as the Chapter may determine’.⁷⁵⁶ Similar provisions are made at Rochester.⁷⁵⁷ At both Southwark and Rochester it is chapter that has the duty to appoint the choristers.

Interestingly, at Rochester, chapter has a *discretion* to appoint lay clerks,⁷⁵⁸ whereas it has a *duty* to appoint choristers. It is odd that chapter does not have to appoint lay clerks, since it must appoint choristers and therefore arguably the cathedral must have a choir.

2. Chapter has a discretion to appoint

In the second category, are cathedral statutes which provide chapter with a power to appoint choristers. At Wells ‘the Chapter *may* appoint such number of choristers (boys and girls) on such terms and conditions as it *may*, from time to time, determine’.⁷⁵⁹ Winchester has similar provisions,⁷⁶⁰ as does Salisbury,⁷⁶¹ although at Salisbury, the choristers’ appointment is made on the recommendation of the precentor and director of music. In comparison, at Durham: ‘Chapter *may* provide for not more than twenty-two male Choristers and not more than twenty-two female Choristers and as many Probationers as it may determine’.⁷⁶²

Whilst the obligatory wording of Lichfield’s statutes appears to place a duty on chapter in relation to appointing choristers, this duty is to *consult* and consider how many choristers are necessary for the choir: ‘there shall be as many Boy/Girl Choristers and as many Boy/Girl

⁷⁵⁶ Statute 43(4) and 43(5) Southwark Cathedral Statutes, dated June 2022.

⁷⁵⁷ ‘The cathedral choir will include at least twenty boy and girl treble choristers who are pupils of King’s School Rochester and chosen *by the Chapter* in consultation with the School’. Statute 59(4) Rochester Cathedral Statutes, dated 6 November 2023.

⁷⁵⁸ Statute 59(2) of Rochester Cathedral states that ‘the Chapter may also appoint...Principal Lay Clerks and Deputy Lay Clerks and additional musicians and other staff to support the Cathedral choirs during sung services...’, see <https://static1.squarespace.com/static/5947b11429687fede4242124/t/65439975cf310424bb23d426/1698929018223/Statutes+-+Nov+2023.pdf>, accessed 20 January 2024, as discussed above.

⁷⁵⁹ Statute 33(1) Wells Cathedral Statutes, dated 30 November 2023, accessed 21 January 2024.

⁷⁶⁰ Statute 46(2) Winchester Cathedral Statutes, dated 4 July 2022, accessed 24 January 2024.

⁷⁶¹ Statute 46(3)(b) Salisbury Cathedral Statutes, dated July 2022, accessed 21 January 2024.

⁷⁶² Statute XXVIII Durham Cathedral Statutes.

Probationers as the Chapter shall deem necessary after consultation with the Precentor, the Director of Music and the Head of the Cathedral School'.⁷⁶³ It is only if Chapter concludes that additional choristers are necessary, that it is then under a duty to appoint.⁷⁶⁴

Finally, although Exeter's statutes do not specifically provide for the appointment of choristers, chapter has a general power to appoint musicians: 'The Chapter may appoint other musicians at its discretion and shall define their tasks'.⁷⁶⁵ This implies that it may also appoint choristers.⁷⁶⁶

3. Legal instruments are silent regarding appointment

The legal instruments of Bristol, Gloucester, Chichester, Winchester, Chelmsford, Coventry, Ely, Liverpool, Truro, and Worcester do not mention the choristers' appointment or their duties and responsibilities. Furthermore, there does not appear to be a general provision in their statutes for the appointment of 'musicians'. However, it is clear from the cathedral websites that choristers are appointed to the cathedral choirs.⁷⁶⁷

4.2.7.2 Duties

Once appointed, the cathedral statutes do not list the choristers' specific duties. Instead, in the vast majority, a general provision states their duties shall be determined chapter, as in the case of Lichfield,⁷⁶⁸ Exeter,⁷⁶⁹ Southwark,⁷⁷⁰ or Wells.⁷⁷¹ In comparison, whilst Canterbury's

⁷⁶³ Statute VII(4) Lichfield Cathedral Statutes.

⁷⁶⁴ In the event that Chapter concludes (after consulting with the Precentor and Director of Music), that no further choristers are required, then it would not be under a duty to appoint.

⁷⁶⁵ Statute 36(2) Exeter Cathedral Statutes, dated August 2023, accessed 23 January 2024.

⁷⁶⁶ Further, it is clear from the cathedral website that Exeter Cathedral does in fact appoint both boy and girl choristers to the choir: <https://www.exetercathedralschool.co.uk/choristers/>, accessed 18 December 2024.

⁷⁶⁷ For example, see <http://www.liverpoolcathedral.org.uk/home/cathedral-music/our-choir/joining-the-choir.aspx> where it states: 'Boys and girls sing separately but most often alongside professional lay clerks – gentlemen of the choir', accessed 2 February 2018.

⁷⁶⁸ Statute VII(4) Lichfield Cathedral Statutes.

⁷⁶⁹ See Statute 46(2) Exeter Cathedral Statutes, dated August 2023, accessed 24 January 2024.

⁷⁷⁰ Statute 43(4) Southwark Cathedral Statutes, dated June 2022.

⁷⁷¹ Statute 33(1) Wells Cathedral, dated 30 November 2023, (where the Chapter may appoint the choristers 'on such terms and conditions as it may, from time to time, determine').

statutes do not specifically state who determines the choristers' duties: 'The Choristers and Probationers will report to the Director of Music during the performance of their duties in the Cathedral'.⁷⁷² It seems the director of music determines their duties.

In comparison, Hereford's statutes state the choristers' duties: they 'shall sing, under the direction of the Organist, at such daily offices and on other occasions during term time and at other times as shall be reasonably required by the Organist'.⁷⁷³

Whilst Rochester's statutes place a duty upon chapter to appoint choristers, they are silent regarding the choristers' duties.⁷⁷⁴ Similarly, the statutes of Worcester,⁷⁷⁵ St Edmundsbury,⁷⁷⁶ and Southwell Minster,⁷⁷⁷ are silent regarding the choristers' role.

Since the various cathedral statutes do not set out in detail the choristers' precise duties, it is helpful to turn to other sources. The Cathedral Questionnaires addressed this question.⁷⁷⁸ None of the cathedrals responding to the Questionnaires have a written contract with the choristers (although as the choristers are under the age of 18, they could not enter into a contract).⁷⁷⁹ This is in contrast to the position of the director of music, assistant organist, and lay clerks, who all have written contracts setting out their remuneration, duties and rights.⁷⁸⁰ It therefore appears that in practice there is a distinction between positions where an

⁷⁷² See statute 42(5) Canterbury Cathedral statutes, dated 26 July 2023.

⁷⁷³ Statute VIII(3) Hereford Cathedral Statutes.

⁷⁷⁴ See statute 59 on the 'Music and Choir' in Rochester Statutes.

⁷⁷⁵ See statute 43 'Music, choirs etc' in Worcester Cathedral Statutes.

⁷⁷⁶ See statute 58 'Music, choirs etc' in St Edmundsbury's Statutes.

⁷⁷⁷ See statute 45(6) Southwell Minster Statutes.

⁷⁷⁸ See question 18 in the Cathedrals Questionnaires, included at Appendix 3.

⁷⁷⁹ The responses to question 18 of the Cathedrals Questionnaire indicated that whilst the Choristers do not have a contract, in many instances, the choristers and their parents are asked to sign an agreement setting out the terms of their commitment at the start of their term, but since they are not paid or remunerated for singing in the choir there is no formal employment contract.

⁷⁸⁰ In response to the Cathedrals Questionnaires, all 8 of the Cathedrals that responded had a written employment contract with their Director of Music, and Lay Clerks, and 6 had employment contracts with their Assistant Director of Music (7 of the Cathedrals interviewed had an Assistant DOM) and 6 had a written employment contract with their Organ Scholars (7 had Organ Scholars).

individual is remunerated, such as the Director of Music, or Organist and those who are not paid, but receive a scholarship, such as the Choristers.⁷⁸¹

4.2.7.3 Education and care of choristers

The statutes of most cathedrals make provision for the choristers' education and care. The statutes can be split into the following categories: (1) they specify a school at which the choristers will be educated; (2) they place a duty on chapter to make such provision for the choristers' education as it considers suitable; (3) chapter has a discretion to provide for the choristers' education; and (4) they are silent regarding the choristers' education.

An example of a cathedral falling into the first category is Norwich, whose statutes state: 'The probationers and choristers shall be educated at the Norwich School'.⁷⁸² Similar provisions are made at Lichfield,⁷⁸³ and St Pauls.⁷⁸⁴

Second are cathedrals where chapter has an obligation to provide for the choristers' education, but where it has a discretion to determine what education provision is suitable. At

⁷⁸¹ In the case of the former, there is a formal written employment contract setting out the terms of the position, whereas in the latter there is not an employment contract, but there may be a written document signed by the individual or their parents setting out the requirements of signing up to sing in the choir.

⁷⁸² 'The probationers and choristers shall be educated at the Norwich School (in accordance with the Deed of Amalgamation of the Choir School with the King Edward VI Grammar School (now Norwich School) in the close signed by the Dean and Chapter and the Governing Body of the said King Edward VI Grammar School on September 25th 1951 or any amendment thereof). They shall pass the Entrance Examination of the School and satisfy the Master of Music of their musical ability'. Statute XIX.3 Norwich Cathedral. Furthermore, in the event that it becomes impossible for the probationers and choristers to be educated at Norwich School, 'the Chapter shall make other arrangements for the education of the probationers and choristers'. Statute XIX.5 Norwich Cathedral Statutes.

⁷⁸³ Which state that as long as there is a Cathedral School, the Choristers shall be educated there according to the terms prescribed by any agreement reached between the Cathedral and the Cathedral School. The Chapter also has the power to pay money out of its income for the education, remuneration and maintenance of Choristers. Statute VII(5) Lichfield Cathedral Statutes.

⁷⁸⁴ 'the Chapter shall provide the required education at the School to enable the Choristers to play their full part in the liturgical and musical life of the Cathedral'. Statute XV St Paul's Cathedral Statutes.

Salisbury, chapter ‘*shall* make provision for the religious, general and musical education of the Choristers as it may consider suitable’.⁷⁸⁵ Chichester’s statutes are similar.⁷⁸⁶

In the third category, are cathedral statutes providing chapter with a discretion to make provision for the choristers’ education. Durham’s statutes are typical: chapter ‘may make such arrangements, financial or otherwise, for their education as it deems expedient.’⁷⁸⁷ Similarly, Wells’ statutes state: ‘The Chapter *may* make such provision for the education of choristers as it sees fit’.⁷⁸⁸

In the final category, the statutes are silent regarding the choristers’ education and care. Exeter’s statutes are silent in this regard.⁷⁸⁹ However, it appears that in practice Exeter makes similar provisions for choristers to the other cathedrals.⁷⁹⁰

In summary, choristers are appointed at all cathedrals to sing the treble line. Whilst cathedral legal instruments have differing levels of detail about the choristers’ selection and appointment, some general principles can be discerned. Chapter has a power and sometimes duty to appoint choristers and probationers to sing in the choir. The choristers may be selected from a specified cathedral school or may attend a local school. It is desirable that chapter makes provision for the choristers’ educational needs, whether this is through a school linked to the cathedral, or whether they are selected from a number of local schools.

⁷⁸⁵ Statute 46(4) Salisbury Cathedral Statutes, dated July 2022, accessed January 2024.

⁷⁸⁶ ‘The Chapter must make such provision for the religious, general and musical education of the choristers as it may consider suitable’. See statute 49(3) Chichester Cathedral Statutes, dated 26 July 2023.

⁷⁸⁷ Statute XXVIII Durham Cathedral Statutes.

⁷⁸⁸ Statute 33(3) Wells Cathedral Statutes, dated 30 November 2023. However, in practice, all the Choristers attend Wells Cathedral School, see <https://wells.cathedral.school/choristers/> which states “All Choristers are educated at Wells Cathedral School” – accessed 4 September 2024.

⁷⁸⁹ See, in particular Statute 36 Exeter Cathedral Statutes, dated August 2023, accessed 23 January 2024.

⁷⁹⁰ ‘Up to thirty-eight boy and girl choristers (aged between 7 and 13 years old) sing in the Cathedral Choir. All attend Exeter Cathedral School’. See information on Exeter Cathedral website: <https://www.exeter-cathedral.org.uk/music/choirs/cathedral-choir/>, accessed 2 February 2024. Thus, whilst the statutes do not specifically state that the chapter must make provision for the choristers’ education and care, in practice, this does in fact happen.

4.2.8 The Bishop

The Church of England teaches that since the time of the apostles there have been three orders in the Christian Church: bishops, priests and deacons.⁷⁹¹ The bishop is the chief pastor and principal minister,⁷⁹² in other words, he or she is the highest ranking minister and is in charge of the lower ranking priests in that diocese. A number of duties and rights attach to the office of bishop. Neither the Cathedrals Measure 2021, nor cathedral legal instruments expressly state how the bishop interacts with cathedral musical life. Nevertheless, there are two areas where the bishop may direct the cathedral's musical life in the exercise of wider functions found in the formal law: the first is regarding the selection of music in cathedral services which the bishop leads on the basis of provisions in the formal law;⁷⁹³ the second arises from the bishop's role as cathedral visitor, which is expressly addressed in the formal law, since music may be the object of a visitation. This section considers how the legal instruments direct the bishop's role in cathedral musical life, particularly in these two areas.

Firstly, regarding the bishop's input into ordering cathedral services, he/she has a discretion to officiate in the diocesan cathedral at certain specified services, and may control the ordering of those services - by implication this includes the musical elements. The Cathedrals Measure 2021 expressly states the bishop is given the principal seat and dignity in the cathedral,⁷⁹⁴ and that the bishop may, after consultation with chapter, officiate in the cathedral and use it in his/her work of teaching and mission, for ordinations and synods and for other diocesan occasions and purposes and the Measure requires cathedral laws to incorporate this.⁷⁹⁵ This position is mirrored in the cathedral domestic laws, which all follow the same pattern of wording.⁷⁹⁶ All the cathedral statutes state: 'the Bishop may (a) celebrate

⁷⁹¹ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018) 37.

⁷⁹² Canon C18.1 and C18.4.

⁷⁹³ Although this is a limited influence, since the Bishop is only entitled to direct a very limited number of services per year.

⁷⁹⁴ S.9(1) Cathedrals Measure 2021.

⁷⁹⁵ S.9(2) Cathedrals Measure 2021.

⁷⁹⁶ The Statutes of Coventry are typical of the wording adopted by all Cathedral Statutes: 'the Bishop continues to have the principal seat and dignity in the Cathedral'. See statute 16(1) Coventry Cathedral Statutes, dated 13 March 2023. And the Bishop 'may, after consulting the Chapter and subject to provision in the Statutes, officiate in the Cathedral and use it in his or her work of teaching and mission, for ordinations and synods and for other diocesan occasions and purposes.'. Statute 16(2) Coventry Cathedral Statutes.

Holy Communion in the Cathedral at a service on Christmas Day and Easter Day; (b) preach at, or appoint the preacher at, one of the services in the Cathedral on Christmas Day and Easter Day; (c) preach at, or appoint the preacher at, ordination services'.⁷⁹⁷ Accordingly, the bishop has a discretion to hold certain specified services at the cathedral. Although the majority of cathedral statutes do not explicitly state it, they, and custom, imply that the bishop directs how those services are conducted. Chester's statutes explicitly add that the bishop has control over ordering any services which he/she holds in the cathedral.⁷⁹⁸ Since the musical elements of the service are included in the 'ordering of the service',⁷⁹⁹ the episcopal right of control includes selecting the music.

Second, the bishop may direct the cathedral's musical life through his/her office as visitor under the 2021 Measure, since any element of cathedral life, including music, may be the object of a visitation. Under national law, each cathedral constitution must provide that the bishop holds the office of visitor of the diocesan cathedral.⁸⁰⁰ If, during a visitation, the bishop gives directions touching upon cathedral musical life, the dean, precentor, succentor and director of music have a statutory obligation to comply with such directions.⁸⁰¹ In this way, the bishop can direct the cathedral's musical life if he or she considers anything relating to the administration of music at the cathedral is failing.

It is for the bishop as visitor to hear and determine any question regarding the construction of the constitution or statutes.⁸⁰² He/she acts as an impartial check on those making decisions within the cathedral. Furthermore, under the 2021 Measure the bishop 'may hold a visitation of the cathedral (a) when the bishop considers it necessary or desirable to do so, or (b) when

⁷⁹⁷ See for example, Statute 1(3) Exeter Cathedral Statutes, dated August 2023. Identical provisions are contained in Statute 1(3) Carlisle Statutes; Statute 1(3) Durham Cathedral Statutes.

⁷⁹⁸ 'At any service which the Bishop holds he may determine the ordering thereof, preach or appoint the preacher and decide the object of the collection'. Statute 1(3)(c) Chester Cathedral Statutes. St Paul's Statutes have similar provision stating that 'the Bishop may, after consultation with the Chapter determine the ordering of a diocesan service and the objects of the collections made thereat, and in so doing the Bishop (i) may preach or appoint the preacher, and (ii) require the reasonable assistance of the ministers, officers and staff of the Cathedral'. See Statute 1(3)(d).

⁷⁹⁹ This topic is addressed in more detail in Chapter 3 under the heading 'Ordering of Services'.

⁸⁰⁰ S.10(1) Cathedrals Measure 2021.

⁸⁰¹ This is because their functions as Dean, Residentiary Canon and Director of Music have been conferred upon them by the Cathedrals Measure 2021 – see S.10(5) Cathedrals Measure 2021.

⁸⁰² S.10(2) Cathedrals Measure 2021.

requested to do so by the Chapter'.⁸⁰³ During a visitation he/she 'may give such directions to the Chapter, the holder of an office in the cathedral or a person employed by the Chapter or engaged to provide services in connection with the cathedrals will, in the opinion of the bishop, better serve the due observance of the constitution and statutes'.⁸⁰⁴ In the event that there are any questions regarding the construction of the cathedral legal instruments, the bishop has a duty to determine how they should be interpreted. This is important because the bishop only has a duty to interpret issues which are specifically set out in the constitution or statutes i.e. regarding posts specifically dealt with in the constitution or statutes. If the constitution or statutes do not explicitly deal with a position,⁸⁰⁵ then the bishop does not have a duty to determine issues arising. In contrast, the bishop has a power, but not a duty, to hold a cathedral visitation if he/she considers it desirable, or at chapter's request. In addition, he/she may give directions during the course of a visitation. Whilst national law does not explicitly state that this may be in relation to cathedral musical life, it also does not forbid him/her from considering issues relating to music. Therefore, music may be the object of a visitation. All the cathedral constitutions are required to follow the wording set out in the Cathedrals Measure 2021 regarding the bishop's role as visitor, and they do in practice.⁸⁰⁶

The Cathedrals Measure 2021 also explicitly states that any person whose role is conferred by Measure, i.e. the dean, precentor (as a residentiary canon), and director of music has a duty to comply with any decision made by the bishop relating to the constitution and statutes, or any direction given during the course of a visitation.⁸⁰⁷ In comparison, other members of the cathedral music department,⁸⁰⁸ which are not set out in the Cathedrals Measure 2021, do not explicitly have to comply with such direction from the bishop. However, given these individuals are under the precentor or director of music's direction, they would have a duty to follow any instructions provided by their heads of department. Therefore, arguably, all

⁸⁰³ S.10(3) Cathedrals Measure 2021.

⁸⁰⁴ S.10(4) Cathedrals Measure 2021.

⁸⁰⁵ For example, those cathedrals whose statutes are silent regarding the appointment or duties of the Assistant Organist, Organ Scholar, Lay Clerks, Choral Scholars, or the Choristers.

⁸⁰⁶ For example, the Constitution of Salisbury Cathedral is typical see Article 17(3).

⁸⁰⁷ S.10(5) Cathedrals Measure 2021: 'a person on whom a function is conferred by or under this Measure must, in exercising that function, act in accordance with a determination made under subsection (2) or a direction given under subsection (4)'.

⁸⁰⁸ Such as the Assistant Organist, Organ Scholar, Lay Clerks, Choral Scholars and Choristers.

individuals involved in the cathedral's musical life have an indirect obligation to follow directions given by the bishop during a visitation.

Finally, under national law, the bishop 'may commission a review of any aspects of the Cathedral's financial affairs, governance, management, operations or mission which the Bishop considers necessary or appropriate'.⁸⁰⁹ The bishop has a discretion to review anything within the cathedral that he/she feels necessary. Again, whilst it does not explicitly state the bishop may carry out a review of the cathedral's musical life, music may be the object of such a review if, for example, he/she felt that too much of the cathedral's finances were being directed towards music. Alternatively, this could be because music falls within the 'mission' of the cathedral.⁸¹⁰

In summary, there are two limited ways in which the diocesan bishop may direct the cathedral's musical life. The first is in relation to specified services which the bishop may hold at the cathedral: he/she may direct how those services are ordered, including the music within the liturgy. The second is through his/her role as cathedral visitor: music may be the object of a visitation, and the bishop may direct office holders within the Music Department, if he or she considers that aspects of the cathedral's musical life need to be addressed.

4.3 BODIES RELATING TO MUSICAL LIFE WITHIN THE CATHEDRALS

In addition to individuals involved in the cathedral's daily musical life, there are a number of bodies or groups which interact with the cathedral choir and influence cathedral music. This section addresses the extent to which national law and cathedral legal instruments govern the relationship between these bodies and cathedral music. First, it considers the body involved in the internal governance of the cathedral: chapter, and the extent to which it is involved in governing cathedral music.⁸¹¹ Secondly, it considers how the legal instruments address bodies linked to cathedral music: the foundation (internal);⁸¹² and the cathedral school (external).⁸¹³

⁸⁰⁹ S.9(6) Cathedrals Measure 2021.

⁸¹⁰ See section 4.1.2 above regarding the objects of the cathedral.

⁸¹¹ And the extent to which it directs the musical life of the cathedrals.

⁸¹² And whether this body has any impact upon the Cathedral Musicians.

⁸¹³ And its relationship with the cathedral.

Thirdly, it looks at choral entities linked to cathedral music, such as voluntary choirs, visiting choirs, Friends of the Cathedral, the Choir Associations, Musical Outreach Programmes and the Association of English Cathedrals. It considers the extent to which these bodies are governed by cathedral legal instruments and the influence they have over cathedral musical life.

4.3.1 The Chapter

Chapter ‘is at the heart of the Cathedral’s corporate and spiritual life’,⁸¹⁴ and is described as the ‘administrative powerhouse’ of a cathedral.⁸¹⁵ The Cathedrals Measure 2021 states: ‘for each cathedral, there is to continue to be a body established by the constitution called the Chapter’, which ‘must direct and oversee the administration of the affairs of the cathedral’.⁸¹⁶ On the face of it, chapter is not directly involved in the cathedral’s musical life. However, chapter’s duty to direct the cathedral’s administration and affairs includes oversight of the music in worship. In addition, and as seen above, chapter has a power to determine the number and duties of cathedral musicians. Therefore, it directly influences the cathedral’s musical life. This section considers how the legal instruments govern chapter’s involvement in the cathedral’s musical affairs. First, it looks at chapter members, and the extent to which those involved in cathedral music are involved in chapter’s decision-making. Second, it considers chapter’s duties, and influence on cathedral musical life.

Firstly, schedule 1 of the Cathedrals Measure 2021 sets out chapter’s composition: (a) the dean; (b) the residentiary canons; and (c) such other persons as are appointed or elected in accordance with the Measure.⁸¹⁷ Accordingly, the cathedral constitutions are required to follow identical wording to the Cathedrals Measure.⁸¹⁸ Members listed in (a) and (b) are ‘executive members’,⁸¹⁹ whilst those listed in (c) are ‘non-executive members’.⁸²⁰ A cathedral must have more non-executive members than executive members. The precentor, as a residentiary canon, is included as a chapter member. Given the precentor’s role overseeing the cathedral’s daily liturgical and musical life, and having pastoral responsibility for the musicians, arguably there is representation from the cathedral choir on chapter. However, no other cathedral choir members are automatically included on chapter. Does this have an

⁸¹⁴ Statute 3(1) Chester Cathedral Statutes.

⁸¹⁵ Halsbury’s Laws of England, para 348.

⁸¹⁶ S.2(1) Cathedrals Measure 2021.

⁸¹⁷ S.1(1) Schedule 1 Cathedrals Measure 2021,

⁸¹⁸ See, for example, Article 4(1) Salisbury Cathedral Constitution; Article 4(1) Coventry Cathedral Constitution; Article 4(1) Derby Cathedral Constitution; Article 4(1) Exeter Cathedral Constitution, which state: ‘the members of the Chapter are - (a) the Dean, (b) the residentiary canons, and (c) whichever other persons are appointed in accordance with this constitution.’

⁸¹⁹ S.1(2) Schedule 1 Cathedrals Measure 2021.

⁸²⁰ S.1(5) Schedule 1 Cathedrals Measure 2021.

impact, in practice, on the cathedral's musical life? This was addressed in the Cathedral Questionnaires.⁸²¹ At the eight cathedrals responding to the Questionnaire the director of music does not sit on chapter and is not required to report to chapter on the selection of music. However, he/she is invited to attend chapter meetings and report on specific issues relevant to the cathedral's musical life, when considered beneficial.⁸²² At seven of the eight cathedrals responding to the Questionnaire it was not felt necessary for the director of music to be included as a chapter member.⁸²³ None of those responding felt that the lack of a provision for a musician specifically to attend chapter meetings has a detrimental effect on the music at their cathedrals. It is submitted that on balance, the level of representation for the choir at chapter is about right.

Secondly, chapter's duties are set out in the Cathedrals Measure 2021. Its primary duty is one of direction and oversight.⁸²⁴ The Measure then sets out more specific tasks that chapter must perform.⁸²⁵ Furthermore, in accordance with section 4(1) of the Measure, all cathedral constitutions state chapter's objects are: (a) to advance the Christian religion, by furthering the Church's mission; (b) to care for and conserve the fabric and structure of the Cathedral Church Building; and (c) to advance any other charitable purposes ancillary to (a) and (b). Whilst chapter's purpose and duties are not explicitly stated to include involvement in the

⁸²¹ See Questions 7, 8 and 9 in the Cathedrals Questionnaires, included at Appendix 3.

⁸²² Issues discussed at these meetings include: the music budget for the following year, organ maintenance, obtaining approval for choir tours, reporting on future plans for the choir, departmental restructuring which requires the creation of and financing of a new post, recruitment and retention of choristers, safeguarding procedures, or relationships with the Choir School.

⁸²³ The responses indicated that the Director of Music is able to influence decisions made by Chapter even though he or she is not actually a member. This is through his or her close working relationship with the Precentor who is a member of Chapter. Furthermore, the Chapter would expect to consult the Director of Music about any issues affecting the music department prior to decisions being made. One response indicated that 'music is part of the executive function of the cathedral and therefore not the purview of the chapter, whose role is governance. Issues pertaining to the music and music department are dealt with at Chapter by the Precentor, to whom the Director of Music reports, so the department is represented there, but does not have a seat any more than the education department or events staff do'.

⁸²⁴ S.11(1) Cathedrals Measure 2021.

⁸²⁵ This includes to: (a) order the worship of the cathedral and promote its mission; (b) formulate, after consultation with the bishop, proposals relating to the general direction and mission of the cathedral; (c) prepare an annual budget for the Chapter; (d) prepare an annual report for the Chapter and annual accounts for audit and subsequent approval; (e) keep under review the constitution and statutes; (f) manage the property vested in the Chapter and the income accruing from it and, in particular, ensure that necessary repairs and maintenance in respect of the cathedral and its contents and other buildings and monuments are carried out. S.11(1) Cathedrals Measure 2021.

cathedral's musical life, music is one of the core ways in which the cathedrals seek to further the Church's mission. In addition, since chapter must order the cathedral's worship, this includes ordering music within the liturgy. Finally, the requirement to manage property vested in the cathedral, and ensure necessary repairs and maintenance are carried out, includes the maintenance and repair of the cathedral organ and other musical instruments owned by the cathedral, as well as music books and scores, and choir robes necessary for the cathedral choir.

Finally, as seen above,⁸²⁶ one of the most significant influences chapter has over cathedral musical life is through its powers and duties to appoint cathedral officers and staff.⁸²⁷ As well as responsibility for appointing cathedral musicians, chapter is responsible for determining the terms on which those musicians will serve, including length of office, remuneration, and duties.⁸²⁸ Furthermore, chapter may maintain a school for the choristers' education or make such other arrangements as may be necessary.⁸²⁹

In summary, whilst not explicitly apparent from the Cathedrals Measure 2021, legally chapter has a significant influence over cathedral musical life, since it is ultimately responsible for appointing the cathedral musicians, such as the director of music, organists, lay clerks and choristers, and through its responsibility for oversight of all aspects of cathedral life (including the services). The cathedral legal instruments are uniform in their treatment of those who are chapter members and regarding chapter's purpose and duties. However, in practice it seems that chapter's involvement in the music department, including in relation to selecting music for services, and in the appointment of musicians is limited.⁸³⁰

⁸²⁶ This has been considered in more detail in the section above addressing the appointment and duties of the individuals involved in the musical life of the Cathedrals.

⁸²⁷ Such as the director of music, assistant organists, lay clerks, child choristers, and organ scholars for example. This has been addressed in much more detail above. By way of example, Carlisle's Constitution sets out that the Chapter has a duty 'to attend to all matters concerning the appointment of staff by the Cathedral'. See, Statute 35 Carlisle Cathedral Statutes. In addition, at Chichester, the constitution states that Chapter is responsible for appointing the Organist and Master of the Choristers, as well as determining his or her tenure, remuneration and duties. See Article 27 of Chichester Cathedral's constitution

⁸²⁸ See the relevant sections on the Director of Music, Assistant Organist, Lay Clerks and Choristers above.

⁸²⁹ This has been dealt with in more detail under the heading "Child Choristers" above.

⁸³⁰ In response to question 6 of the Cathedrals Questionnaire, all 8 of the cathedrals responding indicated that chapter had no involvement in the selection of music. See appendix 3.

4.3.2 The Foundation

The cathedrals distinguish the ‘body corporate’, namely chapter,⁸³¹ which has legal personality and is responsible for the cathedral’s corporate governance, from the ‘foundation’, which includes everyone involved in the cathedral’s life.⁸³² Membership of the ‘Foundation’ does not confer any additional rights or duties on individuals,⁸³³ and the cathedral legal instruments do not set out any specific rights and duties attaching to members of the cathedral foundation beyond listing which individuals are members.

Whilst ‘the Foundation has no role in the governance of the Cathedral, its purpose is to draw more closely into its common life those who are principally involved in its mission, and to enrich the common life with mutual service’.⁸³⁴ Furthermore, the Choral Foundation ‘helps to provide superb musical opportunities for the choristers, choral and organ scholars, lay clerks and singing men of the choir; it is responsible for ensuring a secure financial base for the development of music at Chelmsford Cathedral’.⁸³⁵ Therefore, its purpose is to draw those involved in cathedral life more closely into its mission and to foster a sense of common identity.

⁸³¹ S.2(2) Cathedrals Measure 2021.

⁸³² And this includes all those involved in the musical life of the cathedral: the Precentor, Director of Music, Organist and Organ Scholar, as well as the Lay Clerks, Choral Scholars and Child Choristers. For example, Derby’s Constitution states that the Cathedral Foundation is a body the members of which include: ‘(a) the members of the Chapter; (b) members of the College of Canons; (c) the Chief Officers; (d) the members of the Cathedral Choir including the Director of Music, the organist and any deputy organist; (e) the Vergers; and (f) such other persons who share in the day to day life and worship of the Cathedral as the Chapter shall from time to time determine.

⁸³³ For example, the Preamble to Derby’s Constitution states that membership of the Foundation is purely honorary and contains no vested rights, but members are expected to adhere to the objects of the Cathedral as stated in Article 3 of the Constitution and to do their utmost to promote the work and to preserve the dignity and honour of the Cathedral’. Derby Constitution, Preamble, dated 22 March 2022, see <https://derbycathedral.org/app/uploads/2023/10/Untracked-Constitution-Approved-by-Church-Commissioners-for-submission-to-Charity-Commission-.pdf>, accessed 3 February 2024

⁸³⁴ See the Preamble to Salisbury Cathedral’s Constitution.

⁸³⁵ <http://www.chelmsfordcathedral.org.uk/choral-foundation-1.html>

4.3.3 The Cathedral School

There are many books studying the various cathedral schools, focusing on the history of the school.⁸³⁶ In addition, Doe's *The Legal Architecture of English Cathedrals* has a section dealing with the cathedral schools and their relationship with the cathedral.⁸³⁷ This section builds on Doe's findings and the primary sources to address this relationship. Many cathedrals have close connections with a 'Cathedral School' or local schools from which choristers are selected. However, the majority of cathedral legal instruments, are silent regarding the relationship between cathedral and cathedral school. The cathedrals fall into three categories regarding their treatment of this relationship: (1) a minority make provision for the relationship with the cathedral school in their statutes; (2) others which have a relationship with a specific school, but their statutes are silent regarding this relationship; and (3) cathedrals which draw choristers from a number of local schools, and so do not have any provisions in the statutes about a specific school.

Falling within the first category, Rochester's statutes have detailed provisions regarding its relationship with King's School Rochester, which provides choristers for the cathedral choir.⁸³⁸ Chapter members who are appointed as governors of King's School Rochester must pay due regard to the provisions of the cathedral's constitution dealing with conflicts of interest.⁸³⁹ This is mirrored in the school's articles of association.⁸⁴⁰ A certain number of chapter members are governors of the school, and may influence decision-making at the school. The fact that Rochester's statutes specifically mentions the close relationship with King's School, and makes provision for chapter members to be appointed as governors highlights the close relationship between the two institutions and helps maintain that close relationship.

⁸³⁶ For example, A. Colchester and D. Tudway Quilter, *A History of Wells Cathedral School* (Wells Cathedral School, Wells, 1985); or L. Darbyshire, *A Brilliant Foundation for Life: A Portrait of Wells Cathedral School* (Third Millennium, Wells, 2008); or R. Coulson, *The History of King's School Rochester* (London, 1989); or H. Tomlinson, *Hereford Cathedral School: A History over 800 years* (Logaston Press, London, 2018) to name a few.

⁸³⁷ N. Doe, *The Legal Architecture of English Cathedrals* (Routledge, London, 2018) 175 -180.

⁸³⁸ See provision in Statute 59(4) Rochester Cathedral Statutes, dated November 2023.

⁸³⁹ See Statute 55(1) Rochester Cathedral Statutes, dated November 2023.

⁸⁴⁰ These state that the school shall be conducted in accordance with the cathedral's statutes and the consent of the dean and canons residentiary. Article 53 King's School Rochester Memorandum and Articles of Association

Whilst Portsmouth's legal instruments are silent regarding its relationship with a cathedral school, it has close links to Portsmouth Grammar School, from which the majority of the choristers are selected.⁸⁴¹ Similarly, although Southwell Minster's legal instruments are silent regarding a cathedral school, it has close relations with two schools.⁸⁴² This is also the case with Truro,⁸⁴³ Gloucester,⁸⁴⁴ Hereford,⁸⁴⁵ Durham,⁸⁴⁶ and St Pauls.⁸⁴⁷

At a number of cathedrals, choristers are selected from many different schools across the diocese, examples include Liverpool,⁸⁴⁸ and Birmingham.⁸⁴⁹ Here, the cathedral does not have close relations with one particular school. Therefore, no provision is made regarding a specific cathedral school in the cathedral legal instruments.

In summary, whilst many cathedrals have close links with a specific cathedral school, this is often not reflected in the cathedral's legal instruments. The majority of cathedral legal instruments are silent regarding a relationship with a specific cathedral school. However, it is clear from many cathedral websites that choristers attend a specific cathedral school. In these instances, it would be beneficial for the cathedral legal instruments to mention the cathedral

⁸⁴¹ <https://portsmouthcathedral.org.uk/cathedral-choir> Furthermore, Portsmouth Cathedral and Portsmouth Grammar School appoint a number of gap year students as Choral Scholars or as the Michael James Organ Scholar at the Cathedral jointly with the role of Departmental Assistants at the Grammar School - <https://portsmouthcathedral.org.uk/cathedral-organ-scholarships>

⁸⁴² The choristers (both boys and girls) are educated at the Minster School's Junior Department from the age of 7 – 11, and then when they reach year 7 they move to the Minster School, a Church of England Maintained Comprehensive School. Information obtained from website: <http://www.southwellminster.org/minster-choir-2.html>

⁸⁴³ <http://trurocathedral.org.uk/day-to-day/choir.html> - boy choristers are educated at Truro Prep School, and girl choristers attend Truro School

⁸⁴⁴ Choristers attend the King's School in Gloucester – see <https://gloucestercathedral.org.uk/worship-and-community/cathedral-music/choirs-and-musicians/cathedral-choristers> accessed 6 September 2024.

⁸⁴⁵ Hereford Cathedral's choristers attend Hereford Cathedral Schools, see: <https://www.herefordcs.com/admissions/becoming-a-chorister/> accessed 21 December 2024.

⁸⁴⁶ Choristers of Durham Cathedral are educated at the Durham Cathedral Schools Foundation, see <https://www.durhamcathedral.co.uk/explore/music-at-the-cathedral/cathedral-choir-2> accessed 20 December 2024.

⁸⁴⁷ Choristers selected for St Paul's Cathedrals are educated at St Paul's Cathedral School: <https://www.stpauls.co.uk/our-choirs> accessed 20 December 2024.

⁸⁴⁸ See <http://www.liverpoolcathedral.org.uk/home/cathedral-music/our-choir.aspx> accessed 3 February 2018.

⁸⁴⁹ See <http://www.birminghamcathedral.com/cathedralchoir/> 'We have no choir school so our choristers come from many different schools and their diversity reflects the diversity of the city'.

school, to help protect the close relationship between cathedral and school, thus formalising the relationship.

4.3.4 Choral Entities

In addition to the main cathedral choir, as a matter of cathedral practice, there are a number of additional choral entities contributing to cathedral musical life. These include: (a) voluntary choirs, consisting of amateur adult singers, who sing at services when the cathedral choir is not available; (b) visiting choirs, which may sing at a specific services; (c) the Friends of the Cathedral; (d) the Cathedral's Choir Association; and (e) Musical Outreach Programmes. In addition, the Association of English Cathedrals provides resources to cathedrals on a national level.⁸⁵⁰ The cathedral legal instruments do not include specific provisions regarding these entities. In addition, the 1994 *Report on Cathedrals* does not address these entities, except to commend the work of the Friends of the Cathedrals, and to recommend that the cathedrals should utilise their assistance.⁸⁵¹ However, they all influence cathedral musical life, particularly through supporting those involved in cathedral music. This section addresses the influence of these entities on the musical life of the cathedrals.

Firstly, regarding voluntary choirs, the cathedrals can be divided into those whose statutes make provision for voluntary choirs, and those whose statutes are silent. The statutes of a small number of cathedrals make explicit provision for voluntary choirs. At Carlisle: 'the Chapter may if it wishes establish other choirs upon such terms as it may decide'.⁸⁵² Whilst the statutes have minimal provisions for establishing a voluntary choir, this provides chapter with flexibility to make provisions for voluntary choirs depending on the cathedral's musical needs. In the majority of other cathedrals, the legal instruments are silent regarding

⁸⁵⁰ Whilst the Royal School of Church Music provides useful resources for musicians involved in Cathedrals, this is a resource which is available to all churches. It is not a resource specific to cathedrals, and so is not considered in detail in this chapter.

⁸⁵¹ *Heritage and Renewal: The Report of the Archbishops' Commission on Cathedrals* (Church House Publishing, London, 1994) 172.

⁸⁵² Statute 35(7) Carlisle Cathedral Statutes, dated April 2022.

provisions for a voluntary choir, although it is clear that the majority do have additional choirs.⁸⁵³

Second, all cathedral legal instruments are silent regarding provisions for visiting choirs. Information for visiting choirs wishing to sing at the cathedral can be found on the cathedral websites.⁸⁵⁴ This is not surprising since this is an administrative issue which is not explicitly related to the cathedral choir. However, provisions in this regard could be tied in with mission and outreach of the cathedral as mother church of diocese.

Thirdly, the majority of cathedrals have a charitable group, called the ‘Friends of the Cathedral’, whose purpose is to provide financial support and to help maintain its fabric. This includes providing funds for projects associated with the Cathedral Choir.⁸⁵⁵ These groups organise regular events to help raise funds for maintenance and specific projects within the cathedrals.⁸⁵⁶ All cathedral legal instruments are silent regarding provisions for this entity. However, information about the Friends of the Cathedral can be found on the cathedral websites.

Fourthly, a number of cathedrals have a ‘Choir Association’ which is founded to support and enhance the work of the Cathedral Choir. The purpose of this group is to raise funds to assist

⁸⁵³ For example, whilst there is no provision for an additional choir in Ely’s constitution and statutes, the cathedral website makes it clear that Ely Cathedral also has the “Ely Cathedral Octagon Singers”, and the “Ely Imps”. Similarly, Portsmouth Cathedral Cantate sing evensong on Thursdays during term time <https://www.portsmouthcathedral.org.uk/cathedral-cantate>, as well as different arrangements being made at St Edmundsbury, Bristol and Winchester, although none of these cathedral constitutions or statutes make specific provision for these choirs.

⁸⁵⁴ <http://www.cathedral.southwark.anglican.org/worship-and-music/music/the-choir/visitng-choirs/>

⁸⁵⁵ For example, the Friends of Worcester Cathedral assist the musical life of the Cathedral by giving an annual musical grant. For the 2015/2016 year, this was £15,000. In addition to this grant, in 2014 the Friends paid £10,000 towards a choral scholarship. Information on the website: <http://www.thefowc.org.uk> - accessed 2 September 2017. Alternatively, they may assist by providing scholarships for the choristers, or paying the expenses of the choristers, as is the case with Winchester Cathedral. See <http://www.winchester-cathedral.org.uk/join-us/become-a-friend> accessed 26 January 2024. Or contributing towards purchasing a minibus for the choir or instruments for the choir, such as a chamber organ, see <https://www.canterbury-cathedral.org/support-us/friends/what-do-friends-do> - accessed 19 September 2017.

⁸⁵⁶ For example, the Friends of Worcester Cathedral was set up in 1931 by the then Dean of the Cathedral for the purpose of supporting ‘the fabric, music and life of the Cathedral both financially and by the giving of voluntary service to its many functions’ <http://www.thefowc.org.uk> - accessed 2 September 2017.

the choir with additional projects, and helping to raise the profile of the choir.⁸⁵⁷ One of the aims is to maintain the cathedral musical tradition to the highest possible standard, and to raise the public's interest in the English Cathedral Choral tradition.⁸⁵⁸ This is achieved through various fundraising events, including concerts at the cathedrals.⁸⁵⁹

Fifthly, a number of cathedrals also have a 'musical outreach programme', which aims to promote music within the local community, bringing music to children who would otherwise be unlikely to experience it.⁸⁶⁰ Whilst none of the cathedral legal instruments make specific provisions for setting up a musical outreach programme, chapter has a general power to establish any additional committees that are considered necessary.⁸⁶¹

Sixthly, all 42 cathedrals are members of the Association of English Cathedrals (AEC). The AEC was founded in 1990 as an unincorporated association, whose purpose was to support the cathedrals and provide additional resources, in order to 'raise the profile, and resource the

⁸⁵⁷ For example, the Worcester Cathedral Choir Association (WCCA) which was established in the 1980s to support and enhance the work of the Cathedral Choir, and has raised significant sums of money since it was set up and this has enabled the choir to go on tours to Europe, America and South Africa, as well as providing facilities and support for local events. Information obtained from WCCA website: http://www.worcestercathedral.co.uk/Choir_Assoiation.php> accessed 17 December 2017. Similarly, Bristol Cathedral has the Choral Foundation, which was formed in the 1970s with the aim of raising funds to support the Cathedral Choir. Initially, this was in the form of providing grants towards school fees for choristers, and now this is by way of providing bursaries to choristers and probationers. This charitable group focuses on supporting the music in Bristol Cathedral. Information obtained from <https://bristol-cathedral.co.uk/support-us/choral-foundation> - accessed 19 September 2017.

⁸⁵⁸ See for example, information on Durham Cathedral's website: 'This charitable association has helped fund the Cathedral Choir, as well as the voluntary Consort of Singers, and the Musical Outreach Programme'. Information obtained from <https://www.durhamcathedral.co.uk/worshipandmusic/cathedral-choir/durham-cathedral-choir-association> - accessed 21 October 2017.

⁸⁵⁹ <http://www.chelmsfordcathedral.org.uk/choirs-association-1.html>

⁸⁶⁰ For example, Carlisle Cathedral's musical outreach programme: the 'Singing Out' programme aims to take singing skills out into the local community to ensure that good quality singing is available to primary school children throughout the local area. Singing teachers from the Cathedral go into local primary schools, to provide opportunities for children to perform at the cathedral, and conducts singing training sessions with teachers. Information obtained from Cathedral website: http://www.carlislecathedral.org.uk/chorister_outreach_programme - accessed 17 October 2017. Portsmouth, Southwell Minster, Liverpool, and Guildford Cathedrals also have similar outreach programmes.

⁸⁶¹ For example, Southwell Minster Constitution states: 'the Chapter may from time to time establish committees or sub-committees of the Chapter', and 'the composition, charring and proceedings of any such committees or sub-committees are set out in the statutes'. See Article 30(1) and 30(3) Southwell Minster Constitution, dated October 2023.

mission and ministry potential’ of the Cathedrals.⁸⁶² The AEC is not associated with any particular cathedral, and cathedral legal instruments are silent with regards this entity. However, the AEC promotes the musical life of the cathedrals and has a section dedicated to Choral Evensong on its website.⁸⁶³

In summary, there are a number of additional financial and educational entities which influence the musical life of the cathedrals. Both national law governing the cathedrals, and the cathedral domestic legal instruments are silent regarding these entities. However, they have a significant impact on the cathedrals’ daily musical life.

CONCLUSION

This chapter assesses the cathedral legal instruments and other sources to consider what provision is made for cathedral musical life. The starting point is the Cathedrals Measure 2021. This sets out that there are certain offices for which all cathedral constitutions and statutes must make provision.

This chapter considers the cathedral legal instruments to establish music’s importance within the cathedrals. It then looks at the legal instruments governing the individuals involved in cathedral music, before finally assessing the cathedral bodies which are involved in cathedral musical life.

Firstly, the cathedral legal instruments implicitly establish that music is central to the worshipping life and mission of the cathedrals. Whilst they may not explicitly set out the importance of music within cathedral life, it is clear that they do recognise the essential role music plays in cathedral life.

Secondly, the Cathedrals Measure 2021 regulates the bishop, dean, precentor and director of music. The dean has oversight, including of the musical elements of cathedral life, which

⁸⁶² See <https://www.englishcathedrals.co.uk/about-us/>.

⁸⁶³ <https://www.englishcathedrals.co.uk/latest-news/category/choral-evensong/> accessed 24 August 2024.

extends to overseeing the cathedral musicians and music in worship. The precentor is head of the Music and Liturgy department and responsible for overseeing the cathedral's worshipping and liturgical life. In contrast, the bishop's involvement in cathedral musical life is much more limited, although he may influence the music at the cathedral through his role as visitor and in ordering select services throughout the year. The director of music supervises cathedral music. The cathedral constitutions and statutes follow closely, the requirements set out in the national legislation in relation to these roles.

The Cathedrals Measure 2021 is silent regarding other areas of cathedral musical life, such as the appointment and duties of assistant organists, lay clerks and choristers. It is in these areas that cathedral legal instruments vary in their governance of these roles. However, norms can be deduced about how the legal instruments treat these musicians. The majority of cathedrals appoint an assistant organist and/or organ scholar to assist the director of music in cathedral music. Chapter has power to appoint an assistant organist/organ scholar, and in all cases, their role is to assist in provision of cathedral music. The appointment of lay clerks and organ scholars is in the keeping of chapter, either through a duty or power. Furthermore, the lay clerks and choral scholars' duties include: singing at specified cathedral services and additional special services, as well as attending rehearsals to prepare for such services. Finally, choristers are appointed at all cathedrals to sing the treble line in the cathedral choir. Chapter has a power, to appoint a specified number choristers and probationers. Choristers may be selected from a specified cathedral school, or attend a local school. I suggest that in the case of all choristers, it is desirable that chapter makes provision for their educational needs, whether this is through a school linked to the cathedral, or at a number of local schools.

Thirdly, there are a number of bodies involved in cathedral musical life. Whilst, not immediately apparent from the Cathedrals Measure 2021, chapter has significant influence over cathedral musical life, since it is ultimately responsible for appointing the musicians and overseeing all aspects of cathedral life (including the music). Therefore, it has the ability to shape the cathedral choir, and thus influence cathedral music. There are also a number of additional entities with a significant role in cathedral musical life. These include choral entities such as voluntary choirs, and visiting choirs, Friends of the Cathedral the Choir Association, Musical Outreach Programmes, and the Association of English Cathedrals.

Neither the Cathedrals Measure 2021, nor cathedral legal instruments make explicit provisions for these entities, although they are essential to cathedral music.

All cathedral legal instruments make significant provision for the appointment of musicians, ministers, and bodies involved in the cathedral's musical life. These instruments leave flexibility for chapter and those in charge of music to adapt any requirements to suit the needs of the cathedral community. Thus legal regulation plays a significant role in shaping the musical life of the cathedrals, through making provision for the appointment and duties of individuals and ministers involved in cathedral music.

CHAPTER 5 - THE REGULATION OF MUSIC AT OXFORD AND CAMBRIDGE COLLEGE CHAPELS

INTRODUCTION

The importance of the Oxford and Cambridge college chapels to the worshipping life of the Church of England is clear.⁸⁶⁴ The high quality and varied music in services is one of the most important aspects of worship in the college chapels. There have been many studies of the Oxford and Cambridge colleges. Some scholars, such as Elliott and Agarwal,⁸⁶⁵ provide an overview of each of the colleges for prospective students. Others, such as Brockliss,⁸⁶⁶ provide a detailed account of one particular college's history. Others focus on the architectural history of an individual college.⁸⁶⁷ The Commissioners for the University of Oxford have published a book on the statutes.⁸⁶⁸ However, none provide a critical comparison of the college statutes, nor a detailed review of the legal framework governing the musical life in the college chapels. The 1992 *Report of the Archbishops' Commission on Church Music*,⁸⁶⁹ does not consider music in these college chapels at all, despite their obvious impact on the Church of England's musical life. This is an area that has not received detailed consideration by law and religion scholars. The time is ripe for this lacuna to be addressed within the framework of regulation of music in the Church of England. This chapter therefore is an original contribution to knowledge providing a comprehensive

⁸⁶⁴ A number of the college chapel choirs have been influential in highlighting the importance of English Church music to the world. For example, millions tune in to watch the King's College Nine Lessons and Carols which is broadcast on the BBC on Christmas Eve every year. In addition, the tradition of Magdalen College Chapel Choir singing from Magdalen College Tower on May Morning has become extremely popular, and thousands of people attend on Magdalen bridge each year to hear the choir sing madrigals (it is estimated that some 16,000 gathered under the tower in 2023 to hear the choir). This demonstrates the importance of the Oxford and Cambridge College Choirs in bringing church music to people who might not otherwise experience this tradition.

⁸⁶⁵ M. Elliott, and Dr R. Agarwal, *The Ultimate Oxbridge College Guide: The Complete Guide to Every Oxford and Cambridge College* (2020).

⁸⁶⁶ L. Brockliss, *Magdalen College Oxford: A History* (Magdalen College, 2008).

⁸⁶⁷ For example, see A. Vallance, *The old colleges of Oxford: their architectural history illustrated and described* (London, Batsford, 1912); or H. Wayment, *King's College Chapel Cambridge and the Great Windows* (King's College, 1992).

⁸⁶⁸ University of Oxford, Commissioners, *Statutes Made for the University of Oxford, and for the Colleges and Halls therein* (Arkose Press, 2015).

⁸⁶⁹ *In Tune With Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, London, 1992).

consideration and analysis of the regulation of music within the Oxford and Cambridge College Chapels, as well as identifying problems with the law in practice and suggesting areas for improvement or reform within the college legal instruments.

This chapter reviews the legal framework of music in the Oxford and Cambridge college chapels. First, considering how the colleges' legal instruments provide for divine service, the maintenance of a chapel choir, and how college objects demonstrate music's importance within chapel life. Secondly, it looks at how the college legal instruments govern individuals involved in chapel musical life. Thirdly, it considers how chapel music is influenced by the corporate bodies governing the college chapels, and bodies set up to further the needs of the chapel choir.

Before turning to the specific colleges, it is necessary to consider the bigger picture. Each college is part of Oxford or Cambridge University. Both universities are governed by national legislation: The Oxford University Act 1854 and The Cambridge University Act 1856. In addition, each University is governed by its own statutes, which set out provisions for issues such as the legal status of the University,⁸⁷⁰ membership,⁸⁷¹ which colleges are part of the University,⁸⁷² degrees conferred,⁸⁷³ and a code of discipline for students and academic staff.⁸⁷⁴ On the face of it, this national legislation and the University Statutes do not specifically address the musical life of college chapels. Instead, musical life in the college chapels and any legal provisions relating to the office holders and students who are involved in those college chapels are set out in the individual college statutes, bylaws, ordinances, or regulations. Further information about chapel life, in particular, the musical life of the chapel

⁸⁷⁰ Preface: Constitution and Statute making powers of the University; Oxford University Statutes: <https://governance.admin.ox.ac.uk/legislation/preface-constitution-and-statute-making-powers-of-the-university#collapse1380371>

⁸⁷¹ Statute II: Membership of the University, Oxford University Statutes: <https://governance.admin.ox.ac.uk/legislation/statute-ii-membership-of-the-university>

⁸⁷² Statute V: Colleges, Societies, and Permanent Private Halls, Oxford University Statutes: <https://governance.admin.ox.ac.uk/legislation/statute-v-colleges-societies-and-permanent-private-halls#collapse1381511>

⁸⁷³ Statute X: Degrees, Diplomas, Certificates: Oxford University Statutes: <https://governance.admin.ox.ac.uk/legislation/statute-x-degrees-diplomas-and-certificates>

⁸⁷⁴ Statute XI: University Discipline: Oxford University Statutes: <https://governance.admin.ox.ac.uk/legislation/statute-xi-university-discipline-0#collapse1556036>

can be found on the individual college websites and from Annual Reports and Financial Statements.

It is necessary to divide the colleges into categories to compare how individual colleges deal with the governance of music in their chapel, and to ensure that I am comparing like with like. They fall into three categories: the Choral Foundation Colleges which maintain the tradition of boy trebles singing the top line;⁸⁷⁵ college chapels with a “professional” director of music employed to run chapel music;⁸⁷⁶ and college chapels without an employed director of music, where the chapel choir is directed by a student organ scholar, usually under the supervision of the dean or chaplain.⁸⁷⁷ I have reviewed the legal documents of as many of the Oxford and Cambridge colleges as possible.⁸⁷⁸ However, it has been necessary to eliminate some of the colleges from this study: those which have no chapel and those with a chapel but no choir⁸⁷⁹ As with the parish churches and cathedrals, questionnaires were sent to the deans and directors of music at all the colleges in this study.⁸⁸⁰ Only two completed questionnaires. Consequently, I have not incorporated an analysis of the responses into this chapter to provide commentary on what happens in practice, because it does not reflect the position across the college chapels.

⁸⁷⁵ The colleges in this category include: Christ Church College, Magdalen College, and New College in Oxford, and King’s College, Jesus College, and St John’s College, in Cambridge.

⁸⁷⁶ The Colleges included in this category include: Brasenose, Corpus Christi, Keble, Lady Margaret Hall, Merton, Oriel, Queen’s, St Edmund Hall, St Hilda’s, St Hugh’s, St John’s, St Peter’s, Somerville, Trinity, University, Wadham and Worcester in Oxford, and Christ’s, Churchill, Clare, Clare Hall, Corpus Christi, Emmanuel, Girton, Gonville & Caius, Magdalene, Pembroke, Peterhouse, Robinson, Selwyn, Sidney Sussex, St Catharine’s, Trinity and Trinity Hall in Cambridge.

⁸⁷⁷ The colleges in this category include: Balliol College, Exeter College, Jesus College and Pembroke College, in Oxford, and Downing College and Queens’ College in Cambridge.

⁸⁷⁸ 21 Cambridge Colleges and 21 Oxford Colleges – 42 in total.

⁸⁷⁹ For example, a number of the colleges, particularly the graduate colleges, such as Green Templeton, Kellogg, Linacre, St Anthony’s, and Wolfson Oxford, as well as St Catherine’s do not have a chapel, and whilst All Souls College has a chapel it does not have a choir. In addition, I decided not to include the colleges which are still given the title “Permanent Private Halls of residence”. Accordingly, I have excluded Blackfriars, Campion Hall, St Benet’s Hall, and Wycliffe from this study. Finally, a small number of the college chapels are specifically dedicated to a Christian denomination other than the Church of England, such as Harris Manchester in Oxford, which is Unitarian; Homerton in Cambridge which was set up as a Congregationalist chapel; and St Benet’s Hall, Oxford, which is Roman Catholic. Since this study is aimed at focusing on Church of England churches, cathedrals and college chapels, it seems appropriate to exclude these colleges from this chapter. (However, the regulation of music in these college chapels may become important in the comparative element of the thesis).

⁸⁸⁰ The College Chapels Questionnaires are included at Appendix 4, together with a list of all the colleges contacted. It is suggested that this area of academic study would benefit from further research into what happens in practice, and so the questionnaire is included in the Appendix for future study.

5.1 THE IMPORTANCE OF MUSIC IN CHAPEL SERVICES

Music is important in college chapel daily life: it is incorporated into worship through services led by the choir, particularly through daily choral services. The college legal instruments explicitly recognise music's importance to chapel worship. This section considers first, the extent to which national laws and the college legal instruments provide for divine service; secondly, whether music is included in the college objects, and thirdly, the extent to which the college legal instruments provide for a chapel choir.

5.1.1 Divine Service

All colleges with a chapel make provision for divine service. Under an Act of Parliament of 1871,⁸⁸¹ the governing body of every college subsisting when the Act was passed 'shall provide sufficient religious instruction for all members...belonging to the Established Church'.⁸⁸² In addition, 'Morning and Evening Prayer according to the Order of the Book of Common Prayer shall continue to be used daily...in the chapel of every college subsisting at the time of the passing of this Act' but the visitor may authorise an abridgement or adaptation of Morning or Evening Prayer in the Chapel.⁸⁸³ This Act, and in particular sections 5 and 6 remain unrepealed.

Accordingly, all the colleges in existence in 1871 are required to make provision in their statutes for divine service, placing a duty on governing body to ensure that services are held in the chapel during full term. Worcester's statutes (Oxford),⁸⁸⁴ are typical: 'the Governing Body *shall* provide for the performance within the College of Divine Service, according to the Liturgy of the Church of England, or an abridgement or an adaptation thereof authorised

⁸⁸¹ In the form of the Universities Tests Act 1871

⁸⁸² S.5 Universities Tests Act 1871.

⁸⁸³ S.6 Universities Tests Act 1871.

⁸⁸⁴ Founded in 1714.

by the Governing Body, during Full Term, and at such other times as it shall think proper'.⁸⁸⁵ Similarly, King's statutes (Cambridge),⁸⁸⁶ state: 'Daily Service *shall* be held in the Chapel during Full Term in a form permitted by the Church of England'.⁸⁸⁷ Similar provision at Oxford is made in the statutes of Queen's,⁸⁸⁸ New,⁸⁸⁹ and Balliol,⁸⁹⁰ and in Cambridge at Downing.⁸⁹¹ The statutes of Pembroke, Oxford,⁸⁹² also state: 'In respect to the purposes of its foundation and symbolic of a spiritual responsibility to the community, the College will maintain a Chapel for the purposes of holding Anglican and other divine service'.⁸⁹³

Merton's statutes,⁸⁹⁴ have a great breadth of detail concerning services to be held in chapel. There are detailed provisions regarding commemorating prayers that should be said during certain services, and additional commemoration services.⁸⁹⁵ Similar provisions are set out in

⁸⁸⁵ Worcester College, Statute VII.

⁸⁸⁶ Founded in 1441.

⁸⁸⁷ King's College, Statute I. Divine Service, 1.

⁸⁸⁸ Founded 1341. And see Queen's College, Oxford, Statute VIII.6.2.

⁸⁸⁹ Founded 1379. And see New College, Statute V: 'Governing Body may, at any Stated General Meeting, from time to time make and vary regulations for the daily performance of Divine Service according to the liturgy of the Church of England in the Chapel of the College during full Term and at such other times as they shall appoint, but the Visitor may disallow and annul any such regulations'.

⁸⁹⁰ Founded in 1263. The statutes state that: 'the Master and Fellows shall make provision for the daily use in the College Chapel of services according to the Order of the Book of Common Prayer, or of some abridgement or adaptation thereof approved by the Master and Fellows'. Balliol College, Statute VII.8.

⁸⁹¹ Founded 1800. Also see Downing College, Statute XXIII: 'Whereas section 5 of the Universities Tests Act 1871, requires the Governing Body of every College subsisting in the University of Cambridge at the time of the passing of that Act to provide sufficient religious instruction for all members thereof in statu pupillary belonging to the Established Church; and section 5 of that Act provides that the morning and evening prayer according to the Order of the Book of Common Prayer is to continue to be used daily as heretofore in the chapel of every such Chapel, but notwithstanding anything contained the Statute thirteenth and fourteenth Charles the Second, chapter four, or in that Act, it is to be lawful for the Visitor of any such College, on the request of the Governing Body thereof, to authorise from time to time in writing the use on week days only of any abridgment or adaptation of the said morning and evening prayer in the chapel of such College instead of the order set forth in the Book of Common Prayer'.

⁸⁹² Founded in 1624.

⁸⁹³ Pembroke College, Oxford, Statute VI.6.

⁸⁹⁴ Founded in 1264.

⁸⁹⁵ Merton College, Statute VI.1(a)(ii). Furthermore, there shall be two commemoration services in the Chapel, one on the third Sunday of Michaelmas Full Term in memory of Bishop Rede, John Wyllot, and other Benefactors; and one on Shrove Tuesday in memory of the Founder and other Benefactors. The forms of service for these services shall be 'as they have hitherto' and shall include a recitation of the names of deceased benefactors. No names may be added to the list of the deceased benefactors except by a resolution of the Governing Body. See Merton College, Statute VI.1(b)(i) and (ii).

Trinity, Cambridge's statutes.⁸⁹⁶ These provisions do not explicitly state that the divine worship must include music. In summary, colleges incorporate the national legislation into their legal instruments, which is to be expected.

5.1.2 Music in the College Objects

The importance of music within chapel life is explicitly recognised in the objects of a minority of colleges,⁸⁹⁷ whilst in others music's importance is implicitly acknowledged.

First, an example of a college whose statutes explicitly include the maintenance of the chapel choir in the college objects. Magdalen's statutes (Oxford),⁸⁹⁸ include within 'the advancement of religion, education, learning and research,'⁸⁹⁹ that the College's purpose is: 'to provide for public worship through the provision, support and maintenance of a Chapel and Choir'.⁹⁰⁰ By explicitly providing for the support and maintenance of a chapel choir, those governing the college have a duty to ensure the college provides services in the chapel and maintains a chapel choir. Likewise, Christ Church's statutes (Oxford),⁹⁰¹ explicitly provide for the maintenance of the chapel choir,⁹⁰² whilst more fully the statutes of St John's (Cambridge),⁹⁰³ state that 'the College aims to carry forward the tradition, continuous since its foundation, of being a place of reflection on matters of religious faith. The Chapel is maintained as a place of religious worship, in which the services are enriched by the College's outstanding choral tradition.'⁹⁰⁴

⁸⁹⁶ Founded 1546. See Trinity College, Cambridge, Statute XXXVIII.

⁸⁹⁷ Particularly if compared to the English Anglican cathedrals.

⁸⁹⁸ Founded in 1458.

⁸⁹⁹ See, for example, Magdalen College Constitution, Article I.3(a).

⁹⁰⁰ See for example, Magdalen College Constitution, Article I.3(b).

⁹⁰¹ Founded in 1546.

⁹⁰² 'The objects of this House are: (a) the advancement of religion, education and learning, in particular but not exclusively by: (i) the provision, support, conduct and maintenance of Christ Church Cathedral of the Cathedral of the Diocese of Oxford, together with its Choir...' See, Christ Church College, Statute 2, statutes approved by Her Majesty in Council on 19 March 2015.

⁹⁰³ Founded in 1511.

⁹⁰⁴ St John's College, Cambridge Standing Orders – dated 2 February 2024, "Aims of the College", see <https://www.joh.cam.ac.uk/sites/default/files/documents/Standing%20Orders.pdf>.

In contrast, the statutes of Queen's (Oxford), make no express reference to music; the college's objects include 'the advancement of religion for the benefit of the public, including through the provision of a Chapel affiliated with the Church of England and through the holding of services and associated events'.⁹⁰⁵

Interestingly, in the section setting out the college's purpose, the statutes of Pembroke, Oxford, state: 'the College is an historic foundation dedicated to serve the common good through the provision of education and the promotion of scholarship and research'.⁹⁰⁶ There is no mention of the provision of religious services, nor of the provision of music in the chapel, although it is clear that there is a requirement for the College to provide divine service. In summary, college objects reflect the college's individual identity rather than conforming to a prescribed formula.

5.1.3 The Choir

The majority of colleges with a chapel maintain a chapel choir. This requirement arises, in part, out of the obligation in the statutes to provide for the daily performance of divine service, and particularly where the objects set out that one of the college's purposes is 'to provide for public worship through the provision, support and maintenance of a Chapel and Choir'.⁹⁰⁷ These colleges can be divided into: those where the statutes place a duty on governing body to maintain a choir; those where the governing body has a power/discretion, but no obligation to maintain a choir; and those where the statutes are silent, but where it is clear from other sources that the college does maintain a choir.

In relation to the first category, at Oxford, Magdalen's objects state that one of the college's purposes is 'to provide for public worship through the provision, support and maintenance of

⁹⁰⁵ Queen's College, Oxford, Statute I.2(2).

⁹⁰⁶ Statute I. 'The College', Pembroke College, Oxford, Statutes.
<https://www.pmb.ox.ac.uk/sites/default/files/inline-files/Statutes.pdf>

⁹⁰⁷ For example, see Magdalen College, as referred to above, Magdalen College Constitution, Article I.3(b).

a Chapel and Choir'.⁹⁰⁸ They continue: 'the Choir *shall* consist of not fewer than eight Clerks and fourteen Choristers'.⁹⁰⁹ The college's governing body therefore has a duty to maintain a chapel choir. At Cambridge, King's statutes state: 'there *shall* be no more than sixteen choristers, fifteen choral scholars, and two organ scholars in any one academical year'.⁹¹⁰ King's statutes set a maximum number of choristers and choral scholars, suggesting it may be possible for the director of music to appoint fewer choristers and choral scholars than set out in the legal instruments; whereas at Magdalen, a minimum number of choristers and choral scholars must be appointed.

New College Oxford, on the other hand, has a statute specifically headed 'the Choir',⁹¹¹ stating: 'there shall be maintained by the College an Organist, and such number of Chaplains in Holy Orders, Academical or Lay Clerks and Choristers as shall from time to time be determined by the Governing Body'.⁹¹² Whilst this makes provision for the maintenance of a choir, it leaves flexibility for governing body to determine the choir's size. However, the governing body has a duty to ensure that the college always has a choir.⁹¹³

Merton (Oxford) is an example of a college whose statutes do not explicitly place a duty on its governing body to maintain a choir, but where arguably, such a duty does exist. Whilst the bylaws state: 'Divine Service according to the Use of the Church of England shall be performed daily in the College Chapel as provided in the Universities Test Act 1871 at least during College Terms',⁹¹⁴ these services may be said, so there is no requirement for the college to maintain a choir. However, the statutes continue: 'there *shall* be a Reed Rubin Organist and Director of Music who shall (i) oversee arrangements for the annual Choral and Organ Scholarship trials and oversee arrangements for the teaching of Organ Scholars, Choral Scholars and Choral Exhibitioners; *have overall responsibility for the training, direction and development of the College Choir and Organ Scholars; devise an annual budget*

⁹⁰⁸ Magdalen College, Constitution, Article I.3(a).

⁹⁰⁹ Magdalen College, Statute XI. Chapel Services, 7(1).

⁹¹⁰ King's College, Statute I.1.1.

⁹¹¹ New College is unique in the Oxford and Cambridge Colleges in having a whole statute which is dedicated to the choir.

⁹¹² New College, Statute VI.

⁹¹³ However, it appears that the Governing Body has not made a rule or a policy on how it will exercise this duty.

⁹¹⁴ See Merton College Bylaw VI Administration of the College, VI Part I: Relating to the buildings and amenities of the college, Part 1(a) The Chapel; 1(a)(i).

for the Choir'.⁹¹⁵ Since governing body has a duty to appoint a director of music, and given one of the director of music's duties is explicitly stated as the training, direction and development of the college choir, Merton's governing body has a duty to maintain a choir.

Finally, there are a group of colleges, such as Balliol (Oxford), where the statutes are silent regarding maintaining a chapel choir. Whilst the statutes set out the usual requirement for provision of daily services, there is no obligation for these services to include music. Additionally, the statutes do not mention the maintenance of a chapel choir. This suggests governing body does not have an obligation to maintain a choir. However, the college website states: 'there is a Chapel Choir'.⁹¹⁶ Thus tradition dictates that the college will ensure there is always a choir, but the statutes do not place a duty on the governing body to appoint individuals to the choir. In summary, colleges do not have a consistent approach.

5.2 INDIVIDUALS INVOLVED IN MUSIC AT THE COLLEGE CHAPELS

Music's importance is clear from the number of individuals involved in music within the college chapels.⁹¹⁷ This section considers the extent to which college legal instruments govern the roles of the individuals involved in chapel musical life. Firstly, it explores the roles of the clergy: the dean, and the assistant chaplains. Secondly, it considers the musicians: the director of music, and organ scholars; and those singing in the choir such as the lay clerks, choral scholars, and choristers. Finally, it addresses the role of the visitor and the extent to which this directs chapel musical life.

⁹¹⁵ Merton College statute 5.2(h); bylaw IV.1(b), 24(a).

⁹¹⁶ See <https://www.balliol.ox.ac.uk/balliol-chapel> accessed 19 March 2024.

⁹¹⁷ Whether their role is predominantly linked to the music, such as the Director of Music, the Organist, or members of the Choir, or whether only part of their role links to the music, such as is the case of the Bishop, or the Dean.

5.2.1 The Dean and Music

The majority of colleges make statutory provision for the appointment of an individual, usually in Holy Orders, to oversee divine services in the college chapel.⁹¹⁸ This individual may be called the ‘Dean of Divinity’,⁹¹⁹ ‘Dean of Chapel’, ‘Dean’, or ‘Chaplain’.⁹²⁰ In some instances, the dean is a fellow of the college, in others he/she may be a college officer.⁹²¹ This section looks at the college legal instruments to determine how the dean is appointed, his/her duties, the extent to which he/she is involved in the college chapel’s musical life, and whether this is explicitly or implicitly included in the legal instruments.

Appointment

All the college statutes in this study place a duty on the governing body to appoint an individual, (not necessarily ordained) to which clerical oversight is assigned.⁹²² At Oxford, the statutes of some colleges, such as Merton, specify that the cleric must be a clerk in Holy Orders.⁹²³ Others, such as St Edmund Hall,⁹²⁴ state: ‘the Governing Body shall appoint a Chaplain, who *may but need not be* an ordained minister of the Church of England’.⁹²⁵

⁹¹⁸ Somerville College does not have a chaplain, and so there is no provision made for a chaplain in its statutes. The website states: ‘being a non-denominational college, we do not hold a weekly religious service nor have a Chaplain. Instead, we host a Choral Contemplation programme organised by our Chapel Director, where you can hear speakers from every faith (and no faith)’. See Somerville college website: <https://www.some.ox.ac.uk/about/chapel-choir/choral-contemplations/> accessed 20 March 2024.

⁹¹⁹ As is the case at Magdalen.

⁹²⁰ This can cause confusion in terminology in colleges which have “assistant chaplains”, whose role is to assist the priest with overall responsibility for oversight of chapel services. For this reason, in this chapter, when not quoting directly from the statutes and byelaws, I have referred to the priest who is responsible for the oversight of chapel services as the “Dean”, and the assistant priests whose role is to assist the Dean, as the “Chaplain” or “Assistant Chaplain”. For consistency, I have adopted the phrase “Dean of Divinity” for the priest/individual who is appointed to oversee the Divine Worship in the college chapel, and the term “Chaplain” for any additional priests/individuals in Holy Orders who are appointed to assist the Dean of Divinity.

⁹²¹ As is the case at Clare College, Cambridge Clare College, Cambridge, Statute 21(1).

⁹²² For example, the statutes of Jesus College, Cambridge include a ‘Dean of Chapel or Chaplain or Chaplains’ in the list of college officers. Jesus College, Cambridge, Statute XII.A.1.

⁹²³ ‘There shall be a Chaplain who shall be a clerk in Holy Orders of the Church of England or of some other Church in communion with the Church of England’ - Merton College, Statute 5.2(d), bylaw 5(a).

⁹²⁴ Founded in 1278.

⁹²⁵ St Edmund Hall, Oxford, Bylaws, 8.14.

Finally, at some colleges, like Balliol, whilst the statutes make provision for chapel services to be in accordance with the order of the Book of Common Prayer, they do not specify that the dean must be in Holy Orders in accordance with the Church of England.⁹²⁶

Duties

The dean's duties fall into three categories: oversight of divine worship in the chapel; oversight of chapel life generally; and involvement in the students' pastoral care, including being on committees in this regard. From these broad categories, it appears that the dean is not specifically involved in the chapel's musical life. However, a more detailed consideration of the college statutes reveals that the dean does impact music at the chapels. The statutes can be placed in two categories: some college statutes express explicitly that the dean supervises chapel music, other college statutes implicitly suggest that the dean has a supervisory role in the chapel's musical life.

First are college statutes explicitly referring to the dean being responsible for chapel music. For example, at Oxford, Jesus',⁹²⁷ statutes and bylaws, expressly state that the dean oversees chapel music. The dean has oversight of all religious services performed in the college chapel, subject to the superintendence of the principal.⁹²⁸ Similarly, at Cambridge, Corpus Christi's ordinances,⁹²⁹ state the dean, or chaplain (if there is no dean of chapel) 'in conjunction with the Precentor, if any, shall be responsible, subject to the general control of the Governing Body exercised through the Chapel Advisory Committee, for the conduct and arrangement of services in Chapel, and, *if there be no Precentor, for the Chapel music*'.⁹³⁰

⁹²⁶ The statutes of Balliol College, state: 'the Master and Fellows *shall* make provision for...the appointment and payment of Chaplains to conduct Chapel Services. Such Chaplains shall, if practicable, be appointed from amongst resident Fellows of the College'. Balliol College, Statute VII.8.

⁹²⁷ Founded in 1571.

⁹²⁸ Furthermore, the Dean is responsible for the Services in the College Chapel, and in particular shall: '(i) submit to the Governing Body...each Full Term proposals for the form and times of the Chapel Services for the following Full Term; (ii) arrange and conduct Services in the College Chapel during Full Term in accordance with the scheme approved by the Governing Body; (iii) *have general supervision over the musical arrangements for Chapel Services*; (c) undertake such pastoral duties in the College as the Governing Body may from time to time determine'. See Jesus College, Oxford, Bylaw 7.2(b) and (c).

⁹²⁹ Founded in 1352.

⁹³⁰ Corpus Christi College, Cambridge, Ordinance G.8 (emphasis added).

This is significant because it places on a formal statutory footing that the dean is responsible for supervising the musical arrangements in the college, thus ensuring that the provision of music in chapel is protected legally. Furthermore, given Jesus, Oxford does not have a professional director of music, it is important in ensuring that a permanent member of staff is responsible for overseeing chapel music.

Magdalen's statutes also have an express provision regarding the dean's oversight of choir discipline. He/she has a duty to 'enforce the observance of the Statutes and Bylaws of the College *so far as they relate to members of the Choir* and to the performance by them of Divine Service in the College Chapel'.⁹³¹ The statutes explicitly set out the dean's duty to ensure that choir members perform their statutory duties.

Likewise, some college statutes place an express duty upon the dean to sit on specific committees, impacting the choir, or influencing chapel musical life. For example, at Magdalen, the dean has a duty to act as secretary of the Chapel and Choir and Livings Committees.⁹³² The requirement for the dean to sit on this committee, which is involved in making decisions directly impacting upon the life of the choir means that he is explicitly included in shaping the choir.

Secondly are colleges whose statutes, whilst not explicitly stating the dean is involved in chapel musical life, implicitly refer to the dean's oversight of musical aspects of services. King's statutes state: 'it shall be the duty of the Dean, under the supervision of the Governing Body and Council to provide for Chapel services in accordance with Statute I, to oversee the day to day operation of the Chapel...'.⁹³³ Similarly, Queens' statutes (Cambridge) state: 'the Dean of Chapel or Chaplain shall in consultation with the President arrange for the College Services'.⁹³⁴ Furthermore, the dean or chaplain 'shall carry out such other duties as the Governing Body shall determine from time to time by College Order'.⁹³⁵ Whilst on the face of it the dean is not involved in the music for chapel services, the requirement to 'provide for Chapel services' implicitly includes organising musical elements of services. Furthermore,

⁹³¹ Magdalen College, Statute III.4 (emphasis added).

⁹³² Magdalen College, Bylaw 20.

⁹³³ King's College, Cambridge, Statute F.11.

⁹³⁴ Queens' College, Cambridge, Statute 21.3.

⁹³⁵ Queens' College, Cambridge, Statute 21.6.

the obligation ‘to oversee the day-to-day operation of the Chapel involves overseeing the activities of chapel musicians.

At Cambridge, Clare’s statutes,⁹³⁶ have an interesting provision relating to conduct during chapel services. The dean’s duties include giving effect ‘to such regulations as may be made by the Council for the celebration of Divine Service in the College Chapel, in accordance with the University Tests Act 1871, *and to see that no one during the performance of Divine Service conducts themselves in an irreverent or unbecoming way*’.⁹³⁷ This is the only reference to such a duty being placed on the dean. However, it is merely stating the requirements of canon B9.2. It provides the dean with a power to remove individuals (including choir members) from chapel if they are not respectful during services, and so implicitly has a role in ensuring that members of the choir are respectful during services.

The dean is also involved in the students’ pastoral support and welfare. A number of college statutes include a general requirement for the dean or chaplain to provide pastoral support for the student or Christian community. This implicitly includes providing for the spiritual care of choir members. In Cambridge, Sidney Sussex’s statutes,⁹³⁸ state the chaplain ‘shall have oversight of the spiritual care of the Christian community in the College and shall have charge of the College Chapel’.⁹³⁹ Similarly, at Merton (Oxford), the dean has a duty to convene the Chapel and Patronage Committee, the Student Support Sub-Committee and the Welfare Forum.⁹⁴⁰ The chaplain is also one of the members of the Chapel and Patronage Board,⁹⁴¹ and therefore has a right to attend meetings. Whilst this does not expressly relate to the musicians and chapel musical life, the choir members are members of the Christian community, and so the dean is responsible for providing pastoral support for them.

⁹³⁶ Founded in 1326.

⁹³⁷ Clare College, Cambridge, Statute 22.

⁹³⁸ Founded in 1596.

⁹³⁹ Sidney Sussex College, Cambridge, Ordinance XIII.2. In addition, ‘the Chaplain shall foster the well-being of, and good relations among, all the spiritual and faith communities of the College, and shall support ecumenical and other faith links within the wider collegiate University’. And the chaplain, ‘shall provide leadership in supporting the well-being of members of the College community, or any faith or none’. Sidney Sussex College, Cambridge, Ordinance XIII.3.

⁹⁴⁰ Merton College, Bylaws, Part II: Statutory Officers other than tutors or lecturers, 5(d)

⁹⁴¹ Merton College, Bylaws, Part VII. Committees, Sub-Committees, forums and panels, 11(a).

In summary, the majority of colleges included in this study have an individual, usually, someone in Holy Orders, to oversee the provision of divine services in the college chapel. Whilst the dean is often not explicitly stated to oversee the musical aspects of chapel worship, their role involves overseeing music in chapel through providing for the services, and through providing pastoral support for the welfare of the Christian community.

5.2.2 Assistant Chaplains and Chapel Music

At a number of colleges,⁹⁴² the statutes provide for the appointment of an additional person in Holy Orders to assist the dean, usually styled the “Assistant Chaplain”.⁹⁴³ This section considers, how college statutes deal with their appointment, and the extent to which their duties impact musical provision at the chapels.

Appointment

The statutes of colleges having this office may be divided into: those where the governing body has a duty to appoint additional chaplains; those where the governing body has a discretion but not a duty to appoint; and those where the statutes do not specifically provide for additional chaplains, but where the governing body has a power to appoint.

First, colleges where the governing body has an obligation to appoint. King’s statutes state: ‘there *shall* be as stipendiary members of the College...at least one chaplain [in addition to the dean who is responsible for the oversight of chapel services]’.⁹⁴⁴ Similar provision is made at Magdalen.⁹⁴⁵ The governing body has an obligation to appoint at least one chaplain in addition to the dean. However, there is a discretion regarding whether there should be more than one additional chaplain.

⁹⁴² These tend to be at the larger colleges, with a more established chapel/choir.

⁹⁴³ Exeter College, Statute IV.1(h).

⁹⁴⁴ Statute I.1 and I.2 King’s College Cambridge.

⁹⁴⁵ The statutes state: ‘there *shall* be one or more Chaplains to ensure the performance during full term of choral services in the College Chapel according to the use of the Church of England’. Magdalen College, Statute XI.1.

Second are college statutes providing governing body with a power but not a duty to appoint an assistant chaplain. Merton's bylaws state: 'the Governing Body *may* appoint on the recommendation to the Chapel and Patronage Committee not more than two Junior Chaplains'.⁹⁴⁶ Similarly, provision is made at Keble.⁹⁴⁷

Thirdly, at Worcester, whilst the statutes do not specifically provide governing body with a power to appoint an assistant chaplain, they state: 'the Governing Body may also appoint such other Officers as it may think necessary or expedient'.⁹⁴⁸ It is therefore possible for governing body to appoint an assistant chaplain, on such terms as to remuneration and tenure as it determines.⁹⁴⁹ On the other hand (and uniquely), Jesus's statutes has a section headed "Dean of Chapel and Chaplain", which primarily deals with the dean's appointment and responsibilities. However, it includes the following: 'In any vacancy in the office of Dean of Chapel the Council must ensure that a Chaplain in Holy Orders discharges the responsibilities of the Dean of Chapel'.⁹⁵⁰ There is no other provision for the appointment of a chaplain in the statutes. This suggests that it is only if there is a vacancy in the position of dean, that the governing body has a duty to ensure that someone is appointed chaplain. However, Jesus's website makes it clear that a dean and an assistant chaplain are appointed.⁹⁵¹

Duties

Very few college statutes specifically set out the assistant chaplain's duties. Where they do, they do not explicitly state that he/she is involved in musical provision in the college chapel. Magdalen's statutes state the assistant chaplain's duties include 'to perform Divine Service in the College Chapel at such times and in such manner as the President and Fellows shall from time to time appoint'.⁹⁵²

⁹⁴⁶ Merton College, Bylaws, Part III: Non-statutory College Officers, 20(a).

⁹⁴⁷ The statutes state: 'the Governing Body *may* at its discretion appoint some person being a Clerk in Holy Orders to assist the Chaplain in the execution of his duties'. Keble College, Statute IX.2.

⁹⁴⁸ Worcester College, Statute VI.10.

⁹⁴⁹ It is clear from Worcester College's website, that in addition to the Chaplain, the college has an assistant Chaplain. See: <https://www.worc.ox.ac.uk/college-life/chapel>, accessed 20 March 2024.

⁹⁵⁰ Jesus College Cambridge, Statute D.4.

⁹⁵¹ See Jesus College website: <https://www.jesus.cam.ac.uk/chapel-and-choir/about-chapel/chapel-contacts>, accessed 20 March 2024.

⁹⁵² Magdalen College, Statute XI.2.

Neither King's nor Merton set out the assistant chaplain's duties in their statutes. However, Merton's bylaws state the Junior Chaplain 'shall assist the Chaplain with those of the Chaplain's duties that relate to the College Chapel'.⁹⁵³ Similarly, King's regulations state the assistant chaplain's duties include working with the dean to: 'provide pastoral support for members of the college;'; 'be fully engaged in the life of the chapel, both liturgically and administratively'; and 'provide such other assistance as the Dean may reasonably request'.⁹⁵⁴

At some colleges, it is possible to obtain further information about the chaplain's role from the college website. For example, at Worcester, the assistant chaplain's duties involve 'assisting the Chaplain liturgically and administratively', which includes 'ensuring the Chapel is prepared for worship, organising and overseeing the daily offices, and deputising when the Chaplain is not available'.⁹⁵⁵ None of the college legal instruments specifically mention that the chaplain is involved in chapel music.

In summary, a small number of colleges have an assistant chaplain to assist the dean with all aspects of chapel life, particularly with services and pastoral provision. Whilst the statutes do not explicitly state that the assistant chaplain is involved in musical aspects of worship and chapel life, given he/she is expected to assist with liturgical provision, this includes the musical elements of services. Furthermore, he/she provides pastoral support for choir members. Therefore, the assistant chaplain is involved to an extent in chapel musical life.

5.2.3 Director of Music

A number of colleges have an individual appointed to oversee music in the college chapel and to direct the chapel choir. This individual is given a variety of titles, including: "Organist

⁹⁵³ Merton College, Bylaws, Part III: Non-statutory College Officers, 20(a)

⁹⁵⁴ Regulation E.5.8.3. King's College, Cambridge.

⁹⁵⁵ Information obtained from Worcester College website: <http://www.worcesterchapel.co.uk> accessed 25 March 2018.

and Informator Choristarum”,⁹⁵⁶ “Organist”,⁹⁵⁷ or “Director of Music”.⁹⁵⁸ This section considers how the college statutes deal with the director of music’s appointment, and how they set out his/her duties. As described above, the colleges can be divided into three categories: Choral Foundation Colleges; colleges which appoint a professional director of music; and colleges where a student organ scholar takes on the role of director of music. I will only deal with the first two categories in this section.⁹⁵⁹

Appointment

The colleges in this section can be further divided into those where: the statutes place a duty on the college’s governing body to appoint a director of music, and the statutes do not explicitly provide for their appointment, but where it is clear from other sources that one is appointed.⁹⁶⁰

First, are colleges whose governing body has a duty to appoint. Magdalen’s statutes state: ‘there *shall* be an Organist and Informator Choristarum’.⁹⁶¹ Similarly, the statutes of King’s and New provide for the appointment of a director of music.⁹⁶² In contrast, whilst Merton’s statutes do not specifically mention the director of music, the bylaws state: ‘there *shall* be a Reed Rubin Organist and Director of Music who shall (i) oversee arrangements for the annual Choral and Organ Scholarship trials and oversee arrangements for the teaching of Organ Scholars, Choral Scholars and Choral Exhibitioners; have overall responsibility for the training, direction and development of the College Choir and Organ Scholars...’⁹⁶³ The legal instruments,⁹⁶⁴ place an explicit duty upon governing body to appoint a director of music.

⁹⁵⁶ As is the case at Magdalen College.

⁹⁵⁷ As is the case at Christ Church and New College.

⁹⁵⁸ As is the case at King’s College and Jesus College Cambridge.

⁹⁵⁹ This is because the colleges where the organ scholar acts as Director of Music, do not make any provisions for a “Director of Music” in their Statutes and Bylaws. Instead the provisions in the statutes relate to the “Organ Scholar”. I will therefore consider them in the section headed “Organ Scholars”.

⁹⁶⁰ These straddle the different college types of Choral Foundation Colleges and Colleges with a professional Director of Music.

⁹⁶¹ Magdalen College Statute XI. Chapel Services. 8(1).

⁹⁶² At King’s the Statutes state: ‘there *shall* be as stipendiary members of the College...an Organist’. King’s College, statute I. Divine Service. 2. The Statutes of New set out that ‘for the celebration of Divine Service in college there *shall* be maintained by the College an Organist’.

⁹⁶³ Merton College, statute 5.2(h); bylaw IV.1(b), 24(a).

⁹⁶⁴ Whether the statutes or bylaws.

Second, there are a number of colleges whose statutes or bylaws do not specify the appointment of a director of music, although it is clear that one is appointed. In Cambridge, Jesus' statutes do not provide for the director of music's appointment. However, it is clear from the college chapel website that there is one.⁹⁶⁵ Similarly, the statutes of Trinity, Cambridge,⁹⁶⁶ and Keble, Oxford are silent in this regard.⁹⁶⁷ In comparison, whilst Worcester's statutes do not specifically make provision for the director of music's appointment, it is possible the appointment may be made under the general provision that 'the Governing Body *may* appoint such other Officers as it may think necessary or expedient.'⁹⁶⁸ The governing body has a discretion to appoint individuals generally using this statute. It is also clear from Worcester's website that a director of music is included as a member of the chapel team.⁹⁶⁹ The position is similar at Girton.⁹⁷⁰

Duties

The college statutes adopt different approaches to regulating the director of music's duties. Whilst the college statutes do not specifically set out these duties, provisions may be included in their bylaws, ordinances or standing orders, which can be divided into: (1) those whose legal instruments explicitly set out the director of music's duties; (2) those whose legal instruments state that his/her duties will be determined by governing body, or set out in regulation; and (3) those whose legal instruments are silent regarding the director of music's duties.

⁹⁶⁵ See Jesus College website: <https://www.jesus.cam.ac.uk/chapel-and-choir/about-choir/choir-staff-and-organ-scholars> accessed 20 March 2024.

⁹⁶⁶ Information obtained from Trinity College website: <http://trinitycollegechapel.com/whos-who/> accessed 25 June 2018.

⁹⁶⁷ See Keble Statutes.

⁹⁶⁸ Worcester College Statutes VI. Officers of the College, 10.

⁹⁶⁹ See Worcester College chapel website: <http://worcesterchapel.org/personnel/>, accessed 20 March 2024.

⁹⁷⁰ See Girton College statutes, where there is no specific provision for the appointment of a Director of Music. The college chapel website states that the Director of Chapel Music 'oversees the musical life of the Chapel and runs the College Choir. See Girton College website: <https://www.girton.cam.ac.uk/life-girton/music#choir> accessed 27 February 2024.

Firstly, Merton (Oxford) is unique in explicitly setting out the director of music's duties in its legal instruments. Its bylaws state the director of music has a duty to 'oversee arrangements for the annual Choral and Organ Scholarship trials and oversee arrangements for the teaching of Organ Scholars and Choral Exhibitioners; have overall responsibility for the training, direction and development of the College Choir and Organ Scholars; devise an annual budget for the Choir, in consultation with the Chaplain and Finance Bursar, and monitor income and expenditure'.⁹⁷¹

Secondly, are colleges whose statutes make provision for the director of music's duties to be set out in regulations, or determined by governing body, without specifying the duties. King's statutes state the director of music's duties 'shall be regulated by Regulation'.⁹⁷² However, the regulations do not have a section setting out the director of music's specific duties or setting out who determines those duties.⁹⁷³

Thirdly, are colleges whose legal instruments are silent regarding the director of music's duties. Magdalen's statutes and bylaws are largely silent regarding the duties. However, certain rights and obligations can be determined. The director of music has the right to recommend up to twelve academical clerks, two organ scholars and one assisting organist, to the Chapel and Choir Committee, who have a duty to appoint students to these positions.⁹⁷⁴ New's statutes are also silent regarding the director of music's duties.⁹⁷⁵ Furthermore, although the bylaws set out that the director of music is to be appointed by governing body, and 'shall receive such remuneration as Governing Body shall from time to time determine', there is no provision for who determines the director of music's duties.⁹⁷⁶ This appears to be an anomaly. However, some duties are implicitly set out in the bylaws. For example, they

⁹⁷¹ Merton College, Bylaws; Part III: Non-Statutory College Officers, 24(a)(i).

⁹⁷² Statutes I.3 King's College, Cambridge.

⁹⁷³ See King's College, Cambridge regulations:

<https://www.kings.cam.ac.uk/sites/default/files/documents/about/regulations-2017-amended-october-2017.pdf>

⁹⁷⁴ Magdalen College, Bylaw 180(viii).

⁹⁷⁵ Whilst Statutes VI on 'The Choir' specifies that the College must appoint an Organist, Chaplains, Academical or Lay Clerks and Choristers, it then continues that 'the appointment, removal, remuneration and duties of the Chaplains, Academical or Lay Clerks and Choristers, and of the Precentor, if any, shall be regulated by By-laws to be made by Governing Body at any Stated General Meeting'. The statutes do not set out that the Director of Music's duties will be regulated by By-Laws. – see Statute VI. New College.

⁹⁷⁶ See Bylaw VII.3. New College.

state that he is responsible for selecting pupils to be offered choristerships at the chapel.⁹⁷⁷ However, the director of music is a college employee and so will have an employment contract. Presumably, the employment contract will set out his/her duties in detail.⁹⁷⁸

Finally, it is possible to obtain further information about the director of music's role from non-legal documents such as the 'Director of Music Application'.⁹⁷⁹ At King's the director of music has a duty to conduct the choir in the chapel for the specified chapel choral services. He/she is responsible for choir rehearsals and for conducting training for the choristers and probationers. Additionally, the director of music may, be involved in planning overseas choir tours; or be involved in organising concerts held in the chapel; or be involved in recording and broadcasting events by the choir.⁹⁸⁰ The director of music is also responsible for the organ and other college musical instruments and their maintenance, in consultation with the dean and domestic bursar.⁹⁸¹

In summary, a number of colleges appoint a professional director of music to oversee music in the college chapel. The college legal instruments provide for the director of music's duties, and can be divided into: (1) those which explicitly set out the director of music's duties; (2) those where the director of music's duties are determined by the governing body, or set out in regulation; and (3) those which are silent regarding their duties. As set out above, presumably the director of music's duties will be set out in his/her contract of employment.

5.2.4 Organ Scholars

⁹⁷⁷New College, Bylaws, Appendix C, 8.1. 'The School Committee shall award from the School's own resources, or from any special funds placed at their disposal, Chorister Scholarships to pupils selected as Choristers by the Organist. The extent of the commitment of Choristers to their choral duties shall be agreed by the School Committee together with the College's Chapel and Choir Sub-Committee, after receiving the recommendations of the Organist and the Head.'

⁹⁷⁸ I have been unable to obtain copies of employment contracts for the various roles of individuals involved in music at the colleges to analyse, and so am unable to comment upon them here.

⁹⁷⁹ This document is prepared for those interested in applying for the role of Director of Music when there is a vacancy at a specific college.

⁹⁸⁰ See for example, duties listed in King's College Director of Music Application, obtained via King's College website, 30 January 2018.

⁹⁸¹ See for example, King's College Director of Music Application, obtained via King's College website, 30 January 2018.

The colleges provide for an organ scholar, usually a student, to assist in college chapel musical life. They are responsible for playing the organ and accompanying the choir during chapel services, and in some instances for directing and rehearsing the choir. This section considers how the college legal instruments regulate the organ scholar's appointment, and their duties.⁹⁸²

Appointment

Regarding the organ scholar's appointment, the college statutes can be divided into: (1) those placing a duty on a college body or committee to appoint an organ scholar; (2) those where governing body has a specific power, but not an obligation to appoint; (3) those where governing body has a power to appoint under a general provision; and (4) those where the statutes or bylaws are silent regarding the organ scholar's appointment.

First, colleges whose statutes place a duty on a college body or committee to appoint at least one organ scholar. Whilst Magdalen's statutes do not specifically mention the appointment of organ scholars,⁹⁸³ the bylaws state: 'it shall be among the duties of the Chapel and Choir Committee...to appoint on the recommendation of the Organist and Informator Choristarum and the Tutors concerned up to...two Organ Scholars and one assisting organist'.⁹⁸⁴ Similarly, Merton's bylaws state: 'there *shall* be two Organ Scholarships which may be held by junior members of the college'.⁹⁸⁵ The governing body has a duty to ensure that there are always two organ scholars at the college. On the other hand, King's statutes state: 'there *shall* be as stipendiary members of the College...Choral and Organ Scholars. The number of Choral and Organ Scholars shall be determined by Ordinance'.⁹⁸⁶ The governing body has a duty to appoint organ scholars in accordance with regulations set down by ordinance.

⁹⁸² Organ scholars, due to the nature of the scholarship (i.e. it is not an employer/employee relationship) will not have a contract of employment and so terms are not set out in such as contract.

⁹⁸³ Although interestingly, the statutes do make provision for the appointment of not fewer than 8 clerks to the choir – see Magdalen College statute XI. Chapel Services, 7 Choir.

⁹⁸⁴ Magdalen College, Bylaw 180(viii).

⁹⁸⁵ Merton College, Bylaws, Part V. Junior members and life members, 5(b)(i).

⁹⁸⁶ King's College, Cambridge, statute I: Divine Service, 2.

Second, are colleges whose statutes provide governing body with a power but not an obligation to appoint. In Oxford, Jesus' statutes are typical: 'the Governing Body *may* elect to an Organ Scholarship or to an Organ Exhibition any present or prospective undergraduate or graduate member of the College whom it regards as being of sufficient ability to hold such Scholarship or Exhibition'.⁹⁸⁷ Similarly, Sidney Sussex's ordinances state: 'the Council shall award such number of Organ...Scholarships, in accordance with such selection procedures, as it shall from time to time determine.'⁹⁸⁸ Exeter's statutes also provide governing body with a discretion to appoint an organ scholar.⁹⁸⁹

Third, are colleges where governing body has a general power to appoint individuals to a specific position. Whilst Worcester's statutes do not specifically mention the appointment of an organ scholar, it appears that the provisions concerning "Scholarships, Exhibitions and Bursaries" applies to organ scholars.⁹⁹⁰ The position is the same in Queen's Oxford.⁹⁹¹ Whilst, in Cambridge, Corpus Christi's statutes appear to be the same,⁹⁹² the ordinances state the college 'shall appoint at least one organ scholar as the executive body may from time to time determine'.⁹⁹³ Thus governing body has an obligation to appoint an organ scholar, even though the statutes do not specifically mention this position.

Fourth, are college statutes which are silent regarding the organ scholar's appointment, but where other sources make it clear that the college does appoint individuals to this position. New's statutes are silent regarding the organ scholars' appointment,⁹⁹⁴ but it is clear from the college's website that they are appointed.⁹⁹⁵ The organ scholars' position is not placed on a

⁹⁸⁷ Jesus College, Oxford, Statute VI.5.

⁹⁸⁸ Sidney Sussex College, Cambridge, Ordinance XII.6.

⁹⁸⁹ The statutes state: 'There is tenable at the College a Scholarship called the Parry-Wood Organ Scholarship...The duties of the Organ Scholar shall be determined from time to time by the Governing Body'. See Exeter College, Statute V.5.

⁹⁹⁰ Worcester College, Statute IX.1 and IX.3.

⁹⁹¹ See Queen's College, Oxford, Statute XII.

⁹⁹² Corpus Christi College, Cambridge, Statute 50: 'the number of Scholars and Exhibitioners, the amount of their emoluments, and the method of their election and admission shall be determined by the Governing Body'.

⁹⁹³ Corpus Christi College, Cambridge, Ordinance H.5.

⁹⁹⁴ See the absence of a mention of the organ scholar from New College, Statute VI.

⁹⁹⁵ The 'Assistant Organist...accompanies New College Choir and assists the Organist in the training of the choristers. He is responsible for the chapel's organ recital series and also teaches undergraduate music in the college.' And 'each year one or two undergraduate organ scholars work with the Organist and Assistant Organist in playing for all services and training the choristers. They also play

statutory footing. Whilst technically this allows the governing body flexibility to appoint an organ scholar if necessary, in practice, they have a duty to ensure that there are always two organ scholars.⁹⁹⁶ Similarly, Balliol's statutes do not have specific provisions regarding an organ scholar's appointment. Furthermore, the general section relating to 'scholars and exhibitioners' does not apply to the organ scholars.⁹⁹⁷ However, again, it is clear from the college website that organ scholars are appointed.⁹⁹⁸ The position is the same at Trinity, Cambridge,⁹⁹⁹ and Pembroke, Oxford.¹⁰⁰⁰

Duties

The college statutes adopt different approaches to setting out the organ scholars' duties: (1) some have detailed provisions setting out precisely what those duties are; (2) others have general provisions, providing governing body, or the director of music with a power to

an active part in college music as accompanists at concerts, and as recitalists'. See New College website: <https://www.new.ox.ac.uk/meet-team#:~:text=Organ%20scholars%3A%20each%20year%20one,at%20concerts%2C%20and%20as%20recitalists> accessed 27 February 2024. Whilst these references are to the functions of the Organ Scholars, the fact that this information

⁹⁹⁶ See New College website: <https://www.new.ox.ac.uk/meet-team#:~:text=Organ%20scholars%3A%20each%20year%20one,at%20concerts%2C%20and%20as%20recitalists> accessed 27 February 2024.

⁹⁹⁷ The Statutes state that: 'the Master and Fellows may elect to a Scholarship or to an Exhibition any undergraduate member of the College who has completed three terms in residence at the University and who in their judgement has shown conspicuous ability in College work or University examinations'. This section of the statutes is therefore intended to remunerate those who have excelled in their academic studies, whereas an organ scholarship is frequently awarded prior to a candidate arriving at Oxford as a student and is awarded to a student who plays the organ at chapel services and runs the choir. See Balliol College, Statute IV.2.i.

⁹⁹⁸ The College website, includes the position of 'senior organ scholar' and sub-organist' in the section listing those involved in the life of the chapel. In addition, the website provides a detailed description of the role of the organ scholars. Furthermore, the website explains that there are a maximum of two organ scholars at any one time at the College, and they form a central part of the chapel and musical life in the college. It continues that 'for a college that does not have a Director of Music, the organ scholars are the principal point of contact for all music-related matters, namely choral music. Organ scholars at Balliol are given the unique opportunity to be solely responsible for directing and accompanying the choir, which allows conducting and accompanying skills to develop during the organ scholars' tenure'. Information obtained from Balliol College website <https://www.balliol.ox.ac.uk/chapel/organ-scholarship> accessed 16 March 2024.

⁹⁹⁹ Trinity College, Cambridge website: <http://trinitycollegechoir.com/join/organ-scholarships/> accessed 21 March 2024.

¹⁰⁰⁰ Information obtained from Pembroke College website: <https://www.pmb.ox.ac.uk/organ-scholarships-choral-awards> accessed 16 March 2024.

determine their duties; and (3) some statutes are silent regarding the organ scholar's duties, so it is necessary to consider other sources.

First, are college statutes specifying the organ scholars' duties. King's statutes state that organ scholars are required to: '(i) attend and to participate in playing and conducting as required by the organist, all rehearsals and services in College and Chapel during periods of residence; (ii) take rehearsals of the choristers and probationers at the College School as required by the Organist; (iii) attend and participate in playing and conducting as required by the Organist on certain College and University occasions and at the associated rehearsals; (iv) attend and participate in playing and conducting as required by the Organist at all concerts, broadcasts and recordings previously approved by the Use of Choirs Committee; (v) assist the Organist in practical arrangements relating to visiting organist recitalists'.¹⁰⁰¹ This is by far, the fullest provision in any college's statutes on this topic. Similarly, at Oxford, Jesus' bylaws state the organ scholars are required to: 'contribute appropriately to the provision of music for the Chapel Services'. This includes: '(i) the recruitment, training and general supervision of the Chapel Choir and its administration; (ii) the selection, subject to the approval of the Chaplain, of the music for Choral Services in the Chapel during Full Term, and the supervision of its performance; (iii) the playing of the Organ at Chapel Services during Full Term'.¹⁰⁰²

On the other hand, whilst Merton's bylaws explicitly state the organ scholars' duties, they are limited to: playing 'the organ at services in the College Chapel', 'attending rehearsals under the direction of the Reed Rubin Organist and the Director of Music', and playing 'at additional services and concerts during the vacations'.¹⁰⁰³

Second, are college legal instruments providing the director of music or governing body with a power to determine the organ scholar's duties. Magdalen's statutes are typical: 'the President and Fellows may from time to time determine the number, duties, and stipends of members of the Choir'.¹⁰⁰⁴ Similar provision is included in St John's standing orders

¹⁰⁰¹ King's College, Regulation I.1.5 – Organ Scholars.

¹⁰⁰² Jesus College, Oxford, Bylaw 7.3.

¹⁰⁰³ Merton College bylaw 5(c)(iii) and (iv).

¹⁰⁰⁴ Statute XI.7(2) Magdalen College Statutes.

(Cambridge).¹⁰⁰⁵ At Sidney Sussex, the ordinances simply state: ‘the duties of an Organ or Choral Scholar may be prescribed by Regulation’.¹⁰⁰⁶ However, the regulations do not set out the organ scholars’ duties.¹⁰⁰⁷ Exeter’s statutes simply state: ‘the duties of the Organ Scholar shall be determined from time to time by the Governing Body’.¹⁰⁰⁸

Finally, are college statutes with no specific provision regarding the organ scholar’s duties. However, it is possible to determine their duties from other sources, such as the college website. Pembroke, (Oxford) is typical.¹⁰⁰⁹ The position is the same at Queens’, (Cambridge),¹⁰¹⁰ and Worcester (Oxford).¹⁰¹¹

In summary, several colleges have an organ scholar, assisting in the musical life of the college chapel. The college legal instruments adopt different approaches to the organ scholars’ duties: (1) some have detailed provisions specifically setting out their duties; (2) others have general provisions, providing governing body, or the director of music with a power to determine their duties; and (3) some statutes are silent regarding the organ scholar’s duties.

¹⁰⁰⁵ The organ scholars ‘shall perform such duties as may be specified by the Director of Music in connection with choral services in the Chapel, with Choir engagements approved by the Council and with other events in which the Choir have traditionally engaged or which may be specified by the Council. Those duties shall include participation in such practices and rehearsals as the Director of Music may determine, and such travel, at the College’s expense as may be involved in any Choir engagement’. St John’s College, Cambridge, Standing Order G4-4(a).

¹⁰⁰⁶ Sidney Sussex College, Cambridge, Ordinance XII.7.

¹⁰⁰⁷ See Sidney Sussex College, Cambridge, Regulations F1 - https://www.sid.cam.ac.uk/sites/default/files/F1_Scholarships%20Exhibitions%20Prizes.pdf, accessed 14 September 2024.

¹⁰⁰⁸ Exeter College, Statute V.5. This allows the Governing Body, Council, or Director of Music maximum flexibility to set out the duties required of the organ scholar and for these to be altered as required, without the need to amend the wording of the Ordinances and Statutes of the College each time a change is required.

¹⁰⁰⁹ Information obtained from Pembroke College website: <https://www.pmb.ox.ac.uk/organ-scholarships-choral-awards> accessed 16 March 2024.

¹⁰¹⁰ The Statutes do not make any specific provision regarding the Organ Scholar’s appointment or duties. However, it is clear from the college website that two Organ Scholars are appointed at any given time, and they are responsible for running the Chapel Choir. Information obtained from Queens’ College Chapel website, see <https://www.queens.cam.ac.uk/life-at-queens/music-arts-drama/chapel-choir/organ-scholarships> accessed 14 September 2024.

¹⁰¹¹ See information on Worcester College website: <http://worcesterchapel.org/joining-the-choir/> setting out the duties of the Organ Scholar.

5.2.5 The Chapel Choir: Lay clerks, academic clerks and choral scholars

All colleges included in this study, have a chapel choir, which sings at a number of services each week. The choir's make-up varies: in some colleges, the choir consists of a "back row" of bass, tenor and countertenor/alto voices, sung by students who may be awarded a scholarship, and of boy trebles who sing the top line.¹⁰¹² At others, the chapel choir comprises entirely college students awarded a scholarship for singing in the choir. Others are made up of volunteers, and some are a mixture of volunteers and scholars. The student members of the choir are given various titles: 'lay clerks', 'academic clerks', 'choral scholars' or 'choir members'. This section considers how the college legal instrument address the number of choral scholars, their appointment, and their duties.

Numbers

The statutes of several colleges refer to there being a specific number of lay clerks or choral scholars. At a minority, the statutes specify a maximum or a minimum number to be appointed. Magdalen's statutes state: 'there *shall* be not fewer than eight clerks in the choir'.¹⁰¹³ Similarly, at Merton: 'there *shall* be up to 24 Choral Scholarships which may be held by Junior Members of the College'.¹⁰¹⁴

At others, the statutes provide for governing body to determine the number of choral scholars, without specifying what that number should be. New's statutes are typical: 'there *shall* be maintained by the College...such number of...Academical or Lay Clerks...as shall from time to time be determined by the Governing Body.'¹⁰¹⁵ King's statutes are similar.¹⁰¹⁶ Sidney Sussex's ordinances state: 'the Council *shall* award such number of Choral

¹⁰¹² This is the case in the "choral foundation" colleges, and at Worcester College, Oxford.

¹⁰¹³ Magdalen College, Statute XI.7(1).

¹⁰¹⁴ Merton College, Bylaws, Part V. Junior members and life members, 5(a)(i).

¹⁰¹⁵ New College, Statute VI.

¹⁰¹⁶ 'There *shall* be as stipendiary members of the College, Choral and Organ Scholars...The number of Choral...Scholars shall be determined by Ordinance'. And the Ordinances are made by the governing body. King's College Statute I.2.

Scholarships, in accordance with such selection procedures, as it shall from time to time determine'.¹⁰¹⁷

Appointment

Regarding the choral scholars' appointment, college statutes can be divided into: (1) those placing a duty on an individual or college body to appoint choral scholars; (2) those where governing body has a power, but not an obligation to appoint; (3) those where governing body has a power to appoint under a general provision; and (4) those where the college legal instruments are silent.

First, a minority of college statutes place a specific duty on an individual or a college body to appoint choral scholars. At Merton, 'arrangements for the audition and election of Choral Scholars shall be made by the Chaplain and the Reed Rubin Organist and Director of Music and the Senior Tutor in consultation with the Chapel and Patronage Committee and shall be approved by the Warden and Tutors' Committee'.¹⁰¹⁸ Here the chaplain and director of music have a duty to arrange auditions and to elect choral scholars. Similarly, Worcester's statutes make provisions for choral scholars in the section on "Scholarships, Exhibitions and Bursaries": one provision specifically refers to "Choral Scholars". Choral scholarships *may* be awarded by the governing body,¹⁰¹⁹ and in such manner as the governing body shall from time to time determine.¹⁰²⁰

Secondly, at several colleges, governing body has a power to appoint under a general provision. At Oxford, Queen's statutes provide for choral scholars in the section dealing with 'The Scholars, Bible Clerks and Exhibitioners'.¹⁰²¹

¹⁰¹⁷ Sidney Sussex College, Ordinance XII – Grants and Awards, 6.

¹⁰¹⁸ Merton College, Bylaws, Part V. Junior members and life members, 5(a)(ii).

¹⁰¹⁹ Worcester College, Statute IX.1.

¹⁰²⁰ Worcester College, Statute IX.3. Whilst Governing Body awards the Scholarships, it does not have to arrange for their appointment. Under this provision, the Governing Body may determine how the Choral Scholars should be appointed – this may be through auditions by the Director of Music or Chaplain.

¹⁰²¹ 'It shall be lawful for the Governing Body to fill by election or appointment such Scholarships, Bible Clerkships and Exhibitions as it shall from time to time determine'. Queen's College, Oxford, Statute XII.1.

Some college statutes do not provide for the appointment of choral scholars. However, it is clear from other sources that they are appointed. At Cambridge, Jesus' statutes do not specifically mention choral scholars' appointment. However, choral scholarships are awarded.¹⁰²² Similarly, at Cambridge, Trinity's statutes do not explicitly mention choral scholars. Furthermore, provisions relating to scholarships in the statutes, only apply to research scholarships, or academical scholarships. However, the college website sets out information about the appointment and duties of choral scholars.¹⁰²³

Finally, are colleges which do not appoint choral scholars to sing in the chapel choir; choir members are volunteers. These college statutes are silent regarding the appointment of individuals to sing in the choir. Examples of colleges falling into this category are: Balliol,¹⁰²⁴ Jesus, Oxford, and Downing.¹⁰²⁵ Since students singing in the chapel choir at these colleges are volunteers, it is unnecessary for the statutes to set out how singers are appointed.

Duties

The college statutes adopt differing approaches regarding the choral scholars' duties: (1) a minority detail the precise duties required; (2) others provide governing body with a power to determine choral scholars' duties; (3) some provide the director of music with a power to determine their duties; and (4) still others are silent regarding their duties.

First, the colleges where choral scholars' duties are specifically set out in statute or regulation. At King's Cambridge 'regulations' state the choral scholars' duties include: (i) to sing at all rehearsals and services during periods of residence; (ii) to sing on certain college

¹⁰²² Jesus College, Cambridge, Regulations, Schedule to section D 'Scholarships, Exhibitions, Prizes and Grants.

¹⁰²³ "The primary duty of a choral scholar during term time is to sing at the three services of Choral Evensong that take place each week, together with occasional special services". Trinity College, Cambridge website: <http://trinitycollegechoir.com/join/choral-scholarships/> accessed 18 March 2024.

¹⁰²⁴ Information obtained from Balliol College website <https://www.balliol.ox.ac.uk/chapel/organ-scholarship> accessed 11 March 2018.

¹⁰²⁵ Information obtained from Downing College Chapel Choir website: <https://dow.cam.ac.uk/about/chapel-downing-college/chapel-choir> accessed 15 September 2024.

and university occasions and at the associated rehearsals; (iii) to sing at concerts, broadcasts and recordings, previously approved by the Use of Choirs Committee.¹⁰²⁶

Second, colleges where governing body has a power to determine the duties. New's statutes state: 'the appointment, removal, remuneration and duties of the...Academical or Lay Clerks, if any, *shall be regulated by By-laws* to be made by Governing Body at any Stated General Meeting'.¹⁰²⁷ Whilst Sidney Sussex's ordinances state: 'the duties of an Organ Scholar or Choral Scholar may be prescribed by Regulation'.¹⁰²⁸

Third, colleges providing the director of music with a power to determine the duties. Magdalen's statutes state: 'the President and Fellows *may* from time to time determine the number, duties and stipends of members of the Choir'.¹⁰²⁹ No further detail is set out in the statutes, or bylaws. It is therefore likely that the choral scholars' duties are determined administratively by the director of music, rather than set out in written general norms. Adopting this approach allows maximum flexibility to the president and fellows or the college's governing body to determine what the choral scholars' duties are, and to amend those duties when required without the need to amend the college statutes.

At Cambridge, St John's standing orders adopt a hybrid between these approaches: they state that the director of music has a power to determine the choral scholars' duties, but also set out their duties consist of attending certain rehearsals and engagements.¹⁰³⁰ This imposes some duties directly: i.e. the requirement to perform in certain chapel services, and attend a certain number of rehearsals, whilst other duties are determined by the director of music: i.e. the number of rehearsals that must be attended. This provides some certainty, but also

¹⁰²⁶ Regulation I.1.4 King's College, Cambridge Regulations.

<https://www.kings.cam.ac.uk/sites/default/files/documents/about/regulations-2017-amended-october-2017.pdf>

¹⁰²⁷ New College, Oxford, Statute VI. 'The Choir'.

¹⁰²⁸ Sidney Sussex College, Statute D, Ordinance XII "Grants, Awards and Student Support", 7.

¹⁰²⁹ Magdalen College Statute XI. Chapel Services, 7(2).

¹⁰³⁰ 'The Choral Students...shall perform such duties as may be specified by the Director of Music in connection with choral services in the Chapel, with Choir engagements approved by the Council and with other events in which the Choir have traditionally engaged or which may be specified by the Council. Those duties shall include participation in such practices and rehearsals as the Director of Music may determine, and such travel, at the College's expense, as may be involved in any Choir engagement'. St John's College, Cambridge, Standing Orders, H – Choir, 4.

provides a degree of flexibility for the director of music and council to provide further detail about those duties.

Fourthly, are the colleges whose statutes are silent, regarding the duties of choir members. This includes at Oxford, Balliol, Exeter, and Jesus, and at Cambridge, Downing. As seen above, since students singing in these college chapel choirs are volunteers, it is difficult to impose a duty upon those individuals

In summary, several colleges provide for student choral scholars to sing in the chapel choir. Their statutes adopt differing approaches to setting out the choral scholars' duties: (1) a minority detail their precise duties; (2) at others governing body has a power to determine their duties; (3) at some the director of music has a power to determine their duties; and (4) others are silent regarding the choral scholars' duties.

5.2.6 Choristers

As seen above, a minority of the 46 colleges studied make provision for boy choristers to sing the treble line in the chapel choir.¹⁰³¹ Choristers are aged between 7 and 13, and in the majority of colleges,¹⁰³² attend a choir school. The college legal instruments have varying provisions regarding the choristers' appointment and duties, which are considered in this section.

Appointment

The college statutes in this section fall into three categories: (1) those which place a duty on governing body to appoint a prescribed number of choristers; (2) those which implicitly place

¹⁰³¹ These consist of the Choral Foundation Colleges, of Christ Church, Magdalen, New and Worcester Colleges in Oxford, and King's, St John's and Jesus Colleges in Cambridge.

¹⁰³² In all cases except Jesus College, Cambridge. Whilst the choristers attached to Worcester College attend Christ Church Cathedral School.

a duty on governing body to appoint; and (3) those which are silent regarding the choristers' appointment, but where it is clear from other sources that they are appointed.

Within the first category are the majority of the colleges in this section. Magdalen's statutes state: 'the choir *shall* consist of not fewer than fourteen Choristers'.¹⁰³³ The governing body must have at least 14 choristers at any one time. Similarly, King's statutes state: 'there *shall* be no more than sixteen Choristers'.¹⁰³⁴ New's statutes set out: 'there *shall* be maintained by the College...such a number of...Choristers as shall from time to time be determined by Governing Body at any Stated General Meeting' and their appointment 'shall be regulated by By-laws to be made by Governing Body at any Stated General Meeting'.¹⁰³⁵ The bylaws expand on this stating that the choir shall consist of 'no fewer than sixteen choristers'.¹⁰³⁶ The governing body at these colleges has a duty to appoint a prescribed number of choristers.

Second, are colleges whose statutes do not set out provisions for the choristers' appointment, although they implicitly place a duty on the governing body to appoint. For example, whilst Christ Church's statutes, are silent in this regard, they include the choristers in the 'Foundation and membership of the House'.¹⁰³⁷

Thirdly, at Cambridge, neither Jesus' statutes nor regulations make specific provision for the choristers' appointment. However, it is clear that they are appointed to the choir.¹⁰³⁸ The position is the same at St John's, Cambridge.¹⁰³⁹

Duties

¹⁰³³ Magdalen College, Statute XI.7(1). Since the Statutes set out that the composition of the College shall consist of the President and such Fellows as are provided in the Statutes (Statute I.1), and 'references to 'the President and Fellows shall be interpreted as meaning the Governing Body' (Statute I.2) the references in this Statute is addressing the Governing Body.

¹⁰³⁴ King's College, Statute I.1.1. Again, this Statute is addressing the Governing Body.

¹⁰³⁵ New College, Statute VI. 'The Choir'.

¹⁰³⁶ New College, Bylaws, VII.1.

¹⁰³⁷ See Christ Church College Statute 1. Furthermore, they reserve to the dean and chapter 'all powers hitherto lawfully exercised by the Dean and Canons or the Dean and Chapter in respect of...the Choristers'. Christ Church College Statute 5.

¹⁰³⁸ See Jesus College website: <https://www.jesus.cam.ac.uk/chapel-and-choir/about-choir/applying/choristers> - accessed 17 September 2024.

¹⁰³⁹ See St John's statutes and standing orders, but also St John's College website: <https://www.sjcchoir.co.uk/about/the-choir-today/> which refers to the choristers.

The choristers' duties are not as closely regulated in the college legal instruments as other members of the chapel choirs. This reflects the different status of choristers, who are not fellows, or officers of the college like the dean, chaplains or director of music, and not student members of the college like the organ scholars and the choral scholars.¹⁰⁴⁰ Therefore, the college statutes cannot bind the choristers to the same extent as other choir members. Some college statutes provide the president and fellows, or the director of music with a general right to determine the choristers' duties, whereas other college statutes are silent regarding their duties.

First are the college legal instruments which provide the president and fellows, or the director of music with a power (but on the face of it not an obligation) to determine the choristers' duties. Magdalen's statutes state: 'the President and Fellows *may* from time to time determine the number, duties, and stipends of members of the Choir'. Similarly, New's bylaws set out: 'Governing Body *may* make orders from time to time respecting the duties of all the members of the Choir, and *may* enforce the same by pecuniary or other penalties'. They then expand, stating that any pupils awarded a chorister scholarship have a duty to attend such services in the college chapel as are specified by the director of music.¹⁰⁴¹ In addition, at Cambridge, whilst St John's statutes and standing orders do not set out provisions for the choristers' appointment,¹⁰⁴² they do set out their duties: 'the Choristers shall perform such duties as *may* be specified by the Director of Music in connection with choral services in the Chapel, with Choir engagements approved by the Council and with other events in which the Choir have traditionally engaged or which may be specified by the Council. Those duties shall include participation in such practices and rehearsals as the Director of Music may determine, and such travel, at the College's expense, as may be involved in any Choir engagement'.¹⁰⁴³ Whilst the use of the word 'may' suggests that governing body or the director of music has a power but not an obligation to determine the choristers' duties, the fact that these colleges are

¹⁰⁴⁰ Although as seen above, at Christ Church they are listed as 'members' of the college and so the position is likely to be different in relation to choristers at Christ Church, i.e. any duties will also apply to them.

¹⁰⁴¹ New College, Bylaws, Appendix C 9 and St John's College, Cambridge, Standing Order F8.

¹⁰⁴² See section on appointment above.

¹⁰⁴³ St John's College, Cambridge, Standing Order F8(a) and H.4(a).

required under statute to appoint choristers,¹⁰⁴⁴ means that the governing body or director of music must in fact determine the choristers' duties.

Secondly, are college statutes which are silent regarding the choristers' duties. Whereas King's regulations have a great breadth and depth of provisions regarding the organ scholars' and choral scholars' appointment, remuneration, and duties, they do not make any provisions for the choristers' duties. Similarly, Jesus and Worcester's statutes do not set out the choristers' duties, although it is clear that they are appointed to the chapel choir.¹⁰⁴⁵ Where the college legal instruments are silent regarding the choristers' duties, custom will determine the extent of their duties. The absence of written detail in the college statutes affords their governing bodies flexibility when determining whether to appoint, how many choristers to appoint, and their duties. However, it means that there is a degree of uncertainty in the legal instruments regarding the choristers' duties. There is also inconsistency between the different categories of choir members regarding the level of their duties.

In summary, a minority of college chapels have boy choristers singing the treble line in the chapel choir. The college legal instruments have varying provisions for their appointment and duties. The majority of college statutes place a duty on the governing body to appoint a prescribed number of choristers. In contrast, one college's statutes implicitly place a duty on governing body to appoint choristers, whilst some are silent regarding their appointment, but it is clear from other sources that they are appointed. The college statutes are much less prescriptive regarding the choristers' duties than in relation to other choir members. A majority of college statutes provide governing body with a power to determine their duties, whilst some are silent in this regard.

5.2.7 The Visitor

All 46 colleges make statutory provision for a visitor. Each college appoints a different official to this office.¹⁰⁴⁶ The visitor may have a wide range of roles and duties, only some of

¹⁰⁴⁴ See sections under heading "The Objects" and "The Choir" above.

¹⁰⁴⁵ The College Annual Report and Accounts state that the College advances religion primarily through its Chapel, which has been in continuous use since the College's foundation. Furthermore, 'it offers places in the Choirs for younger choristers from the Cambridge areas'. See Jesus College Annual Report and Accounts, 30 June 2017 'Aims and Objectives of the College', p[8].

¹⁰⁴⁶ For example, Magdalen College and New College appoint the Bishop of Winchester, see New College, Statute XIII.1, whereas for Christ Church College and Trinity College Cambridge, this

which impact a college chapel's musical life. This section considers the visitor's role and duties in relation to chapel musical life. The requirement for colleges to have a visitor, and the visitor's duties are not set out in national legislation.¹⁰⁴⁷ Neither the statutes of Oxford University, nor Cambridge University, mention the requirement for colleges to have a visitor.

The visitor's principal role is to act as an independent and impartial check on the decisions made by those governing the college to ensure that the statutes and ordinances are implemented in a fair and just manner.¹⁰⁴⁸ This section addresses how a visitation may be requisitioned, before turning to the visitor's functions: firstly his quasi-judicial role in relation to the interpretation of the statutes; secondly his quasi-appellate jurisdiction; and thirdly his oversight of the college's financial affairs.

Regarding the requisition of a visitation, the visitor has a duty to determine the construction of the statutes at the request of the Head of the college or governing body.¹⁰⁴⁹ It is only if the

person is the Sovereign, see Christ Church College, Statute XXXVI.1, or Trinity College, Cambridge, Statute I, and at King's College, the Visitor is the Bishop of Lincoln, see King's College, Statute P.1. In some instances it may be the Master of the Rolls, as is the case at Worcester College, Worcester College, Statute III.1, the Archbishop of York, as is the case at Queen's College, Oxford, Statute XXIII.1, the Archbishop of Canterbury, As at Keble College, Keble College, Statute IV.1, or the Chancellor of the University, as is the case at St Edmund Hall, Oxford, Christ's College, and Corpus Christi College, Cambridge, see St Edmund Hall, Oxford, Statute 23, Corpus Christi College, Cambridge, Statute 4; Christ's College, Cambridge Statute B.4. At Sidney Sussex College, the Visitor is the Viscount De L'Isle of Penshurst, being the representative of the Sidney Family, see, Sidney Sussex College, Statutes Chapter II.1.

¹⁰⁴⁷ The Oxford University Act 1854 and the Cambridge University Act 1856 do not mention the visitor. The only legislation mentioning the jurisdiction of the Visitor is at s.46 of the Higher Education Act 2004, which has a section titled "Exclusion of visitor's jurisdiction in relation to staff disputes", and states: (1)The visitor of a qualifying institution has no jurisdiction in respect of— (a)any dispute relating to a member of staff which concerns his appointment or employment or the termination of his appointment or employment, (b)any other dispute between a member of staff and the qualifying institution in respect of which proceedings could be brought before any court or tribunal, or (c) any dispute as to the application of the statutes or other internal laws of the institution in relation to a matter falling within paragraph (a) or (b).

¹⁰⁴⁸ This can be compared to the role of the courts, and tribunals and judicial review in the legal system, or like the bishop as visitor of cathedrals, or bishop as visitor of diocese or archbishop as visitor of province.

¹⁰⁴⁹ For example, at Worcester, Oxford, the visitor has a duty, at the request of the Head of the College, or any five or more members of the governing body, to determine the true construction of the college statutes if a question arises as to their construction. Worcester College, Statute III.3. Similar provision is made at St Edmund Hall, Oxford, where at the request of the Principal or six or members of the Governing Body, the Visitor shall determine the true construction of the statutes – see Statute 25. Similar provision is also made at Magdalen College, Oxford. See Magdalen College, Statute XIII.4 and XIII.6-7.

head of the college, or a specified number of members of the governing body make the request that the visitor has a duty to determine the construction of the statutes. Until, that request is made, the visitor has no duty in that regard. The visitor also has a duty, either on his/her own motion or following the complaint of the head of the college, or any fellow, to annul any bylaw or decision of the college which is in contradiction to the statutes.¹⁰⁵⁰

In addition, the governing body has a right to request that the visitor authorises an abridgement or adaptation of morning and evening prayer during weekday services instead of the order set out in the Order of Common Prayer.¹⁰⁵¹ If a request is made, the visitor has a duty to consider and authorise such a request.

In relation to the visitor's functions, firstly, he/she has a quasi-judicial role to interpret the college statutes, which may impact upon chapel musical life regarding anything in the statutes relating to the chapel choir. At Oxford, Queen's statutes state: 'it shall be lawful for the Visitor, once in every ten years,¹⁰⁵² without any request or application by the College or any of its members, to visit the College, and to exercise at such visitation all the powers which are by law incident to the office of General Visitor of a College'.¹⁰⁵³ At Worcester, the visitor has the right (but not a duty) to visit the college and require an answer of any member of the college to any inquiry which he or she may make whenever it is deemed desirable for ensuring the observance of the statutes.¹⁰⁵⁴ These provisions may be applicable to members

¹⁰⁵⁰ Worcester College, Statute III.4. See also Magdalen College, Statute XIII.4 and XIII.6-7. Similar provision is made at Queen's College where the Visitor has the right 'either proprio motu or on the petition of the Provost or any of the Fellows, to disallow or annul any bylaw or resolution of the Governing Body which shall, in the Visitor's judgement, be repugnant to any of the Statutes of the College in force for the time being'. See Queen's College, Oxford, Statute XXIII.5. See also, Exeter College, Statute X.5.

¹⁰⁵¹ See, for example, Downing College, Statute XXIII.

¹⁰⁵² 'or oftener, if and whenever he shall deem it expedient for enforcing the due observance of the Statutes in force for the time being' (see Queen's College, Oxford, Statute XXIII.2).

¹⁰⁵³ See, for example, Queen's College, Oxford, Statute XXIII.2. Similar provision is made in the statutes of Exeter College: see Exeter College, Statute X..2. In addition, as addressed above at footnote [169] s.46 of the Higher Education Act 2004, deals with the "Exclusion of visitor's jurisdiction in relation to staff disputes", and states: '(1)The visitor of a qualifying institution has no jurisdiction in respect of— (a)any dispute relating to a member of staff which concerns his appointment or employment or the termination of his appointment or employment, (b)any other dispute between a member of staff and the qualifying institution in respect of which proceedings could be brought before any court or tribunal, or (c) any dispute as to the application of the statutes or other internal laws of the institution in relation to a matter falling within paragraph (a) or (b)'.

¹⁰⁵⁴ Worcester College, Statute III.2.

of the chapel choir if the college's governing body changes something in the bylaws or ordinances, such as provisions determining that the college must maintain a choir, if they remove the obligation to appoint the director of music or dean, or if they dispense with the need to appoint organ or choral scholars. In these circumstances, if a specified number of members of the governing body apply to the visitor he/she may annul the offending provision.

Secondly, the visitor has quasi-appellate jurisdiction. It is possible that issues other than construction of the statutes may be visitable. In these circumstances, the Visitor has jurisdiction to consider appeals from college members. Again, this may impact the chapel's musical life in the event that a choir member appeals to the visitor about a matter relating to choir life. At Magdalen, the visitor 'may, if the Provost or any Fellow or other officer of the College conceives himself or herself injured by any act or decision of the Governing Body, entertain at his or her request and adjudicate upon an appeal from such act or decision and may confirm, vary or reverse it'.¹⁰⁵⁵ Exeter's statutes state, 'the Rector, or any Fellow may appeal to the Visitor if they consider themselves aggrieved by any decision of the Governing Body, or a Scholar deprived of a scholarship, may appeal to the Visitor, who then has a duty to adjudicate such appeal in any manner he considers just'.¹⁰⁵⁶ Any decision given by the visitor under the statutes is binding upon the college and upon the rector and every fellow, and every person affected by the statutes of the college.¹⁰⁵⁷ These provisions could be applicable to those involved in music in the college chapel. For example, in the event that the director of music or a chaplain is deprived of his or her position under the grievances procedure, and wishes to appeal the governing body's decision, or an organ or choral scholar is stripped of his or her scholarship and wishes to appeal that decision. In those circumstances, the aggrieved individual may appeal to the visitor who will then determine whether the college's initial decision was fair.

Thirdly, is the visitor's duty to oversee the college's financial affairs. This may impact the college chapel's musical affairs because the visitor has the right to inspect the chapel choir's annual budget. For example, New's governing body has a duty to lay the college's annual

¹⁰⁵⁵ Magdalen College, Statute XIII.5. See also, Worcester College, Statute III.5.

¹⁰⁵⁶ Exeter College, Statute X.4.

¹⁰⁵⁷ Exeter College, Statute X.6.

account before the visitor each year, and provide any additional information as he/she requires to enable him/her to assess the college's general state and condition.¹⁰⁵⁸ The visitor has the right to receive such account, and to consider the same. He/she also has the right to inspect the chapel choir's budget each year to determine whether this is appropriate.

In summary, whilst the college statutes do not explicitly state that the Visitor directs the college chapel's musical life, his/her role may influence the college chapel's music. This may be through the visitor's quasi-judicial role regarding the interpretation of the statutes; his quasi-appellate jurisdiction in the event one of the chapel musicians is unhappy with the statutes; or through his oversight of the college's financial affairs.

5.3 THE BODIES RELATING TO COLLEGE CHAPEL MUSICAL LIFE

In addition to the individuals involved in the day-to-day life of music at the college chapels, there are a number of college bodies influencing chapel music. These include: the college governing body, chapel and choir committees, the choir school, additional college choirs, and the 'Friends of the Chapel Choir and Choir Associations'. This section considers how the college legal instruments deal with each of these bodies: how they are regulated, and how this impacts the college chapel's musical life.

5.3.1 Governing Body

The college's governing body is responsible for governing the college.¹⁰⁵⁹ The governing body comprises the head of the college, a prescribed number of fellows, and in some instances a prescribed number of students.¹⁰⁶⁰ It is chaired by the head of the college and is

¹⁰⁵⁸ New College, Statute XIII.2.

¹⁰⁵⁹ See for example, Sidney Sussex College, Statutes, Chapter II 'The government of the College shall be carried out in accordance with these Statutes by (a) The Visitor; (b) the Master and Fellows; (c) The Governing Body; (d) the Council, if established'.

¹⁰⁶⁰ Whilst there is no national legislation requiring this, and neither the Oxford University Statutes, nor the Cambridge University Statutes set out the membership of the college governing bodies, each

often assisted by a series of committees established under the college statutes and bylaws.¹⁰⁶¹ This section considers the governing body's duties directly impacting the chapel choir's life, and how these are dealt with in the college legal instruments.¹⁰⁶²

The governing body influences college chapel musical life through its decisions and oversight. Its principal function is to administer the college's property, income, assets and liabilities,¹⁰⁶³ as well as dealing with college discipline. To achieve this, the governing body has the power to make college orders; in this regard, at Cambridge, Queens' statutes state: 'College Orders are decisions, directives or other binding acts which the governing body declares to be of continuing and special importance in the good government and management of the College, and in maintaining and improving the studies, discipline and support student members of the College'.¹⁰⁶⁴ In some instances, the governing body has very wide powers of governance. For example, at Worcester, the governing body 'shall have power to take such decisions as it may consider necessary or desirable for the attainment of the objects and the government, of the College'.¹⁰⁶⁵ In contrast, at Oxford, Queen's, has a more detailed description of the powers afforded to governing body in the statutes.¹⁰⁶⁶

In summary, the governing body directly influences the college chapel, and therefore the chapel's musical life through: (1) its duty to provide for the performance of divine worship,¹⁰⁶⁷ (2) its requirement to make financial provision for the chapel and choir's

college's governing body's membership is set out in the individual college statutes. See for example, King's College, Statute B.1(a).

¹⁰⁶¹ See, for example, New College, Statute 1.

¹⁰⁶² Although, some elements of the Governing Body's functions and influence over Chapel musical life have been addressed above in relation to the appointment of individuals such as the Dean, Chaplain, Director of Music and Organ and Choral Scholars to the Chapel, and in determining their duties.

¹⁰⁶³ See for example, Sidney Sussex College Statutes, Chapter II – 4.

¹⁰⁶⁴ Queens' College, Cambridge, Statute 4.3.

¹⁰⁶⁵ Worcester College, Statute I.5(a).

¹⁰⁶⁶ 'The Governing Body shall be responsible, within these Statutes, for the advancement of the College's objects, for the management of its finances and property, and for its administration and good government, in all cases in the light of the perpetual nature of the College, and shall have all the powers necessary for it to discharge these responsibilities, including powers to purchase and sell property whether real or personal, to invest, to agree to enter into and to enter into contracts, to establish subsidiary companies of the College, and to spend money'. See Queen's College, Oxford, Statute III.2(1).

¹⁰⁶⁷ See section 5.1.1 above "Divine Service".

maintenance;¹⁰⁶⁸ (3) its power or duty to appoint certain officers to the college, such as the dean,¹⁰⁶⁹ or director of music,¹⁰⁷⁰ and (4) its oversight of scholarships such as the organ scholars,¹⁰⁷¹ and choral scholars.¹⁰⁷² Furthermore, office holders are responsible to the governing body for the proper performance of their duties,¹⁰⁷³ thus the governing body has a right to hold an office holder accountable in the event that his or her duties are not carried out to an adequate standard. This includes the individuals involved in the chapel choir.

5.3.2 Chapel and Choir Committees

Often, the governing body has a power or duty to appoint additional committees to assist with the college's smooth running. Some committees have a direct impact on the chapel choir, whilst others may indirectly influence chapel life. This section considers how the college legal instruments regulate these committees and the extent to which the college committees affect chapel musical life.

Appointment

In relation to the requirement to appoint, the college legal instruments fall into two models: firstly those which place a duty on the governing body to establish various committees, and secondly those which give the governing body a power to set up committees but not an obligation.

Firstly, an example of where the college legal instruments place a duty on the governing body to establish committees can be found in King's ordinances which state the council committees 'shall include...the Chapel and Choirs Committee; the Church Patronage

¹⁰⁶⁸ See section 5.1.3 above – “The Choir”.

¹⁰⁶⁹ See section 5.2.1 above – “The Dean and Music”.

¹⁰⁷⁰ See section 5.2.3 above – “The Director of Music”.

¹⁰⁷¹ See section 5.2.4 above – “Assistant Organists and Organ Scholars”.

¹⁰⁷² See section 5.2.5 above – “The Chapel Choir”.

¹⁰⁷³ Worcester College, Statute VI.1.

Committee'.¹⁰⁷⁴ The Council Committees 'shall report, and be accountable to the Council'.¹⁰⁷⁵ Likewise, provisions are contained in Merton's bylaws¹⁰⁷⁶ and Magdalen's statutes placing a duty on their governing body to establish a chapel and choir committee.¹⁰⁷⁷ St John's standing orders lists the college's standing committees,¹⁰⁷⁸ which includes a 'Choir Advisory Committee'. Given these committees are listed in the standing orders, the governing body has a duty to establish the committees.

Secondly, at Cambridge, Queen's statutes give its governing body a discretion to establish such committees: 'the Governing Body *may* from time to time appoint a committee for any such matter as in the opinion of the Governing Body may be better dealt with by means of a committee, and may delegate to any committee so appointed, with or without restrictions and conditions, the exercise of any functions proper to that committee'.¹⁰⁷⁹ Similarly, St Edmund Hall's statutes state: 'the Governing Body *shall* establish such standing or ad hoc committees as are needed for the College's good governance, and *shall* provide by By-law for the number, names, membership, terms of reference and delegated powers of standing committees',¹⁰⁸⁰ although this does not specifically mention a chapel committee.

Duties

¹⁰⁷⁴ King's College, Ordinance C.2.2.

¹⁰⁷⁵ King's College, Ordinance C.2.3.

¹⁰⁷⁶ Merton College, Bylaws, Part VII. Committees, Sub-Committees, forums and panels, 11(a), page 102, states: 'there shall be...a Chapel and Patronage Committee'. The members of this committee include the Warden, the Chaplain, three members of the Governing Body, the Director of Music, two Junior Members who are nominated from the serving Chapel Officers by the President of the Middle Common Room, and the President of the Junior Common Room, the Verger, and the Chapel Administrator. It is important to note that the director of music, as the head of the chapel choir, is included on this committee. see <https://www.merton.ox.ac.uk/sites/default/files/2023-07/Merton%20College%20Bylaws.pdf>.

¹⁰⁷⁷ Clause 115(1) Magdalen Bylaws states: 'The Standing Committees of the College shall be those mentioned in sub-clause (2),' and sub-clause 2 lists the Chapel and Choir Committee.

¹⁰⁷⁸ See Appendix I St John's College Standing Orders.

¹⁰⁷⁹ See for example, Queens' College, Cambridge, Statute 4.5. At Corpus Christi College, Cambridge, the Governing Body has a right 'to delegate any or all of its powers to such persons or committees as shall be prescribed by Ordinance'. Corpus Christi College, Cambridge, Statute 7.

¹⁰⁸⁰ St Edmund Hall, Oxford, Statute 18. (emphasis added).

Regarding the committee's duties, the college legal instruments fall into two models: those setting out the committee's specific duties, and those which reserve the power for the committee's duties to be determined by the college governing body.

Falling within the first model are Merton's bylaws, which specifically set out the committee's duties.¹⁰⁸¹ Magdalen's bylaws also set out the Chapel and Choir Committee's duties in detail.¹⁰⁸² Furthermore, the purpose of St John's Choir Advisory Committee is specifically stated to be 'to advise the Council on matters relating to the Choir...other than relating to services in Chapel'. Whilst Balliol's Statutes set out its Chapel and Patronage Committee's duties, these are very general provisions.¹⁰⁸³

Secondly are the college legal instruments which state that the governing body determines any additional committee's duties. For example, King's ordinances, state 'the Terms of Reference for all Council Committees, or any amendments to the same, must be agreed by Council before being adopted'.¹⁰⁸⁴

In summary, the majority of colleges have additional college committees, which are set up to deal with specific issues. A number of committees have a direct impact on the life of the

¹⁰⁸¹ Its duties include: (i) to have responsibility with the Chaplain for and to advise the Chaplain on all matters relating to the running of the College Chapel, the maintenance of worship therein in accordance with the Bylaws and the applicable law, activities centred upon the Chapel and its worship, the furtherance of the musical tradition of the Chapel, the appointment of relevant employees, and the use of the Chapel for concerts, recording, broadcasts and filming; (ii) to recommend annually a budget for the Chapel and to have oversight for expenditure; (iii) to have responsibility for all matters connected with the Choral Foundation; (iv) to recommend annually a budget for the Choral Foundation and to have oversight of all expenditure. See Merton College, Bylaws, Part VII. Committees, Sub-Committees, forums and panels, 11(d), page 103, see <https://www.merton.ox.ac.uk/sites/default/files/2023-07/Merton%20College%20Bylaws.pdf>.

¹⁰⁸² These include: preparing and submitting a budget and authorising payments for the expenses of the Choir and Chapel Services and to administer funds for purposes connected with the Chapel and Choir; to recommend any changes to the order of any services held in the chapel; to appoint the Chaplains and make recommendations regarding the number of chaplains to be appointed; to recommend to the President and Fellows the appointment and re-appointment of the Organist and Informator Choristarum, the amount of his/her stipend, if any, the period of his/her appointment; to appoint on the recommendation of the Organist and Informator Choristarum and the Tutors concerned up to twelve Academical Clerks, two Organ Scholars and one assisting organist, and to consider the removal of the same in the event that their circumstances change; and to appoint and remove choristers where necessary. See Magdalen College, Bylaw 180(i).

¹⁰⁸³ The committee's duties are simply stated as being responsible for overseeing the activities of the College Chapel. Balliol College, Financial Report and Annual Accounts.

¹⁰⁸⁴ Ordinance C.2.4, King's College Ordinances.

chapel and choir, such as a “Chapel and Choir Committee”, or a “Choir Advisory Committee”. Those colleges having these committees make provision in their legal instruments for these committees, and they have limited provisions regarding the duties of those committees. Regarding their appointment, the legal instruments can be divided into two models: those placing a duty on the governing body to establish various committees, and those placing a power on the governing body to set up such committees. Regarding the committee’s duties, the college legal instruments can be divided into two models: those which set out the committee’s specific duties, and those where the governing body has a power to determine the committee’s duties. Whilst the college legal instruments do make provision for these committees, such provision is limited. In addition, the college legal instruments are not consistent in their approach to regulation of the additional committees, particularly regarding the committees’ duties: colleges such as Merton and Magdalen set out detailed duties that the committees must adhere to, whereas other colleges leave the precise detail to be determined by the governing body.

5.3.3 The Choir Schools

Where a college has a choir school attached to it, the statutes may provide for the choristers’ education. The majority of college statutes include provisions for the choristers’ education, accommodation, and the maintenance and governance of a choir school. The college legal instruments can be placed in the following models: (1) those placing a duty on the governing body to provide for the choristers’ education and accommodation; (2) those where governing body has a power but not an obligation to provide for the choristers’ education; (3) those where the college legal instruments are silent regarding the choristers’ education, but where governing body has a duty in this regard; and (4) those where the choristers are not selected from a specific school and the statutes therefore make no provision for education at a specific school.

First, are colleges whose statutes place an obligation on governing body to maintain a college school the choristers’ education. King’s statutes state: ‘the Choristers shall be accommodated

and educated at the College School unless otherwise decided by the Council'.¹⁰⁸⁵ Furthermore, the college is responsible for the choristers' education and training,¹⁰⁸⁶ and detailed provisions regarding the governance of King's College School are included in the college regulations.¹⁰⁸⁷ Similarly, New's bylaws state the college 'maintains New College School to educate the choristers of the Choir' and 'New College School is owned and administered by the Warden and Fellows of New College, Oxford'.¹⁰⁸⁸ Whilst the governing body 'is ultimately responsible for the management of the school', it has 'devolved the detailed superintendence of its affairs to the School Committee'.¹⁰⁸⁹

Second, are colleges where the governing body has a power to maintain a choir school for the choristers' education. Christ Church's statutes state the governing body '*may at its discretion* from time to time, and on such terms as it shall decide: (a) provide buildings and/or land for the use or occupation of any school (the "Choir School") in which the Choristers shall be educated pursuant to Statute I.6(a); (b) contribute, having regard to the funds at its disposal, such a sum as it shall consider requisite for the maintenance of the Choir School and the buildings provided to the Choir School by the Governing Body'.¹⁰⁹⁰ Whilst it appears that the governing body has a power (but not a duty) to maintain a choir school, given the college objects include 'the provision, support, conduct and maintenance of Christ Church Cathedral...together with its Choir',¹⁰⁹¹ and since the choristers are an integral part of the choir, the governing body does in fact have a duty to maintain the choir school.

¹⁰⁸⁵ King's College, Statute I.1.2.

¹⁰⁸⁶ 'Although the original rationale for the establishment of the school was to educate the Choristers who sing in the College Choir, the College decided that this aim could most effectively and economically be met through a larger school that included those who were not in the College Choir. The School was established on its current site in 1878, on land owned by, and adjacent to the College'. Furthermore, 'the College considers that the educational needs of the Choristers are best served by being educated in a co-educational school that can offer a broad curriculum and experience while remaining under the control of the College. The Choristers all board at the School in order that they may take part in the routine of services in the Chapel and also so they may be selected from the widest geographical pool. The College believes that the best way of balancing the demands of the choral tradition and the need for high quality education of the Choristers is through such a choir school. The King's College School provides an education for some 420 boys and girls aged 4 to 13'. See King's College, Annual Accounts, 30 June 2017, 5.

¹⁰⁸⁷ These include that the Council of King's College 'is ultimately responsible for the operation of the School, which is an integral part of the College. Council exercises this responsibility through the Governors who are a committee of the Council'. King's College, Regulation I.3.1.

¹⁰⁸⁸ New College, Bylaws, Appendix C, 1.

¹⁰⁸⁹ New College, Bylaw VI.8.

¹⁰⁹⁰ Christ Church College, Statute VII.2. (emphasis added).

¹⁰⁹¹ See Christ Church College, Statute 2(a).

Thirdly, are colleges whose statutes are silent regarding the maintenance of a choir school, but where the college does in fact maintain a school. There is nothing in Magdalen's statutes or bylaws regarding the maintenance of Magdalen College School. However, the college website sets out that all choristers attend Magdalen College School.¹⁰⁹² Similarly, at Cambridge, St John's statutes are silent regarding maintaining a college school, although it is clear that all choristers are educated at St John's College School, and there is a section in the standing orders dealing with the "Government and Administration of St John's College School".¹⁰⁹³ Given the long tradition of choristers in both these college chapels, and the close relationship between the colleges and the college schools, this arguably places an obligation on the college governing bodies to continue to maintain a choir school.

Finally, at Cambridge, Jesus does not maintain a choir school. Instead, choristers are selected from local schools,¹⁰⁹⁴ and so its statutes and regulations do not make any provisions regarding the maintenance of a choir school.

In summary, five colleges maintain a choir school, responsible for the choristers' education. The college legal instruments may provide for the maintenance of the college school. They can be divided into four categories. Some place a duty on governing body to maintain a choir school, others provide a power for the choir school's maintenance, some are silent in this regard,¹⁰⁹⁵ and finally one does not select its choristers from a specific school and so there are no provisions for a choir school. Again, the college legal instruments are not consistent in their approach to regulating the choir school, with some college statutes not making any provision for the maintenance of a college school even though it is clear that the choristers are educated at a school linked to the college.

¹⁰⁹² Information obtained from Magdalen College Website: see <https://www.magdalencollegechoir.com/choristers> accessed 9 April 2024.

¹⁰⁹³ See St John's College Choir website: <https://www.sjcchoir.co.uk/about/choir/choristers> accessed 9 April 2024.

¹⁰⁹⁴ See Jesus College website, <https://www.jesus.cam.ac.uk/chapel-and-choir/about-choir/applying/choristers>, accessed 9 April 2024, and St John's College Standing Orders A – Governance – 5.6.

¹⁰⁹⁵ Although it is clear that there is a choir school attached to the college.

5.3.4 Additional Choirs

Some colleges have additional choirs complimenting the main chapel choir.¹⁰⁹⁶ However, none of the college legal instruments specifically provide for these additional choirs. It is necessary to locate information about these choirs from other sources.

Examples of colleges with additional choirs include: Merton's "Girls' Choir",¹⁰⁹⁷ Magdalen's "Magdalen College Consort of Voices",¹⁰⁹⁸ and Christ Church's "the Cathedral Singers",¹⁰⁹⁹ and non-auditioning College Choir.¹¹⁰⁰ There are no provisions in any of their legal instruments regarding these voluntary choirs.

It is likely that the reason there is no provision for these additional choirs in the legal instruments is due to the limited duties of those involved in the choirs. For example, Merton's Girls' Choir and the "Magdalen College Consort of Voices" only sing chapel services one service a week during full term. In addition, "The Cathedral Singers" at Christ Church is a voluntary choir. The introduction of these voluntary choirs provides equal opportunities for female singers within the more traditional choral model. Since membership of these choirs is voluntary, arguably it is not necessary to include provision in the college legal instruments because members cannot be compelled to attend services. Furthermore, since these additional

¹⁰⁹⁶ This is particularly the case with the Choral Foundation Colleges, and those with a professional Director of Music where there is extensive provision for music in the Chapel services.

¹⁰⁹⁷ This provides girls aged between 10 and 16 from numerous schools across Oxford with the opportunity to sing in the College Chapel. The girl choristers sing Evensong every Wednesday during the University term. See information on Merton College website:

<https://www.merton.ox.ac.uk/sites/merton.ox.ac.uk/files/attachments/FriendsOfTheChoir.pdf> accessed 12 June 2018.

¹⁰⁹⁸ This choir consists of the academical clerks from the full chapel choir, together with sopranos who are students at the college. Information obtained from Magdalen College website

<https://www.magdalencollegechoir.com/the-choir> accessed 9 April 2024.

¹⁰⁹⁹ This choir has a professional Director of Music, separate to the Cathedral Choir Director of Music, and it consists principally of amateur adult singers. Information obtained from Christ Church Cathedral Singers website <http://www.cathedralsingers.org.uk> and <http://www.cathedralsingers.org.uk/history/> accessed 9 April 2024.

¹¹⁰⁰ Information obtained from Christ Church College website: <https://cathedralsingers.org.uk/history/> accessed 9 April 2024.

choirs are relatively recent additions in the colleges' history,¹¹⁰¹ the statutes have not yet been amended to reflect these changes.

However, from 2013 to June 2024 the St John's Voices was St John's secondary choir, founded to allow female members of college to participate in the choral tradition. However, the college announced in March 2024 that the choir was being disbanded. Despite strong opposition,¹¹⁰² St John's stated the decision reflected students' 'feedback, needs and aspirations', and sat 'alongside plans to develop a programme of non-musical activities in the Chapel, as recommended in 2023' but that 'to pursue these new opportunities in music, the College will redirect the significant resources currently devoted to St Joh's Voices, its second Chapel choir'.¹¹⁰³ Arguably, had St John's statutes included provisions for the St John's Voices, with a duty for the governing body to appoint members to the choir then they could not have disbanded the choir as easily.

In summary, whilst some colleges have additional choirs complimenting the main chapel choir, the college legal instruments do make provision for these choirs. It possible that this is because these choirs are a relatively recent addition to college life. However, it would be beneficial for these choirs to be placed on a statutory footing because this would provide security and certainty for choir members.

5.3.5 The Friends of the Chapel Choirs and Choir Associations

All colleges recognise the importance of maintaining a chapel choir, not only to continue a tradition stretching back centuries, but also to acknowledge the essential role the choir plays in the divine service. They also recognise the need to fund their choirs to maintain a high

¹¹⁰¹ For example, the Magdalen Consort of Voices was founded in 2010 whereas Magdalen's Statutes are dated October 2010. Merton's Girl's Choir was founded in 2016, and Merton's Statutes are dated July 2015.

¹¹⁰² See Classical Music Article 'St John's Voices launches petition against 'Fundamentally Regressive' Disbandment - <https://www.classical-music.uk/news/article/st-john-s-voices-launches-petition-against-fundamentally-regressive-disbandment>

¹¹⁰³ See statement issued by St John's College dated 21 March 2024, <https://www.joh.cam.ac.uk/music-college-st-johns-statement>

standard: the ‘generosity of those who support the College and Choir financially is essential to its upkeep’.¹¹⁰⁴ Accordingly, the majority of colleges have a ‘Friends of the College Choir’, to ‘provide essential support in maintaining the choir’s reputation’.¹¹⁰⁵ This support is in addition to and sits alongside the remuneration and scholarship provisions in the college legal instruments discussed above. This section considers what legal provision the colleges make (if any) for the Friends of the College Choir.

At almost all colleges, the legal instruments are silent regarding the Friends of the College Choir. Both Magdalen, and New have “Friends, Patrons or Benefactors” who provide financial support for the chapel choir.¹¹⁰⁶ Similarly, the Friends of Christ Church Cathedral ‘make grants to the Cathedral to support its maintenance, restoration, repair, conservation and beautification’,¹¹⁰⁷ but none of the college legal instruments mention this group. In addition, King’s, Merton,¹¹⁰⁸ and Trinity,¹¹⁰⁹ have a Friends of the College Choir. These are extra-legal entities. Some, such as the Friends of King’s College Choir,¹¹¹⁰ or the St John’s Choir Association,¹¹¹¹ are a registered charity, whereas the Friends of Magdalen College Choir, and Merton Choir are not.

In comparison, Girton’s ordinances are unique in setting out provisions for the Friends of the Choir.¹¹¹² They also provide for a ‘Chapel Fund’: ‘a permanent fund within the Amalgamated

¹¹⁰⁴ King’s College website < <http://www.kings.cam.ac.uk/choir/about/choir-today.html>> accessed 30 January 2018.

¹¹⁰⁵

¹¹⁰⁶ See the College Websites: <https://www.magdalencollegechoir.com/friends-of-the-choir> , accessed 9 April 2024, and See New College Website: Friends of New College Choir leaflet < <https://www.newcollegechoir.com/attachments/download.asp?file=10&type=pdf>> accessed 9 April 2024.

¹¹⁰⁷ See Christ Church Cathedral website <<https://www.chch.ox.ac.uk/cathedral/friends-cathedral>> accessed on 4 December 2017.

¹¹⁰⁸ See information on Merton College website: <https://www.merton.ox.ac.uk/sites/default/files/2019-04/Friends%20of%20the%20Choir%20brochure%20and%20donation%20form.pdf> accessed 9 April 2024.

¹¹⁰⁹ Information obtained from Trinity College Choir website: <http://trinitycollegechoir.com/support/> and <http://trinitycollegechoir.com/support/friends/> accessed 9 April 2024.

¹¹¹⁰ Registered under charity number 1139422 for the purpose of ‘education, religion, learning and research’. See <https://www.kings.cam.ac.uk/pdfviewer/20176>, accessed 20 September 2024.

¹¹¹¹ https://www.sjcchoir.co.uk/sites/default/files/donation_form_web_2019_w.pdf

¹¹¹² These state that the Friends of the Chapel was ‘established in 1988 and 1989 with the primary aim of fostering links between the College and its old members’. It allows old members of the College to offer continued involvement in the life of the College and its achievements. The Mistress of the College appoints the President of the Friends, who decide the various subscription rates for the

Trust Fund whose income is applied for “the maintenance of services in the Chapel in accordance with the Statutes’. The application of income from the Chapel Fund is determined by the College Council. In comparison, St John’s standing orders lists a number of the associations and societies attached to the college. This includes the constitution for the Choir Association, which is stated to be an unincorporated association and a charity, whose aims include: ‘to support and promote the Choir and its musical heritage’, and ‘to support and encourage the musical education and activities of former members of the Choir through the provision of bursaries’.¹¹¹³

The majority of colleges with a Friends of the College Choir, do not make provision for them in their Statutes.¹¹¹⁴ Since the Friends of the College Choirs are associations whose purpose is to secure financial contributions from individuals who wish to support and maintain the work of the chapel choirs it seems unnecessary for the college legal instruments to make formal provisions for these associations. It is likely that a straightforward contractual arrangement will have been entered into between the individual and the college, which sets out certain benefits the individual will receive for the provision of money. Therefore, it appears that formal provision in the college statutes is not necessary in this respect. On the other hand, placing these associations on a statutory footing would provide greater protection and certainty to achieve their aim of raising money for the choir.

CONCLUSION

This chapter addresses a lacuna in legal scholarship and provides an original contribution to knowledge, by describing the different models adopted in college legal instruments regulating music in the college chapels. This topic has not previously been considered comprehensively by law and religion scholars.

organisation. The subscriptions and donations of the Friends provides funds for special items and supports special projects that otherwise could not be undertaken. It is the President of the Organisation (with such consultation as is necessary) who decides how funds should be distributed. Girton College Cambridge, Ordinance XII.2.

¹¹¹³ Appendix III.7 to St John’s Cambridge Standing Orders.

¹¹¹⁴ And so Girton is exceptional in this regard.

Firstly, there are a number of sources applicable to the regulation of those involved in music at college chapels, at a national level: the Universities Tests Act 1871, the Oxford University Act 1854 and the Cambridge University Act 1856, but most regulation relating to college chapels is dealt with in the individual college legal instruments: the constitutions, statutes, bylaws and ordinances. There is a significant degree of overlap between subject matters dealt with in these sources, but the lower level sources do not necessarily incorporate regulation contained in the higher level sources.

Secondly, the governance of music in the college chapels is regulated by each individual college. This regulation has developed quasi-independently of the other Oxford and Cambridge Colleges, and so reflects the unique approach to music and the individual character and circumstances of chapel music within that particular college chapel. As a result, whilst there are similarities in approaches between the colleges, and so models can be identified in relation to approaches to specific topics, there are nuances to their legal instruments so that there is no uniform approach to the regulation of music at these colleges.

Thirdly, in relation to the regulation of individuals involved in the musical life of college chapels, a number of different approaches are adopted regarding the level of detail contained in the college legal instruments about their appointment and duties. Some, such as King's Cambridge have greater detail in their legal instruments setting out the duties compared to others, where director of music or governing body are given a greater level of freedom to determine the details. The advantage of the former approach is that it provides greater clarity and certainty for the individuals involved in music. On the other hand, the latter approach provides flexibility for an individual's duties to be amended if necessary as society changes without the need to go back and get it voted through governing body.

Fourthly, regarding bodies involved in musical life of the college chapels, the governing body is very heavily regulated, with provisions relating to how it carries out its governances being set out in some detail in the college statutes. In contrast, other bodies which have an outside influence on the musical life of colleges, such as "the Friends of the Chapel Choir" or "Chapel Association" are not regulated by the college legal instruments.

Fifthly, in the majority of cases, the Oxford and Cambridge college chapels are part of the Established Church of England, yet the Established church has almost no impact on internal

regulation of music within worship at these college chapels, which is left to the individual colleges.

Sixthly, the college legal instruments appear to have achieved a satisfactory balance between the need for formal regulation of music within their chapel choirs and allowing those governing the colleges sufficient flexibility to make changes where required. The legal instruments regulating musical provision within the college chapels are much more comprehensive than the provisions in the parish churches and cathedrals. On the other hand, the fact that the regulation of music in the college chapels is left to the individual colleges means that there is a lack of consistency across the different colleges regarding their approach to the regulation of chapel music.

Finally, all the college legal instruments make significant provisions for the appointment of musicians, ministers, and bodies which are involved in the chapel's musical life. These instruments leave a degree of flexibility for the governing body and those in charge of music to adapt any requirements to suit the needs of the chapel community. However, it is clear that music plays an important role in the worship and life of all the college chapels.

CHAPTER 6 - SAFEGUARDING AND DISPUTE RESOLUTION

INTRODUCTION

Safeguarding and dispute resolution are two topics which are highly relevant to those involved in music at parish churches, cathedrals and college chapels. It is clear from recent press coverage of safeguarding issues affecting the Church of England,¹¹¹⁵ and cases such as *Neary v Dean of Westminster*,¹¹¹⁶ that they have a significant impact on the church's reputation, standards within the church, and those involved in church music. Whilst it is not explicitly stated that the Church of England's safeguarding provisions are applicable to church musicians, they are clearly relevant in the event that church musicians come into contact with children or "vulnerable" adults. Similarly, the law regarding dispute resolution does not specifically address disputes between those involved in church music. However, given the impact disputes can have on church musicians it is an important issue for those involved in church music to be aware of so that disputes can be avoided, and resolved quickly if they do arise to ensure disruption is minimised. Safeguarding and dispute resolution are addressed in a standalone chapter because many issues are equally applicable to parish churches, cathedrals and college chapels, or topics to consider overlap.

Safeguarding and dispute resolution are standalone topics, and already subject to extensive study. However, they have not been considered specifically from the perspective of their impact on church music and musicians.¹¹¹⁷ This chapter addresses a lacuna in studies by law and religion scholars by considering issues of safeguarding and dispute resolution and their impact on church musicians. It is divided into two sections: the first considers safeguarding; the second dispute resolution. Each section addresses the laws, how they apply to churches, cathedrals and college chapels, and explains and evaluates them. As set out in the introduction, this chapter focuses on how Church law regulates issues pertaining to

¹¹¹⁵ See for example, the recent Church Times article regarding the report on safeguarding in relation to the Church of England: <https://www.churchtimes.co.uk/articles/2024/23-february/news/uk/jay-calls-for-root-and-branch-reform-of-church-safeguarding>, accessed 5 November 2024.

¹¹¹⁶ *Neary v Dean of Westminster* (1998) 5 Ecc LJ 303

¹¹¹⁷ See for example the consideration of studies on Safeguarding in section 1 of this chapter, and in relation to Dispute Resolution in section 2 of this chapter.

safeguarding within the church and does not address the extent to which the secular law or the criminal law separately regulate safeguarding or how this impacts how the church deals with safeguarding issues. In addition, this chapter only considers how the Church regulates disputes internally, and does not provide a comparison with how dispute resolution is dealt with in secular civil disputes. Finally, this chapter is an original contribution to scholarship through identifying problems with the law in practice and providing proposals for reform or suggested areas for further study.

6.1. SAFEGUARDING

Like many institutions, the Church of England is affected by safeguarding. Within the Church of England, safeguarding is defined as ‘the action the Church takes to promote a safer culture’.¹¹¹⁸ It has gained importance recently in light of a number of historic abuse cases gaining publicity, and due to the way in which the Church historically handled those cases.¹¹¹⁹ In 2022, the Independent Inquiry Child Sexual Abuse (IICSA) published its final report on the extent to which the Church of England protected children from sexual abuse, and examined the effectiveness of the Church’s current safeguarding arrangements.¹¹²⁰ The 1992 *Archbishops’ Commission’s Report on music* does not mention safeguarding or its applicability to church music.¹¹²¹ This is likely because, in 1992 safeguarding was not at the forefront of the authors’ minds.

¹¹¹⁸ <https://www.churchofengland.org/sites/default/files/2019-10/ParishSafeGuardingHandBookAugust2019Web.pdf> accessed 26 October 2024.

¹¹¹⁹ As has been demonstrate by recent events, including the resignation of the Archbishop of Canterbury Justin Welby, after the Makin Review exposed the abuses of John Smyth. In his resignation statement Justin Welby stated: ‘I hope this decision [to resign] makes clear how seriously the Church of England understands the need for change and our profound commitment to creating a safer church’. See: <https://www.archbishopofcanterbury.org/news/news-and-statements/statement-archbishop-canterbury-0> accessed 24 December 2024. See also, <https://www.churchtimes.co.uk/articles/2024/23-february/news/uk/jay-calls-for-root-and-branch-reform-of-church-safeguarding>

¹¹²⁰ See <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/executive-summary.html> accessed 24 December 2024. These findings will be examined later in this chapter.

¹¹²¹ *In Tune With Heaven: the Report of the Archbishops’ Commission on Church Music* (Church House Publishing, London, 1992).

Safeguarding is an extensive and quickly developing subject which has been dealt with in a number of studies. Firmin's *Contextual Safeguarding and Child Protection*,¹¹²² and *Contextual Safeguarding: The Next Chapter*,¹¹²³ analyses the safeguarding framework as it applies to the child protection system in society. Spreadbury's, *The Adult Safeguarding Practice Handbook*,¹¹²⁴ provides a practical guide to safeguarding for those working with vulnerable adults. These studies do not specifically consider safeguarding within the Church of England, nor to those involved in music in the parish churches, cathedrals or college chapels. This chapter addresses a lacuna in scholarship and is an original contribution to knowledge, considering the Church of England's safeguarding policies and how they apply to those involved in church music. As seen below, whilst the Church of England's safeguarding provisions are not explicitly stated to be applicable to church musicians, they are relevant in the event that church musicians come into contact with children or "vulnerable" adults.

This section consists of three sub-sections: the first considers the Church's approach to safeguarding generally as is applicable to the parish churches, cathedrals and college chapels, including national legislation and Church policies. The second looks at cathedral specific legal instruments and policies. The third considers additional legal instruments and policies specifically applicable to college chapels.¹¹²⁵ However, this section does not address the extent to which the secular law or the criminal law separately regulate safeguarding or how this impacts how the church deals with safeguarding issues.

6.1.1 The legislative position and Church of England's safeguarding policies

¹¹²² C. Firmin, *Contextual Safeguarding and Child Protection: Rewriting the Rules* (Routledge, London, 2020).

¹¹²³ C. Firmin, and J. Lloyd, *Contextual Safeguarding: The Next Chapter* (Bristol University Press, Bristol, 2023).

¹¹²⁴ K. Spreadbury, and R. Hubbard, *The Adult Safeguarding Practice Handbook* (Policy Press, Bristol, 2020).

¹¹²⁵ Given the extensive and quickly developing nature of safeguarding, it is only possible to touch upon certain aspects applicable to the parish churches, cathedrals and college chapels. This chapter is not intended to be an exhaustive analysis of safeguarding generally.

This section considers the Church of England’s general approach to safeguarding, which applies, by virtue of its general coverage of the Church, to the parish churches, cathedrals and college chapels. It begins considering national legislation applicable to the Church, before considering the Church’s structures and policies at a national, diocesan and parochial level.

National Legislation

The Church’s safeguarding policies, practice guidance and training framework have undergone a ‘wholesale revision’ since 2015.¹¹²⁶ The starting point for considering the Church of England’s approach to safeguarding is national Church legislation. Under the Safeguarding and Clergy Discipline Measure 2016, Clergy, at the level of the parish, and Parochial, Church Councils (PCCs) must ‘have due regard to the House of Bishops’ guidance on safeguarding children and vulnerable adults’.¹¹²⁷ The Church of England’s national policy on safeguarding (found in House of Bishops guidance)¹¹²⁸ sets out ten core principles underpinning the Church’s approach to safeguarding practice.¹¹²⁹ All members of the clergy and every PCC have a duty to comply with the Church of England’s safeguarding policy. Further, House of Bishops guidance stipulates ‘a duty to have “due regard” means that the person is not free to disregard it but is required to follow it unless there are cogent reasons for not doing so... Failure by clergy to comply with the duty imposed by the 2016 Measure may

¹¹²⁶ Paragraph 52 IICSA Report - <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b13-safeguarding-policies.html>

¹¹²⁷ S.5(3) and (4) Safeguarding and Clergy Discipline Measure 2016: (3) In section 8(1) of the Clergy Discipline Measure 2003 (acts or omissions constituting misconduct)- (a) after paragraph (a) insert – (aa) failing to comply with the duty under section 5 of the Safeguarding and Clergy Discipline Measure 2016 (duty to have due regard to House of Bishops’ guidance on safeguarding and vulnerable adults;” and (4) in part 2 of the Church Representation Rules (parochial church meetings and councils), in rule 9 (business), after paragraph (2) insert – (2A) The annual report referred to in paragraph (1)(b) shall include a statement as to whether the council has complied with the duty under section 5 of the Safeguarding and Clergy Discipline Measure 2016 (duty to have due regard to the House of Bishops’ guidance on safeguarding children and vulnerable adults).”

¹¹²⁸ The House of Bishops, *Promoting a Safer Church: Safeguarding Policy Statement for children, young people and adults* (Church House Publishing, London, 2017).

¹¹²⁹ These include: (1) the welfare of the child, young person and vulnerable adult is paramount; (2) integrity, respect and listening to all; (3) transparency and openness; (4) accountability; (5) collaboration with key statutory authorities and other partners; (6) use of professional safeguarding advice and support both inside and outside the Church; (7) a commitment to the prevention of abuse; (8) the active management of risk; (9) promoting a culture of informed vigilance; and (10) regular evaluation to ensure best practice. See <https://www.churchofengland.org/sites/default/files/2019-05/PromotingSaferChurchWeb.pdf> accessed 26 October 2024.

result in disciplinary action.¹¹³⁰ Thus the whole Church has a duty to adhere to these principles. Failure by a member of clergy to comply is misconduct under the Clergy Discipline Measure 2003. A failure by a lay reader ‘would be grounds for revocation of their licence by the bishop’ and by a churchwarden or PCC member ‘could result in the member being disqualified as charity trustees’.¹¹³¹

National Safeguarding Structure

The Archbishops’ Council is responsible for delivering safeguarding work across the Church of England.¹¹³² At a national level, the Church is governed by structures designed to support safeguarding and provide scrutiny.¹¹³³ There are three lead safeguarding bishops; a National Safeguarding Steering Group, which has strategic oversight of national safeguarding activity, is made up of a range of representatives from across the Church and recommends development of safeguarding processes to the Archbishops’ Council; a National Safeguarding Panel, comprising a body of experts whose purpose is to provide high level strategic advice and offer guidance on safeguarding policies and practice; and a National Safeguarding Team,

¹¹³⁰ See House of Bishops Guidance: <https://www.churchofengland.org/safeguarding/policy-and-practice-guidance> accessed 24 December 2024.

¹¹³¹ See guidance following IICSA review: <https://webarchive.nationalarchives.gov.uk/ukgwa/20221214225209/https://www.iicsa.org.uk/key-documents/18865/view/ACE027796.pdf>

¹¹³² Section B.1.2: Paragraph 4 IICSA <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b12-safeguarding-structures.html>

¹¹³³ Its website states: “The Church is committed to safeguarding as an integral part of its ministry and mission, promoting a safer culture and the welfare of every child, young person and adult. As such, the Church has robust policies, procedures and guidelines in place, to ensure good practice throughout the central organisation, its 42 dioceses and other Church bodies. The Church of England will:

- Promote a safer environment and culture
- Safely recruit and support all those with any responsibility related to children and vulnerable adults within the Church
- Respond promptly to every safeguarding concern or allegation
- Care pastorally for victims/survivors of abuse and other affected persons
- Care pastorally for those who are the subject of concerns or allegations of abuse and other affected persons

Respond to those that may pose a present risk to others.”

See Church of England website: <https://www.churchofengland.org/safeguarding> accessed 22 October 2024.

managing complex safeguarding cases and those relating to senior clergy, as well as being responsible for leading on House of Bishops policy and developing safeguarding training.¹¹³⁴

Dioceses

Most safeguarding practice is undertaken locally within dioceses. Each diocese is ‘responsible for supporting the safeguarding response of its parishes and other local church bodies’¹¹³⁵ and has a safeguarding team, including a Diocesan Safeguarding Adviser, as required by the Diocesan Safeguarding Advisors Regulations 2016, who is the first point of contact for any safeguarding concerns.¹¹³⁶ In addition, they have a Diocesan Safeguarding Advisory Panel (DSAP) which monitors diocesan requirements relating to safer recruitment, criminal record disclosures and safeguarding training.¹¹³⁷ Diocesan websites also have detailed provisions relating to safeguarding.¹¹³⁸

Parishes

On a parochial level, as seen above, clergy and members of the PCC (PCCs) ‘must “have due regard to the House of Bishops” guidance on safeguarding children and vulnerable adults’.¹¹³⁹ Since, this applies to all officers involved in the Church,¹¹⁴⁰ including church

¹¹³⁴ See Church of England website: <https://www.churchofengland.org/safeguarding/safeguarding-governance>, accessed 22 October 2024, and ICCSA report: <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b12-safeguarding-structures.html> accessed 24 December 2024.

¹¹³⁵ See section B.1.2 paragraph 19 IICSA report <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b12-safeguarding-structures.html>

¹¹³⁶ See Church of England website: <https://www.churchofengland.org/safeguarding/safeguarding-governance>, accessed 26 October 2024.

¹¹³⁷ See section B.1.2 paragraph 22 IICSA report <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b12-safeguarding-structures.html>

¹¹³⁸ For example, the Diocese of Oxford website contains information about contacting the diocesan safeguarding team if anyone has concerns about a safeguarding issue See <https://www.oxford.anglican.org/safeguarding/>, accessed 26 October 2024. Similarly, the diocese of Peterborough’s website contains detailed safeguarding information, including details of contacts for the safeguarding team: <https://www.peterborough-diocese.org.uk/safeguarding>.

¹¹³⁹ S.5(3) and (4) Safeguarding and Clergy Discipline Measure 2016.

¹¹⁴⁰ Since under s.5(4) “The annual report referred to in paragraph (1)(b) shall include a statement as to whether the council has complied with the duty under section 5 of the Safeguarding and Clergy Discipline Measure 2016 (duty to have due regard to House of Bishops’ guidance on safeguarding

musicians such as the organist, or director of music, whether employed or a volunteer, this legislation applies to those involved in music. To assist in implementing safeguarding policies, the Parish Safeguarding Handbook, also issued by the House of Bishops, ‘support[s] the day-to-day work of all parishes in relation to safeguarding and those who have a key role to play with children, young people and adults who may be vulnerable’.¹¹⁴¹ Whilst not mandatory legislation, ‘the duty to have “due regard” under section 5 of the Safeguarding and Clergy Discipline Measure 2016 applies to the handbook’.¹¹⁴² Therefore, if clergy and PCC members do not comply with these recommendations, they will be in breach of the 2016 Measure and may be subject of sanctions. The Handbook sets out guidance for PCC’s and clergy to follow regarding structures and safeguards;¹¹⁴³ how a parish ensures that recruitment of employees and volunteers complies with safeguarding requirements;¹¹⁴⁴ safeguarding training expected of members and clergy;¹¹⁴⁵ how to deal with safeguarding concerns;¹¹⁴⁶ and how to deal with a safeguarding disclosure.¹¹⁴⁷ It does not explicitly state that it applies to church musicians, however, it applies where children or “vulnerable adults” are involved in church music. Non-compliance by clergy, will be classified as misconduct and they may be subject to disciplinary action;¹¹⁴⁸ whilst non-compliance by churchwardens or PCC members could result in them being disqualified as charity trustees.¹¹⁴⁹

The Church of England has extensive safeguarding policies and guidance, applicable on a national, diocesan and parochial level, which must be followed by all clergy, PCC officers and those engaged by the Church. Whilst not explicitly stated to apply to those involved in music, the Handbook’s provisions will apply where musicians come into contact with children and “vulnerable adults” (e.g. if children sing in the choir). Therefore, before

children and vulnerable adults).” This requirement to have due regard to the House of Bishops guidance applies to all officers. S.5(4) Safeguarding and Clergy Discipline Measure 2016.

¹¹⁴¹ Church of England House of Bishops, *Parish Safeguarding Handbook* (Church House Publishing, London, 2018) ii.

¹¹⁴² *Ibid.*, vii.

¹¹⁴³ *Ibid.*, 1.

¹¹⁴⁴ *Ibid.*, 5.

¹¹⁴⁵ *Ibid.*, section 6 “Safeguarding Training”

¹¹⁴⁶ *Ibid.*, 7.

¹¹⁴⁷ *Ibid.*, section 7.3, p.23.

¹¹⁴⁸ S8. Clergy Discipline Measure 2003

¹¹⁴⁹ See guidance following IICSA review:

<https://webarchive.nationalarchives.gov.uk/ukgwa/20221214225209/https://www.iicsa.org.uk/key-documents/18865/view/ACE027796.pdf>

appointment successful directors of music and church musicians will be subject to Disclosure and Barring Service (DBS) checks before they are able to take up their post. It is also recommended that they complete Basic Awareness and Foundation Safeguarding courses, which is repeated periodically.¹¹⁵⁰

¹¹⁵⁰ Church of England House of Bishops, *Parish Safeguarding Handbook* (Church House Publishing, London, 2018) sections 5 and 6. <https://www.churchofengland.org/sites/default/files/2019-10/ParishSafeGuardingHandBookAugust2019Web.pdf>

6.1.2 Cathedrals

Cathedrals are largely autonomous bodies and as seen in chapter 4 are governed on a day-to-day basis by the dean and chapter.¹¹⁵¹ Therefore, in addition to the safeguarding policies set out above, each cathedral has its own safeguarding policy. This is particularly important since child choristers sing in every cathedral choir. The breadth and depth of norms in the approach taken to safeguarding at each cathedral varies. Cathedrals do not include safeguarding provisions in their legal instrument, instead, their websites refer to the Church of England and relevant diocesan policies detailed above, and if applicable the cathedral's own individual safeguarding policy. This approach is sensible, since safeguarding policies need to be reviewed and if necessary, amended, whereas the cathedral constitutions and statutes remain fairly constant. The cathedrals fall into two categories regarding their regulation of safeguarding: some have their own safeguarding policy in addition to Church national and diocesan policies; others have simply implemented the national and diocesan safeguarding policies, without creating their own policies.

Firstly, Portsmouth cathedral has created its own safeguarding policies. Its website includes details of the safeguarding lead, and the Diocesan Safeguarding Team, and 'clergy, lay staff, volunteers and members of the congregation working with or seeking to work with children, young people and/or vulnerable adults are properly recruited, screened, trained and supported'.¹¹⁵² Portsmouth's policy statement stipulates the cathedral will implement the Diocese of Portsmouth's Safeguarding Policy and Procedures and the relevant statutory legislation and guidance for the welfare of children, young people and vulnerable adults'.¹¹⁵³ In addition, all those undertaking work in regulated activity with children and/or vulnerable adults in the cathedral,¹¹⁵⁴ on a voluntary or paid basis are required to: complete a

¹¹⁵¹ See s.B1.2 IICSA report, paragraph 43: <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b12-safeguarding-structures.html>

¹¹⁵² See Portsmouth Cathedral website: <https://www.portsmouthcathedral.org.uk/safeguarding> accessed 26 October 2024.

¹¹⁵³ See Portsmouth Cathedral Safeguarding Policy Statement: <https://static1.squarespace.com/static/5954db70b6ac50caf3ac18e6/t/6617d54497abdc35dd4d6ba8/1712837958029/signed+safeguarding+policy+statement+%281%29.pdf> accessed 26 November 2024.

¹¹⁵⁴ This includes all choir activities involving the child choristers, and young people, and vulnerable adults).

confidential self-declaration form; complete the necessary vetting application (DBS/ISA); and complete appropriate safeguarding training.¹¹⁵⁵ This includes the dean, precentor, director of music, organists and all adult members of the choir.¹¹⁵⁶

Southwark cathedral has adopted a similar approach to Portsmouth.¹¹⁵⁷ Its Safeguarding Policy sets out general statements regarding to how it is committed to ‘promoting a safer environment and culture’.¹¹⁵⁸ Similar provisions have been adopted by Liverpool, whose Safeguarding Policy mirrors the House of Bishops’ Promoting a Safer Church: Safeguarding Statement.¹¹⁵⁹

Falling within the second category are Bradford,¹¹⁶⁰ and Coventry,¹¹⁶¹ whose websites simply provide contact details of a safeguarding officer, and setting out links to Church of England, and Diocesan safeguarding policies, they simply adopt those policies rather than setting out specific safeguarding policies of their own.

All the cathedrals adopt safeguarding policies in accordance with national and diocesan requirements. Some have created their own safeguarding policies in addition to the national and diocesan policies, whilst others simply implement the national and diocesan policies

¹¹⁵⁵ Portsmouth Cathedral Safeguarding Policy Statement, 1 – 2.

¹¹⁵⁶ Ibid., 2.

¹¹⁵⁷ The website lists key safeguarding contacts, provides a link to the Diocesan Safeguarding Handbook, and states: ‘the Chapter follows the national legal and procedural framework for safeguarding children and vulnerable adults and Church of England policy and practice’. See Southwark Cathedral website: <https://cathedral.southwark.anglican.org/about-us/safeguarding/> accessed 26 October 2024.

¹¹⁵⁸ These include: ‘safely recruiting and supporting all those with any responsibility related to children, young people and vulnerable adults within the church’. Southwark Cathedral Safeguarding Policy, 20 November 2023: having a named Cathedral Safeguarding Officer (CSO) to work with Chapter to implement policy and procedures; and taking steps to protect children and adults when a safeguarding concern arises, following House of Bishops’ guidance and notifying Diocesan Safeguarding Adviser and statutory agencies. This would include anyone working with the choristers in the choir, such as the Organist, Choral Scholars.
<https://static1.squarespace.com/static/5954db70b6ac50caf3ac18e6/t/6617d54497abdc35dd4d6ba8/1712837958029/signed+safeguarding+policy+statement+%281%29.pdf> accessed 22 October 2024.

¹¹⁵⁹ See Liverpool Cathedral Safeguarding Policy, 2024.

¹¹⁶⁰ See Bradford Cathedral’s website:

https://bradfordcathedral.org.uk/safeguarding/?srsltid=AfmBOoo_Tont0H33uaTlv52YJ1fycoBFFd7i5RXOb3Y95Q7D7iw2hz1i, accessed 26 October 2024.

¹¹⁶¹ See Coventry Cathedral website, safeguarding page: <https://www.coventrycathedral.org.uk/about-us/safeguarding>, accessed 26 October 2024.

already in place. These are not incorporated into the cathedral legal instruments, instead they are contained in separate policy documents (where cathedrals have their own policies). There is a degree of uniformity between the cathedral policies since they reflect the national and diocesan policies.

6.1.3 College Chapels

The Oxford and Cambridge are largely autonomous bodies, and have adopted their own approach to safeguarding. Their legal instruments do not include safeguarding provisions. Instead, the approach to safeguarding is set out in soft law: in policies and guidance. Both Oxford and Cambridge Universities, have their own Safeguarding Code of Practice applicable to activities involving ‘at risk’/vulnerable adults and children.¹¹⁶² However, these codes do not apply to activities carried out by the individual colleges,¹¹⁶³ *instead, each college has its own safeguarding policy.*¹¹⁶⁴ The breadth and depth of norms included in the safeguarding policies of each college varies and are considered in this section.

The colleges can be divided into two models: those with a specific college choir safeguarding policy, additional to the college’s general safeguarding policy,¹¹⁶⁵ and those with no specific policy for the chapel, but which are implicitly covered by the college’s general policy.¹¹⁶⁶

¹¹⁶² See Oxford University Safeguarding Statement: <https://hr.admin.ox.ac.uk/safeguarding-at-risk-adults-and-children#collapse1406551>

¹¹⁶³ For example, Oxford’s Code states: ‘*these Codes of Practice do not cover activities ‘carried out by the University’s self-governing colleges’.* See Oxford University Safeguarding Statement: <https://hr.admin.ox.ac.uk/safeguarding-at-risk-adults-and-children#collapse1406551>

¹¹⁶⁴ Which are *available via the college’s website.* See, Oxford University Safeguarding Statement: <https://hr.admin.ox.ac.uk/safeguarding-at-risk-adults-and-children#collapse1406551> Similarly, an analysis of the list of activities that may be captured by the Cambridge University Safeguarding Statement, suggest that the policy is applicable to activities relating to the University umbrella rather than in relation to the individual colleges, see https://www.hr.admin.cam.ac.uk/files/children_and_adults_at_risk_policy_2024.pdf.

¹¹⁶⁵ For example, each of the Choral Foundation Colleges a specific Safeguarding Policy relating to the college choir, in accordance with legal requirements setting out the child protection responsibilities under the Education Act 2002. This reflects the fact that there are children under the age of 18 singing in the choir.

¹¹⁶⁶ These colleges tend to be those which do not have child choristers involved in the chapel choir and so do not need a specific safeguarding policy for the chapel choir.

An example of a college falling within the first model is St John’s College, Cambridge, which has a very detailed safeguarding policy specifically relating to the child choristers and probationers,¹¹⁶⁷ which is separate from the St John’s College general safeguarding policy.¹¹⁶⁸ Under this policy, the dean is responsible for child protection matters within the chapel. The College ‘will adopt and follow the processes of St John’s College School Safer Recruitment Policy when recruiting certain posts within the Chapel & Choir Department’.¹¹⁶⁹ This includes all choir members.¹¹⁷⁰ Chapel and choir personnel and organ scholars are required to attend basic safeguarding training on appointment and refresher training every two years, provided by the College School. The dean, chaplain and director of music are subject to section 128,¹¹⁷¹ governmental checks to ensure they are fit to work with children.

Magdalen College, Oxford, also has a specific “College Choir Safeguarding Policy”, in addition to the College’s general Child Safeguarding Policy. This states: ‘by this policy the College aims to ensure that it provides a safe environment for Choristers and safeguards their well-being, in particular by protecting them from abuse of any kind’.¹¹⁷² Similarly, Jesus, Cambridge has a specific policy ‘for the Safeguarding of Children in the Chapel Choir’,¹¹⁷³

¹¹⁶⁷ https://www.sjcchoir.co.uk/sites/default/files/safeguarding_and_child_protection_policy.pdf.

Furthermore, the policy is reviewed annually by the Choir Advisory Committee. See St John’s College, Safeguarding and Child Protection Policy, Standing Order J.7.

¹¹⁶⁸ It states: ‘the Chapel & Choirs Department Safeguarding Policy is separate from St John’s College Safeguarding Children and Vulnerable Adults Policy and relates to activities within the Chapel & Choirs Department only’. St John’s Chapel & Choirs Safeguarding Policy dated November 2024 - https://www.sjcchoir.co.uk/sites/default/files/safeguarding_and_child_protection_policy.pdf

¹¹⁶⁹ https://www.sjcchoir.co.uk/sites/default/files/safeguarding_and_child_protection_policy.pdf

¹¹⁷⁰ Due to the fact that they come into contact with choristers.

¹¹⁷¹ Checks set out in s.128 of the Education and Skills Act 2008.

¹¹⁷² Magdalen College Choir Safeguarding Policy 2023 – obtained via College website:

<https://www.magd.ox.ac.uk/wp-content/uploads/2024/03/Magd-Coll-Choir-Child-Safeguarding-Policy-2023.pdf>, accessed 13 April 2024. ‘The admission of Clerks and Organ Scholars, and the appointment of the Dean of Divinity, Informator Choristarum, Assistant Organist, Chapel Verger, Chapel and Choir PA, and the Choristers’ Singing Teacher, is, like appointments to the teaching staff at the School, conditional on the possession of a satisfactory DBS check at the Enhanced level and the receipt of two references which satisfactorily address the question of the candidate’s suitability for work with children’. Magdalen College Choir Safeguarding Policy 2023 para 2 – obtained via College website.

¹¹⁷³ Jesus college, Cambridge, Safeguarding Policy, November 2023:

<https://www.jesus.cam.ac.uk/sites/default/files/inline/files/Safeguarding%20of%20children%20-%20Good%20practice%20guidelines.pdf> accessed 26 October 2024.

while Merton College, Oxford, has a specific ‘Merton College Girl Choristers Child Safeguarding Policy’.¹¹⁷⁴

Falling within the second category are colleges such as Keble College, Oxford, which has a safeguarding policy applicable to the whole college, also applying to the chapel choir.¹¹⁷⁵ The introduction simply states that the policy ‘places the welfare of children to be of paramount importance and aims to safeguard their wellbeing, in particular by protecting them from abuse of any kind’. The policy ‘should be read alongside the University of Oxford’s Code of Practice on the Protection of Children and Vulnerable Adults’.¹¹⁷⁶ Similarly, the staff handbook of Corpus Christi, Cambridge includes a section on ‘Child and vulnerable adult protection policy and procedures’. This states: ‘although Corpus Christi College is not a children’s charity, the College aims to take all reasonable steps in relation to the safety and welfare of children and vulnerable adults who attend the College’.¹¹⁷⁷ The handbook provides a code of practice for all college members and staff when dealing with children or vulnerable adults.¹¹⁷⁸

All Oxford and Cambridge colleges included in this study have safeguarding policies and guidance. Whilst safeguarding provisions are not included in the college legal instruments, they all have safeguarding policies and guidance. These may be a specific safeguarding policy for the college choir, or through a general college safeguarding policy, which also implicitly applying to the college chapels. It appears that those colleges having safeguarding policies specifically for the chapel choir, are those with child choristers singing in the choir. For example, Merton has the Merton College Girl Choristers Child Safeguarding Policy’

¹¹⁷⁴ <https://www.merton.ox.ac.uk/merton-college-girl-choristers-child-safeguarding-policy>

¹¹⁷⁵ Although the policy does not specifically state that it is applicable to the chapel choir activities, paragraph 2.4 states: ‘this policy applies to all activities involving children and to all College Members’ and therefore implicitly will apply to chapel activities. See Keble College Codes of Practice; Safeguarding, 1.2: <https://www.keble.ox.ac.uk/wp-content/uploads/College-Policies-and-Codes-of-Practice.pdf>

¹¹⁷⁶ See Keble College Codes of Practice; Safeguarding: <https://www.keble.ox.ac.uk/wp-content/uploads/College-Policies-and-Codes-of-Practice.pdf> accessed 26 October 2024.

¹¹⁷⁷ It ‘aims to ensure that children and vulnerable adults will be safe from harm while in contact with College members and staff’. See Corpus Christi College Cambridge, Staff handbook 3.31.

¹¹⁷⁸ As seen in chapter 5, Corpus Christi has a choir, consisting of student members of the college, but not of children choristers.

because girls singing in this choir are under 18. In contrast, colleges whose choir members are students (over the age of 18) have a general college safeguarding policy.

6.2. CHURCH MUSICIANS AND THE REGULATION OF DISPUTES

Unlike safeguarding, which is highly regulated, dispute resolution is not closely regulated. Dispute resolution in general has received extensive consideration by scholars, and practitioners. Some studies, such as Jordaan's *Negotiation and Dispute Resolution for Lawyers*,¹¹⁷⁹ focus on practical negotiation skills for lawyers, while S. Blake's, *A Practical Approach to Alternative Dispute Resolution*,¹¹⁸⁰ provides a commentary on the different forms of out-of-court dispute resolution available to parties. It has also been looked at from a number of different legal perspectives. J Murphy's *Divorced from Reality: Rethinking Family Dispute Resolution*,¹¹⁸¹ looks at it when resolving family disputes; K Mackie's, *The ADR Practice Guide: commercial dispute resolution*,¹¹⁸² considers it in relation to commercial disputes; and R. Joulu, *Law, technology and dispute resolution: privatisation of coercion*,¹¹⁸³ looks at the use of information and communication technology in resolving disputes.

Whilst law and religion scholars have briefly considered the use of Alternative Dispute Resolution ("ADR") such as mediation or arbitration within church disputes,¹¹⁸⁴ they do not consider the range of dispute resolution options available. Furthermore, although Hill's *Ecclesiastical Law* has a chapter dealing with Clergy Discipline, it does not consider in detail

¹¹⁷⁹ B. Jordaan, *Negotiation and Dispute Resolution for Lawyers* (Edward Elgar Publishing Ltd, Cheltenham, 2022).

¹¹⁸⁰ S. Blake, *A Practical Approach to Alternative Dispute Resolution, 5th edition* (Oxford University Press, Oxford, 2018).

¹¹⁸¹ J. Murphy, *Divorced from Reality: Rethinking Family Dispute Resolution* (New York University Press, New York, 2015).

¹¹⁸² K. Mackie, *The ADR Practice Guide: commercial dispute resolution* (Butterworths, London, 2000).

¹¹⁸³ R. Joulu, *Law, technology and dispute resolution: privatisation of coercion* (Taylor & Francis, New York, 2019).

¹¹⁸⁴ For example, see M. Hill, (2011) 'Mediation: An Untapped Resource for the Church of England?' *Ecclesiastical Law Journal*, 13(1), 57 – 65; S. Fielding, (2011) 'Mediation in the Church of England: Theology and Practice', *Ecclesiastical Law Journal*, 13(1), 65 – 69; R. King, (2006) 'Mediation in Faculty Applications', *Ecclesiastical Law Journal*, 8 (39), 475 – 478; J Behrens, *Church Disputes Mediation* (Leominster, 2003).

other forms of resolving disputes. Dispute resolution has also not been considered regarding disputes involving church musicians, and so this section addresses a lacuna in scholarship.

Robin Rees's 1990 doctoral thesis *The Role of Music and Musicians in Current English Parish Church Worship: the Attitudes of Clergy and Organists* considers the views of organists and clergy to the role of music within Church of England parish church services.¹¹⁸⁵ It focuses on responses to a questionnaire circulated to clergy in parishes within the Oxford Diocese. Whilst this study addresses music in parish churches, it does not consider the role of legal regulation in preventing disputes or in dispute resolution. It also does not consider music in cathedrals or college chapels.

Furthermore, the *Archbishops' Report on Church Music* does not consider the impact disputes can have on church life.¹¹⁸⁶ The "Conclusions and Recommendations" suggest that 'clergy and musicians do all in their power to ensure close and amicable working relationships',¹¹⁸⁷ and a very brief section (limited to 3 paragraphs) on the "Resolution of Conflict".¹¹⁸⁸ However, it does not consider the subject matters that can lead to conflict, what happens if there is a dispute nor how legal mechanisms can help prevent disputes occurring. Neither Rees' study nor the Report consider how legal regulation can assist in dispute resolution in relation to music within churches.

This section considers a number of aspects of dispute resolution applicable to church musicians within the Church of England: it looks at the subject matter of disputes; it addresses policies and procedures that could be put in place to prevent disputes occurring; and it considers dispute resolution mechanisms available to parties.

¹¹⁸⁵ R. D. Rees, *The Role of Music and Musicians in Current English Parish Church Worship: the Attitudes of Clergy and Organists* (1990, Department of Music, University of Sheffield).

¹¹⁸⁶ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992). Whilst the Report cites "Dr Robin Rees of Abingdon, Oxford" as one of the individuals who had provided correspondence which was considered in making the report, it does not directly cite the conclusions of Dr Rees' PhD study.

¹¹⁸⁷ See *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 252.

¹¹⁸⁸ *Ibid.*, 190 – 191 (paras 557 – 559).

6.2.1 The subject matter of church disputes involving musicians

The subject matters of church disputes involving church musicians are common to those in parish churches, cathedrals and college chapels. The term ‘dispute’ can include any form of breakdown in the relationship between two parties. This could be between a church musician and a member of clergy, or between two church musicians. It can encompass any form of breakdown, from a minor disagreement (potentially over the selection of music for services), to disciplinary issues (such as a failure to attend a sufficient number of rehearsals), to more serious grievance procedures (such as bullying or harassment).

The *Archbishops’ Commission’s Report on music* states: ‘there is a widespread impression that breakdowns in the relationship between clergy and musicians are common. Not only are these harmful to the people directly involved and to their congregation, but they often receive publicity and may also bring the Church into disrepute’.¹¹⁸⁹ The Report did not go on to provide evidence for this impression or to consider the harm that this causes. It was simply using this as a statement to support the proposition that disputes disrupt church life. However, it is helpful to understand issues which may lead to disputes, as this can help prevent them arising. In addition, the nature of the dispute will determine the most appropriate form of dispute resolution mechanism. This section considers the subject matters that may lead to conflict between musicians and clergy, drawing on the experiences of those in practice.

The potential subject matters for disputes arising in relation to church music are not explicitly identified in Church laws, or guidance. Furthermore, neither the Church of England Canons, nor PCLCCAC explicitly identify areas which could lead to conflict. Although, PCLCCAC state that ‘disputes concerning liturgy and public worship shall be resolved within a church...’,¹¹⁹⁰ suggesting that these are areas where disputes may arise. It is therefore necessary to turn to other sources to determine the subject matter of such disputes.

Parishes

¹¹⁸⁹ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 190.

¹¹⁹⁰ Principle 60.5 PCLCCAC.

The Parish Church Questionnaires asked respondents to identify issues having the potential to lead to conflict between church musicians and clergy. Issues identified include: the choice of music, flexibility in arrangements, communication between clergy and musicians, provision of additional worship, a lack of information or attendance at meetings, and the attitude and professionalism of the director or clergy.¹¹⁹¹

In addition, Rees's study highlights how easily the relationship between a priest and organist can break down.¹¹⁹² Rees sets out three detailed case studies, from his own experiences of singing in church choirs, explaining different scenarios which can lead to a breakdown in the relationship between church musicians and clergy, and the consequences for the church.¹¹⁹³

Although Rees did not categorise the harm in each scenario, he explained the reconciliation process adopted (where reconciliation was attempted), and posed a number of questions for the reader to consider regarding whether the situation could have been handled differently. Although he identified potential issues between organist or church musicians and the minister, Rees did not categorise the harm caused in each scenario or consider the legal mechanisms that may assist in resolving disputes or preventing them arising in the first place.

Whilst not explicitly identified in Church law or guidance, it is possible to formulate norms categorising subjects which may lead to disputes from the practical experiences of those involved in church music. These include: (i) the choice of music; (ii) arrangements for

¹¹⁹¹ This was in response to question 33(b) of the Parish Churches Questionnaire – see Appendix 2.

¹¹⁹² Robin. D. Rees, *The Role of Music and Musicians in Current English Parish Church Worship: the Attitudes of Clergy and Organists* (1990, Department of Music, University of Sheffield) 86 – 97.

¹¹⁹³ The first describes the situation where the organist of 20 years had no intention of leaving, but he and the new minister did not see “eye to eye”. The new minister eventually gave the organist three months’ notice to leave the position, which was criticised by members of the congregation, and divided the church. The second describes how a priest of a church with a very strong choir retired shortly after the organist and director of music. Before leaving the priest appointed a new organist. However, the relationship between the new priest and organist was strained, after the new priest attempted to change the make-up of the choir, and to introduce new service patterns, which were not popular with the congregation. A number of choir members and congregation left, and the organist resigned because he felt that the situation was not what he had signed up to. Gradually, the choir collapsed because, as members left, their places were not filled. The third considers the situation where, tensions developed between organist and minister, due to differing views about the conduct of services, leading to the organist resigning, and the church struggling to recruit a new organist. When a new organist was appointed, his vision caused a majority of the choir to leave. Robin. D. Rees, *The Role of Music and Musicians in Current English Parish Church Worship: the Attitudes of Clergy and Organists* (1990, Department of Music, University of Sheffield) 86 – 96.

services and the liturgy; (iii) differing opinions between clergy and musicians regarding the conduct of services; (iv) a lack of communication between clergy and musicians; (v) provision of additional worship; (vi) a lack of information or attendance at meetings by either musicians or clergy; and (vii) the attitude and professionalism of the director or clergy.

6.2.2 Policies that can help prevent disputes between church musicians and clergy

It is clear from the subject matter of the disputes identified above that often, one of the problems leading to disputes is the lack of a clear written contract between the PCC and organist or director of music setting out terms such as: a fixed tenure for the organist's role, who makes decisions regarding the choice of music in services,¹¹⁹⁴ arrangements for the frequency of services and rehearsals that musicians are expected to attend, how disagreements are resolved, or the process for removing the musician from his or her post.¹¹⁹⁵ This section considers whether there are mechanisms or policies that churches have in place, or which they can put in place to help prevent conflicts arising in the first place.

Neither Church laws nor soft-law provide models for dispute prevention, particularly in relation to church musicians. It is therefore necessary to turn to other sources to determine whether any processes can be put in place to help prevent disputes arising. There are two points at which preventative measures can help: at the outset of the relationship, so that parties understand exactly what is expected of them; and during the relationship, when issues begin to emerge, to try to prevent the relationship from deteriorating.

First, the *Archbishops' Commission's Report on music* suggests 'the observance of procedures agreed with the PCC in the appointment of a musical director and the provision of

¹¹⁹⁴ Although this is set out in the canons, at canon B20.2, for clarity it would be helpful to incorporate this into the organist's contract – since many responding to the Parish Churches Questionnaire indicated they were not aware of this canon.

¹¹⁹⁵ For a more detailed list of all the criteria that the Legal Advisory Committee recommends should be incorporated in the musician's contract see chapter 3, f.n. [95].

a proper Job Specification and Agreement should help to prevent trouble.’¹¹⁹⁶ This approach is also adopted in the LAC Opinion on the employment of church musicians,¹¹⁹⁷ which lists basic provisions that it recommends *should* be set out in the Organist’s contract, although LAC does not provide any further guidance on dispute prevention. The Royal School of Church Music also provides a template contract as guidance for parish churches based upon this Opinion.¹¹⁹⁸ This also builds upon the recommended job specification, and Specimen Agreement for the Appointment of an Organist or Choir Director, set out in the *Archbishops’ Commission’s Report*.¹¹⁹⁹ Where this is not possible, for example, if the organist/musicians are volunteers and so do not have a written agreement, the LAC advises that parties should be clear about what is expected of the musicians, how many rehearsals they are expected to attend, and what input they have into the music included in church services.¹²⁰⁰ The lack of a written agreement between the parties can lead to difficulties, since the lack of clarity over who takes responsibility for certain tasks can lead to disputes arising.

Secondly, the *Archbishops’ Commission’s Report* suggests that ‘even with formalities, the day to day working relationship between two people depends upon goodwill, sensitivity, tact, humility and a whole range of virtues on both sides’.¹²⁰¹ In addition, Rees’s study found that, often one of the key issues leading to disputes is a lack of communication between the priest and organist, or a divergence in vision between where the priest and the organist consider worship should be heading.¹²⁰² The key is that if an individual is unhappy with an

¹¹⁹⁶ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 190.

¹¹⁹⁷ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians”, 4 April 2017, para 12:

<https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>.

¹¹⁹⁸ https://www.rscm.org.uk/wp-content/uploads/Employed_Contract_Musicians.pdf.

¹¹⁹⁹ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 296 – 298.

¹²⁰⁰ See General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians”, 4 April 2017, para 13:

<https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

¹²⁰¹ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 190.

¹²⁰² See the case studies included in Robin D. Rees, *The Role of Music and Musicians in Current English Parish Church Worship: the Attitudes of Clergy and Organists* (1990, Department of Music, University of Sheffield) 86 – 97.

arrangement, they discuss it at an early stage with the other party (potentially with a third party present). This can help diffuse the situation before any disputes escalate.

In summary, whilst Church laws and soft-law do not explicitly set out measures to prevent disputes arising between church musicians and clergy, Church of England guidance identifies models which can assist. Firstly, if possible, the organist or musician's terms should be set out in a written contract or agreement at the outset, ensuring that the parties know exactly what is expected of them,¹²⁰³ or alternatively, in a parish policy document. Secondly, parties should be prepared to keep lines of communication open and to discuss openly areas where there is a divergence of opinion or the potential for conflict to arise, preferably in a face-to-face meeting, with a third party present if relationships have become strained.

6.2.3 Policies and legal mechanisms that can assist in resolving disputes between church musicians and clergy¹²⁰⁴

Whilst measures can be put in place to try to prevent conflicts arising, if the relationship between a church musician and the minister does break down, what is the legal position between the parties, and how can the law assist with such disputes? This section addresses mechanisms available to parties to a church dispute to try to resolve conflict. These can include: firstly, informal measures such as discussing the issue face-to-face; secondly, resolving the issue using an independent party such as the area/rural dean, or the bishop, or through mediation; or thirdly, an aggrieved party may have recourse to the bishop under the Clergy Discipline Measure 2003 or the Safeguarding and Clergy Discipline Measure 2016. This section sets out dispute resolution mechanisms that may be available where disputes arise involving church musicians, together with examples of when they may be appropriate.

¹²⁰³ This is considered in more detail in chapter 3.

¹²⁰⁴ Dispute resolution is a vast subject, which has previously been dealt with extensively by practitioners and scholars as it applies in wider society. This section deals with some of the options available in the event of a dispute involving church musicians, and is not an exhaustive consideration of the topic.

Before turning to the forms of dispute resolution, it is important to note that the most appropriate form of dispute resolution will depend on a number of factors, including: the nature of the dispute, and the seriousness of the breakdown between the parties. Some forms of dispute resolution are established in Church laws, whilst others are not formally set out, even though they may be available to parties. As a general observation, whilst not Church law, principle 5 of the PCLCCAC,¹²⁰⁵ sets out that ‘laws, rights and duties are enforceable within a church by its own ecclesiastical authorities through executive action or by judicial process’,¹²⁰⁶ and ‘any person or body injured by a violation of law should be able to obtain a remedy before a competent ecclesiastical authority in accordance with the law’.¹²⁰⁷ It also states ‘disputes concerning liturgy and public worship shall be determined within a church save to the extent that its law permits reference for the purpose of consultation or determination of such matters to a body external to that church’.¹²⁰⁸ This reflects the position in Matthew 18:15 – 18.¹²⁰⁹ Thus the Principles envisage that churches will determine disputes internally if possible, but may utilise external bodies to help resolve disputes if necessary.

The first (and most informal) form of dispute resolution, is to talk through their differences and try to resolve the matter through discussing the issues. This option is not explicitly set out in church laws. The *Archbishops’ Commission’s Report on music* states: ‘as leaders of the Christian community the clergy should be the first to foster good relationships through effective communication. Where these break down, clergy should take the initiative for their restoration and the resolution of conflict’.¹²¹⁰ Again, whilst not explicitly stating that the parties should discuss their differences, the fact the Report mentions that clergy need to “foster good relationships through effective communication” indicates that they need to

¹²⁰⁵ (which reflects the laws as they apply to all the Anglican Communion, including the Church of England).

¹²⁰⁶ *Principles of Canon Law Common to the Churches of the Anglican Communion*, second edition (Anglican Consultative Council, London, 2022) Principle 5.4.

¹²⁰⁷ *Ibid.*, Principle 5.5.

¹²⁰⁸ *Ibid.*, Principle 60.5.

¹²⁰⁹ ‘If your brother or sister sins, go and point out their fault, just between the two of you. If they listen to you, you have won them over. But if they will not listen, take one or two others along, so that “every matter may be established by the testimony of two or three witnesses”. If they still refuse to listen, tell it to the church, and if they refuse to listen even to the church, treat them as you would a pagan or a tax collector’. Matthew 18:15 – 18 – New International Version.

¹²¹⁰ *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 190.

engage with musicians when the relationship breaks down. This approach also reflects the starting position in Matthew 18:15 – 18)

Under Church law it is possible in certain disputes to refer the matter to the bishop for *guidance* or *advice* on how the matter should be dealt with. For example, Canon B5 paragraph 4 states: ‘if any question is raised concerning the observance of the provisions of this canon [relating to the conduct of public worship] it may be referred to the bishop in order that he may give such pastoral guidance, advice or directions as he may think fit’.¹²¹¹ By implication, this could cover disputes arising in relation to music within worship: if someone is unhappy with the forms of service used by the priest, including the music, they can refer the matter to the bishop under Canon B5 for guidance. The fact that the Canon states that the bishop can provide guidance on the matter indicates that the bishop is not acting as an arbitrator, or a judge to decide the matter, but is providing a suggestion as to how the matter can be resolved. Accordingly, the bishop does not have a duty to resolve the dispute.

Secondly, it may be possible to refer the matter to a third party within the Church (or externally), to determine the issue through a process such as ‘arbitration’ or ‘mediation’.

In arbitration, a third party is appointed to determine which party is ‘right’. Whilst not set out in Church laws, the *Archbishops’ Commission’s Report on music* suggests that an arbitrator ‘might be the Rural Dean, or Lay Chairman of Deanery Synod, or the Archdeacon [or the bishop]. It would be sensible for dioceses to establish procedures for arbitration in case these are needed to settle disputes.’¹²¹² The key elements of arbitration lending themselves to church disputes are: it is a confidential process where an independent third party is appointed to decide the outcome, and the arbitration award is binding,¹²¹³ which means it brings the dispute to an end.

¹²¹¹ Canon B5(5) of the Canons of the Church of England. See <https://www.churchofengland.org/about/leadership-and-governance/legal-resources/canons-church-england/section-b>

¹²¹² *In Tune with Heaven: The Report of the Archbishops’ Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 190.

¹²¹³ See description of the process of arbitration in <https://www.cedr.com/alternative-dispute-resolution-processes/arbitration/rules/>

Similarly, mediation is gaining popularity as a forum for resolving church disputes due to its effectiveness in civil disputes. The Guild of Church Musicians has recently launched a new mediation service, available to organists, clergy, choir members and church musicians who find themselves embroiled in a dispute.¹²¹⁴ The Guild states: ‘the move has been prompted by both the lack of any formal arrangements for mediation for parish musicians and the increase in the number of disputes in recent years’.¹²¹⁵ In addition, the majority of Church of England diocesan websites contain information about third parties who can assist with mediation.¹²¹⁶ Mediation is a confidential process in which an independent third party is appointed ‘to help the parties talk through the issues, negotiate and come to a mutually agreeable solution’.¹²¹⁷ An agreement reached at mediation is not binding unless both parties agree to be bound by the outcome. It is well-suited to disputes involving church musicians because it can be tailored to the specific needs of the parties.

An example of where mediation *may* have helped to resolve a dispute can be seen in the case of *Neary v Dean of Westminster*: the high-profile dismissal of Dr Neary (the organist) and his wife from their positions at Westminster Abbey.¹²¹⁸ In that case, Lord Jauncey commented: ‘*had the parties been prepared to discuss openly and frankly the Abbey's concerns, to acknowledge that serious mistakes had been made and to consider the reasons therefor, it might perhaps have been possible to avoid the present unhappy situation with all its attendant publicity and to have reached a rather less dramatic resolution of their differences*’.

¹²¹⁴ See Guild of Church Musicians website: <https://gcm.org.uk/brand-new-mediation-service-is-launched-for-church-musicians/>, accessed 1 November 2024.

¹²¹⁵ <https://gcm.org.uk/brand-new-mediation-service-is-launched-for-church-musicians/>, accessed 1 November 2024.

¹²¹⁶ See, for example, Diocese of London website: <https://www.london.anglican.org/clergy-llm-support/clergy-wellbeing/managing-conflict/>; or the Diocese of Oxford’s website: <https://www.oxford.anglican.org/transforming-conflict/>; or the Diocese of Norwich website: https://www.dioceseofnorwich.org/mission_and_ministry-mission_and_ministry/mission_and_ministry-clergy/mission_and_ministry-clergy-working_with_conflict/mission_and_ministry-clergy-working_with_conflicthow_to_get_in_touch_with_the_mediation_team/;

¹²¹⁷ See description of mediation on <https://www.gov.uk/guidance/a-guide-to-civil-mediation#what-is-mediation>, accessed 24 December 2024.

¹²¹⁸ See *Neary v Dean of Westminster (1998) 5 Ecc LJ 303*.

In that case, there was a clear break down in the relationship between the various parties, the facts of the dispute were carried out in a very public forum (the courts) which caused significant damage to the reputation of both parties, and neither party emerged from the dispute unscathed. Given the significant ramifications of a public trial, an early attempt at mediation may have helped facilitate a resolution which both parties could have lived with, which may have helped maintain a reasonable relationship between the parties and whereby the dispute could be resolved privately, without the potential reputational damage caused by a public hearing.

Thirdly, church musicians may have recourse to the bishop through a disciplinary, or complaints process. The Clergy Discipline Measure 2003 (CDM) was created for the purpose of disciplining clergy in relation to misconduct not concerning doctrine.¹²¹⁹ A complaint may be brought under the CDM, on the basis that the minister has failed to comply with the Church of England Canons. However, only certain interested parties may bring a complaint.¹²²⁰ Under the CDM, disciplinary proceedings may be instituted against any archbishop, bishop, priest or deacon for the following: (a) an act in contravention of the laws ecclesiastical; (aa) failing to comply with the duty under the Safeguarding and Clergy Discipline Measure 2016;¹²²¹ (b) failing to do any other act required by the laws ecclesiastical; (c) neglect or inefficiency in the performance of his duties; (d) conduct unbecoming or inappropriate to the office and work of a clerk in Holy Orders.¹²²² Alternatively, procedures for dealing with matters of ‘doctrine, ritual and ceremonial’ are set out in the Ecclesiastical Jurisdiction Measure 1963. In some instances, an allegation against a priest could ‘amount both to misconduct under the Clergy Discipline Measure 2003 and a justiciable matter of doctrine, ritual or ceremonial under the Ecclesiastical Jurisdiction Measure 1963’, in which case the appropriate jurisdiction will need to be determined as a

¹²¹⁹ See M Hill, *Ecclesiastical Law* (Oxford University Press, Oxford, 2018) 6.01, p158.

¹²²⁰ In the case of a priest or deacon, by ‘(i) a person nominated by the parochial church council of any parish which has a proper interest in making the complaint, if not less than two-thirds of the lay members of the council are present at a duly convened meeting of the council and not less than two thirds of the lay members present and voting pass a resolution to the effect that the proceedings be instituted; or (ii) a churchwarden of any such parish; or (iii) any other person who has a proper interest in making the complaint’. s.10(1) Clergy Discipline Measure 2005.

¹²²¹ (duty to have due regard to House of Bishops’ guidance on safeguarding children and vulnerable adults).

¹²²² s.8(1) Clergy Discipline Measure 2005.

preliminary issue.¹²²³ For example, the organist or director of music may have recourse to the bishop under the Clergy Discipline Measure 2003 if the minister failed to consult him or her over the selection of music.¹²²⁴

Given the sparsity of clear Church law or soft-law setting out how disputes may be resolved, it may assist looking at how churches deal with disputes in practice.

Parishes

The Parish Church Questionnaires asked respondents to confirm if they have a policy in place to deal with disputes arising between clergy and musicians.¹²²⁵ Only thirteen churches of the 46 that responded have a policy for resolving disputes between clergy and church musicians. The majority of those churches have a formal, written policy.¹²²⁶ In some churches the way a dispute is resolved is set out in detail in the organist/director of music's employment contract.¹²²⁷ If a dispute is too serious to be resolved amicably, they would go to the archdeacon and if they still could not resolve the dispute, they would go to the diocesan Human Resources team.¹²²⁸

Cathedrals

None of the cathedral legal instruments contain provisions governing dispute resolution. Therefore, this section is based upon the responses to the Cathedral Questionnaires.

¹²²³ See M Hill, *Ecclesiastical Law* (Oxford University Press, Oxford, 2018) 6.81, p 198. Also see R. Bursell, 'Turbulent Priests: Clerical Misconduct Under the Clergy Discipline Measure 2003' *Ecc LJ* (2007) 9, 250 – 263 for examples of where potential complaints would fall within the jurisdiction of the Clergy Discipline Measure 2003, or alternatively under the Ecclesiastical Jurisdiction Measure 1963.

¹²²⁴ On the basis that the minister had 'failed to do any other act required by the laws ecclesiastical' by failing to comply with the requirements under Canon B20 paragraph 2.

¹²²⁵ See questions 34 and 35 of the Parish Churches Questionnaire – see appendix 2

¹²²⁶ One priest indicated that whilst they have encountered differences of opinion with the director of music on many occasions, these differences have been resolvable through conversation and discussion. A number of priests also indicated that in the first instance they would seek to resolve any disagreements through informal discussions. This was in response to question 33 of the Parish Churches Questionnaire – see appendix 2.

¹²²⁷ This was in response to question 34 of the Parish Churches Questionnaire – see appendix 2.

¹²²⁸ This was in response to question 34 of the Parish Churches Questionnaire – see appendix 2.

The Cathedral Questionnaires, asked what happens if a dispute arises between a member of the clergy and a church musician.¹²²⁹ The majority of cathedrals that responded have a policy or guidance in place for determining disputes between members of cathedral staff.¹²³⁰ In all cases this is written and formal. In many instances this procedure is set out in the cathedral's staff handbook, or the grievance and complaints procedure and disciplinary procedures.¹²³¹ Although procedures for dealing with disputes may not be set out in the cathedral legal instruments, a formal written policy is available which can be followed if there is a dispute. This seems appropriate, since an employee handbook can contain detailed provisions for what procedure must be followed in different circumstances (which may not be desirable in the constitution or statutes).

College Chapels

Whilst there do not appear to be any provisions in the college legal instruments explicitly relating to dispute resolution within the chapel choir, there are provisions that assist.¹²³² The colleges have extensive provisions regarding discipline, dismissal and removal from office of Fellows and college employees.¹²³³ These can be divided into two models: those with detailed provisions for dealing with disputes in their statutes; and those whose statutes do not have such provisions, but whose bylaws, or regulations have detailed provisions for resolving disputes.

Firstly, a number of college statutes have detailed provisions for the discipline of students and employees.¹²³⁴ At Cambridge, King's College's statutes have detailed provisions regarding standards that students are expected to meet.¹²³⁵ They also authorise the council to

¹²²⁹ See question 51 of Cathedrals Questionnaire, included at Appendix 3.

¹²³⁰ (including between the dean or precentor and director of music). Six out of the eight cathedrals responding indicated that their cathedrals had a policy in place. One response confirmed that 'there is guidance covering all Cathedral employees in disputes'.

¹²³¹ See for example, "Resolving Difficulties" in Portsmouth Cathedral Clergy Handbook, pp 17 – 21;

¹²³² The sections relating to Discipline in the University Statutes are specifically stated to apply "in a university context", and so given any issues arising within the chapel choir occur within the individual colleges it is submitted that the University Statutes will not apply. See Oxford University Statute XI University Discipline, Code of Discipline 2(1), <https://governance.admin.ox.ac.uk/legislation/statute-xi-university-discipline-0#collapse1556056>

¹²³³ For example, see New College Statutes Part III: Discipline, Dismissal and Removal from Office.

¹²³⁴ See, for example, King's College, Statute Q.2, or Merton College Bylaws 35 and 38.

¹²³⁵ In particular, they state that state that all students 'shall: (a) observe these statutes, and obey all Ordinances and Regulations and all other orders, instructions, rules or regulations as may from time to

impose penalties on students if they do not conduct themselves in accordance with the statutory requirements.¹²³⁶ Accordingly, there is recourse for the director of music to refer a choral or organ scholar to the college council for an appropriate penalty to be imposed if for failing to comply with their duties.¹²³⁷ Furthermore, whilst not explicitly set out in the statutes, flowing from the provision that the director of music is responsible for overseeing and training choir members, he/she has the right to take disciplinary action in the event that a choral scholar fails to attend rehearsals.¹²³⁸

At Cambridge, Trinity College's statutes, have detailed provisions relating to 'discipline of the college'.¹²³⁹ The Council shall have the power to appoint a Disciplinary Committee, whose function shall be to hear a charge brought against a student member of the College, or to hear an appeal from a disciplinary decision of an officer of the college. The statutes set out that certain punishments shall not be imposed except by a resolution of this committee, and this includes: depriving a student of a scholarship or studentship.¹²⁴⁰ Thus, it appears that the director of music or chaplain are the most appropriate individuals to deal with a minor infringement or disciplinary issue. However, if a student's conduct was serious enough to warrant stripping his/her scholarship then a Disciplinary Committee must be appointed to consider the matter. Furthermore, the statutes do not set out precisely what conduct stripping an individual of their scholarship: presumably this would need to be a serious breach (such as a failure to attend rehearsals or services for a significant period). This is also particularly the case, given that the duties of the choral scholars and organ scholars are not

time be issue by a duly authorised Officer; (b) apply themselves diligently to their studies; (c) show due respect and obedience to the Provost, Council, the College Officers and any person charged with directing their studies; (d) pay the fees and charges due from them to the College when requested to do so; and (e) conduct themselves in an orderly manner'. See King's College, Statute Q.2.

¹²³⁶ King's College, Statute Q.4.

¹²³⁷ Such as, regularly failing to attend rehearsals when required, or not keeping up with their studies whilst singing in the choir.

¹²³⁸ And as has been set out previously, 'indiscipline' by choir members can be classified as a dispute.

¹²³⁹ These state that students 'shall show due respect and obedience to the Master, the Vice Master, and other officers of the College. They shall conduct themselves in a quiet and orderly manner, and shall observe the Statutes, and shall conform to all such orders and regulations as may be made by the Council from time to time for the good government of the College'. Trinity College, Cambridge, Statute XXXVII.1. The Master, Vice Master, Dean of the College, or a Tutor may impose such punishment as he or she may consider appropriate on any student who fails to observe any of the Statutes or any regulation made by the Council, 'or who is guilty of any offence against discipline and good order'. Statute XXXVII.2

¹²⁴⁰ Trinity College, Cambridge, Statute XXXVII.3.

explicitly identified in the statutes of many colleges, (although their duties may be set out in regulations). Similarly, there is a detailed section dealing with ‘the Discipline and Good Government of the College’ in statutes of Downing College,¹²⁴¹ and in the ordinances of Sidney Sussex College,¹²⁴² and Girton College.¹²⁴³

Secondly, are colleges whose statutes do not contain detailed provisions for the regulation of disputes, but whose bylaws, or regulations set out how such issues should be dealt with. For example, at Oxford, Merton College’s bylaws stipulate the appointment of a Disciplinary Panel and an Appeals Panel to consider any cases concerning “serious misconduct” of any “junior members” of the college (i.e. any students).¹²⁴⁴ However, they do not set out what constitutes “serious misconduct”. The bylaws also set out detailed provisions regarding the discipline of academic staff.¹²⁴⁵ Likewise, the Statutes of Magdalen College, Oxford, only have provisions relating to the dismissal of academic staff, as well as the grievance and appeals process.¹²⁴⁶ There are no specific provisions relating to the discipline of students at the college. Instead, Magdalen’s Regulations and College Information contains detailed provisions regarding the disciplinary procedure for breaches of academic standards,¹²⁴⁷ and

¹²⁴¹ This sets out that it is the duty of the Tutors and the Dean to maintain discipline among student members of the college. In addition, every student member of the college has a duty to show due respect and obedience to the Master, other officers (including the chaplain) and Fellows of the College. They also have a duty to conduct themselves in a ‘quiet and orderly manner’ and to observe the Statutes and Ordinances, and to conform to all orders and regulations that are made by the Master or Governing Body. In the event that someone who is not a Fellow of the College fails to observe the Statutes and Ordinances or the orders and regulations, or is guilty of any offence ‘contrary to discipline or good order or tending to bring scandal upon the College, he or she shall be admonished or punished by the Dean, or in his or her absence by the person designated in accordance with Ordinances to act in his or her place, in such manner as the offence may appear to deserve. But the penalty of temporary or final removal from the College, or, in the case of a Scholar or Exhibitioner, of deprivation of his or her Scholarship or Exhibition or temporary forfeiture of the emoluments and advantages thereof, shall be inflicted only by the Members of the Governing Body’. See Downing College, Statutes XXI.1, XXI.2 and XXI.3.

¹²⁴² See Sidney Sussex College, Ordinance C, XIV.

¹²⁴³ See Girton College, Ordinance XXI.2.

¹²⁴⁴ See Merton College Bylaws 35 and 38.

¹²⁴⁵ See Merton College Bylaw VIII. Academic Employees; Part III Disciplinary Procedure.

¹²⁴⁶ Magdalen College statutes Part III – Discipline, Dismissal and removal from office. The wording of this section of the statutes only refers to “academic staff”, and there is no reference to students, which leads to the conclusion that this section only relates to academic staff.

¹²⁴⁷ Magdalen College Information and Regulations for Members of the College, 2024 – 2025, pp 56 – 74. <https://www.magd.ox.ac.uk/wp-content/uploads/2024/08/2024-Information-Regulations-FINAL.pdf>

‘non-academic disciplinary procedure’,¹²⁴⁸ which would apply in the event that there is an issue relating to an organ scholar, or choral scholar’s conduct during services.

CONCLUSION

This chapter considers safeguarding and dispute resolution, which are highly relevant to those involved in music at parish churches, cathedrals and college chapels.

Safeguarding within the Church of England has recently received detailed attention. Accordingly, policies and guidance on the subject are developing quickly. This is reflected in the fact that neither the 1992 *Archbishops’ Commission’s Report on Music*, nor the 1994 *Report on Cathedrals* address safeguarding. The Church of England has extensive policies and guidance on safeguarding, applicable on a national, diocesan and parochial level, and which must be followed by all clergy, officers of the PCC and those engaged by the Church. Whilst not explicitly stated to apply to those involved in music, these provisions apply where church musicians come into contact with children and “vulnerable adults”. There are numerous different documents across the different levels addressing safeguarding, such as the House of Bishops’ guidance on safeguarding, “Diocesan” safeguarding policies, and the Parish Safeguarding Handbook, which all contain similar provisions. Given the importance of safeguarding I suggest that it is confusing to have different sources containing the same information, and so it would be helpful for this to be amalgamated into one written policy document authorised by General Synod.

The cathedrals have detailed safeguarding policies in accordance with national and diocesan requirements. Some cathedrals have created their own safeguarding policies in addition to the national and diocesan policies, whilst others simply implement the detailed national and diocesan policies already in place. There is a significant amount of uniformity between the

¹²⁴⁸ Magdalen College Information and Regulations for Members of the College, 2024 – 2025, pp 75 – 89. <https://www.magd.ox.ac.uk/wp-content/uploads/2024/08/2024-Information-Regulations-FINAL.pdf>

approaches adopted by the cathedrals in relation to safeguarding given they all follow the national and diocesan safeguarding policies.

All college chapels included in this study have detailed safeguarding policies and guidance. Although college legal instruments do not include specific provisions relating to safeguarding, they all have detailed safeguarding policies and guidance. The colleges adopt their own approach to implementing safeguarding policies, which broadly fall into two models: those with a specific safeguarding policy specifically relating to the college chapel choir, in addition to the college's general safeguarding policy, and those with a general college safeguarding policy, also applicable to college chapels.

Safeguarding is a highly regulated area, on which the Church has extensive policies and guidance. There are numerous different policy documents and structures adopted in relation to safeguarding across the national, diocesan and parish level, as well as additional policy documents applying to the cathedrals and college chapels. These documents often overlap, with multiple apparent jurisdictions, leading to confusion regarding implementation of the regulations relating to safeguarding issues, and a lack of clarity in the law. This stands in stark contrast to the approach adopted by the Church in Wales, which has a single policy document, applicable across the province, with the procedure in the event of non-compliance set out in that document.¹²⁴⁹ Given the present circumstances arising in the Church of England in relation to safeguarding and the high profile nature of safeguarding cases, the regulation of safeguarding would benefit from further study, such as whether the current structure is working in practice and if a sensible step forward would be to adopt a more unified and simpler set of regulations which can easily be implemented and enforced.

Dispute resolution, on the other hand, is an area without such extensive regulations. The term 'dispute' can include any form of breakdown in the relationship between two parties. This could be between a church musician and a member of clergy, or between two church musicians. It can encompass any form of breakdown, from a minor disagreement (such as the selection of music for services), to disciplinary issues (such as a failure to attend rehearsals), to more serious grievance procedures (such as bullying or harassment).

¹²⁴⁹ <https://www.churchinwales.org.uk/en/clergy-and-members/safeguarding/provincial-safeguarding-policy-and-procedures/> accessed 25 December 2024.

There are three areas of dispute resolution applicable to church musicians: the subject matter of disputes; policies and legal mechanisms that can be put in place to help prevent disputes; and policies and legal mechanisms that can assist in resolving disputes once they have arisen. In the case of parish churches, church law does not set out the subject matter of disputes or mechanisms for preventing such disputes. It is necessary to look at guidance on the subject in the *Archbishops' Commission's Report on music* and in the form of the *LAC Opinion*, which recommends a contract is entered into between an organist or director of music and the PCC at the outset of the relationship, setting out the terms upon which the parties agree to be bound (although this document does not address prevention or resolution). This helps ensure that all parties understand their duties and rights, to try to prevent disputes arising. In relation to mechanisms and procedures that can be turned to in the event that there is a breakdown in the relationship, Church law provides clear procedures for more serious cases. For example, there may be recourse to the bishop in the event that an organist has a complaint about the minister's misconduct under the Clergy Discipline Measure 2003, or in issues of doctrine, ritual or ceremonial under the Ecclesiastical Jurisdiction Measure 1963. Church law does not set out procedures in the event of less serious conflict, although, the *Archbishops' Commission's Report on music* sets out guidance about mechanisms which may assist in dispute resolution. These procedures range from: informally 'talking through differences of opinion'; seeking pastoral guidance from the bishop, asking the bishop or archdeacon to determine how the issue should be resolved through a binding arbitration decision, or seeking to reach resolution through an independent third party at mediation.

In contrast, to the parish churches and cathedrals, the majority of colleges in this study have extensive provisions in their statutes for dispute resolution.¹²⁵⁰ This ensures that there is a clear, formal, written procedure for parties to follow in the event of a dispute. I suggest that the parish churches and cathedrals could learn from the approach adopted by the colleges: those involved in the Church would benefit from a clear policies in one document (such as a LAC opinion) regarding the dispute resolution mechanisms available in the event of a dispute, their procedure and subject areas that they will apply to. This would ensure clarity

¹²⁵⁰ Although it may not necessarily use the term "dispute resolution".

for those embroiled in a dispute, and help parties to adopt the most appropriate forum in their case.

CONCLUSION

This thesis explains and evaluates the legal framework governing music within Church of England parish churches, cathedrals and college chapels. To achieve this, it considers the following questions:

1. Is there a lacuna in scholarship regarding the study of the regulation of music and musicians within the Church of England liturgy and church worship?
2. Is it possible to formulate theological norms governing the reasons for including music in worship, and are these incorporated into the laws?
3. How has the regulation of music and musicians in Church worship developed historically, and how does this inform our view of the current regulation of music in worship?
4. What are the sources of law applicable to music in Church of England parish churches, cathedrals, and Oxford and Cambridge college chapels? What subjects do they address?
5. Are there any models in terms of regulatory approaches that can be identified with regard to the parish churches, cathedrals and college chapels? And what are the similarities and differences in the regulations within each of these three sets of institutions?
6. On a wider level, what are the similarities and differences between the regulation of music across the parish churches, cathedrals, and college chapels?
7. On the basis of an evaluation based on how music regulated in practice, is the current system fit for purpose or are any changes needed to the current regulation of Church music and musicians?

1. Lacuna in the study of music's regulation

There is a lacuna in law and religion scholarship regarding the study of music's regulation within the liturgy and church worship. Whilst there are numerous studies of the relationship between theology and music, or music and the law, law and religion scholars have not considered the inter-relationship between theology, music and church law, and how they impact upon each other when they interact in the liturgy and church worship. There is no historical study tracing the development of church music's regulation from its inception to

present day. Although there are numerous and extensive studies of the Church of England parish churches, cathedrals and Oxford and Cambridge colleges,¹²⁵¹ none provide comprehensive consideration of the legal regulation of church music and musicians at these institutions. Furthermore, although safeguarding and dispute resolution are already subject to extensive study in the field of law and religion, they have not been considered specifically from the perspective of church music and church musicians. This thesis fills this gap in scholarship, providing a comprehensive study of all areas relating to the regulation of church music and musicians: setting out the theological reasons for the inclusion of music in the liturgy, tracing its historic development, describing and evaluating the current regulation of church music and musicians in the parish churches, cathedrals and college chapels, and considering safeguarding and dispute resolution as they apply to church musicians. Furthermore, this thesis is an original contribution to academic knowledge providing a unique perspective for those studying music and liturgy within the Church of England, as well as for law and religion scholars, and practitioners of church law: firstly, by tracing the historic development of church music through its *legal regulation* rather than through following those composing the music or through a consideration of the development of compositional techniques by following the written music; secondly, by providing a comprehensive study of regulation of church music in three major areas: in relation to the parish churches, the cathedrals and the college chapels, both independently and in comparison to each other; and thirdly through identifying problems with the church law as it relates to music in practice and providing concrete proposals for reform. Music is the missing link in law and religion scholarship.

2. Theological norms governing the reasons for including music in worship

It is possible to identify eight theological functions of music in worship, formulating a series of norms/principles governing the use of music within worship, including:

- (1) music within worship should glorify God and sanctify the people;
- (2) music should teach the worshippers and help our understanding about God;
- (3) music should emphasise key elements of the liturgy;
- (4) music should unify and create a sense of community among the worshippers;

¹²⁵¹ Including some relating to the law applicable to each institution.

- (5) music should accommodate the different classes within the church and their roles in liturgy;
- (6) music assists with prayerfulness;
- (7) music should convey the mystery of God;
- (8) music should have a role in evangelising.

Whilst these norms can be deduced from Church literature,¹²⁵² they are not explicitly set out in the legal texts, and so are not binding legal norms in the Church of England.¹²⁵³ However, these principles underpin the regulation of music within the Church with the purpose of creating order and harmony in worship.

3. Historic development of regulation relating to Church music and musicians

A study of the history of the regulation of music within Christian worship reveals that even at the start of Christianity, music was regulated, although this was often by custom and not through written formal rules. During the Middle Ages, as the liturgy became more elaborate, and the music used within the liturgy became more complex the regulation of music increased. Two particular developments had a significant influence on music's regulation: the introduction of liturgical books used by those conducting services (rather than the liturgy being conducted aurally), and the advent of musical notation, which enabled music to be more closely regulated. The Reformation saw a significant increase in the scrutiny of music within the liturgy and its regulation, as well as the number of instruments addressing the use of music, when those in power within the Church of England sought to place greater restrictions on various elements of the liturgy. The twentieth-century has gradually seen a relaxing of many "rules" relating to music within the liturgy, and music in the parish churches is currently governed on a national level by Canon B20.

Throughout the history of Christian liturgy, music used within services has adapted and changed as society's expectations altered and those in power have dictated. Whilst the extent

¹²⁵² Particularly in the Roman Catholic document *Musicam Sacram* and *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) chapters 3, 4 and 5 (pp 33 – 51).

¹²⁵³ Although they are stated to be norms in the Roman Catholic document *Musicam Sacram*.

of the rules governing music has changed, there has always been some form of “legal regulation” of music in services, and governing musicians and clerics involved in Church music. Studying the development of music’s regulation helps us to understand why certain “rules” are set out in specific ways and what they are designed to cover. This approach to considering the historical development of music within the Church of England through its legal regulation represents an original contribution to scholarship.

4. Sources of law applicable to music

There are a number of sources of law applicable to music in the Church of England, which differ according to the institution and subject matter regulated. On a national level, issues relating to music and musicians at parish churches are regulated by Canon B20. The cathedrals are legislated for by the Cathedrals Measure 2021, with further and more detailed provisions contained in the individual cathedral constitutions and statutes. Life at the Oxford and Cambridge colleges is governed by the Oxford University Act 1854, the Cambridge University Act 1856, and the Universities Tests Act 1871, as well as the University statutes. These legal instruments do not specifically address the musical life of the college chapels. Instead, legal provisions relating to musical life and the office holders and students involved in the college chapels are set out in the individual college statutes, bylaws, ordinances, or regulations. In addition, a number of church Measures are applicable to all church institutions, and which whilst, on the face of it, not explicitly dealing with music, do impact those involved in music within the Church. These include the Clergy Discipline Measure 2003, and the Safeguarding and Clergy Discipline Measure 2016.¹²⁵⁴

The Church has also created soft-law specifically applicable to music and church musicians, for example, the Legal Advisory Commission of the Church of England (“LAC”) Opinion regarding “Parish Music: organists and choirmasters and church musicians”.¹²⁵⁵ In addition,

¹²⁵⁴ Although neither Measure specifically deals with issues relating to music, they may be applicable to musicians.

¹²⁵⁵ General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians”, 4 April 2017. <https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

the individual cathedrals and colleges have various policy documents and handbooks which provide guidance for clergy and church musicians. Thirdly, in some circumstances, particularly in relation to disputes, considering the decisions in previous caselaw can help us to determine what the outcome may be in similar cases. Fourthly, when considering how music is to be incorporated within the liturgy, it is also necessary to review the rubrics, and directions and related normative entities within the liturgy books which are currently legally permitted for use within the Church of England.

There are a number of subject matters relevant to music within the church addressed in the sources above. These include: issues relating to the selection of music within the service, such as who has ultimate responsibility for selecting appropriate music, and whether that person has a duty to consult others; and issues regarding the employment of those involved in music at the relevant institutions, including the appointment of musicians such as the director of music, organists and choir members, the rights and duties of those individuals, and what happens in the event that it is necessary to terminate specific positions. Within the context of the cathedrals and college chapels, there is also the regulation of various groups involved in the music at these institutions. Safeguarding and dispute resolution are also areas which have an impact on all aspects of church life, (including those involved in music within the church institutions). Whilst safeguarding is very heavily regulated, the way dispute resolution issues are dealt with is not as formalised.

5. Models of regulatory approaches to music

Since music at the parish churches is governed on a national level by Canon B20, legally there are no different models in relation to the regulation of music and church musicians at the different parish churches: there is uniformity in regulation across all parish churches. Chapters 4 and 5 describe models within the individual legal instruments regarding how they address regulation of issues such as the appointment and duties of various individuals and bodies involved in musical life at the different cathedrals, and college chapels. In summary, this thesis highlights that the different church institutions adopt different approaches to the regulation of music and musicians. The models of regulation reflect the character of the institution and its approach to music.

6. Similarities and differences between the regulation of music at the parish churches, cathedrals, and college chapels

It is possible to identify a number of substantive similarities and differences between regulation of music at the parish churches, cathedrals, and college chapels. Looking at the similarities, taking an overview of the regulatory framework, they all contain provisions governing the use of music within the liturgy, and the musicians involved in music at those institutions. Thus, music is considered of sufficient importance to justify regulating. In terms of the subjects regulated by the various legal instruments, policy documents, and guidance, they all address: (1) the use of music within the liturgy; (2) the regulation of individuals involved in music, including their appointment, their rights and duties whilst in post (and the relationships between these in terms of oversight and governance); and termination of such posts; (3) safeguarding; and (4) dispute resolution. Whilst the subjects regulated in each of the institutions are the same, the differences between them come in the minutiae, and in the level of detail contained in the legal instruments.

Turning to the differences, the first is in relation to the legal instruments used to regulate music and church musicians. At the parish churches this is governed canonically in the form of Canon B20: there is uniformity in regulation across all parish churches. This canon explicitly states that its provisions do not apply to the cathedrals and college chapels. In comparison, music at the cathedrals is regulated at a national level by the Cathedrals Measure 2021, although much more detail is contained in the individual cathedral constitutions and statutes. The Oxford and Cambridge colleges are governed by national legislation as well as the University statutes, although these do not specifically relate to music and musicians at the college chapels, which are regulated by the individual college constitutions, statutes, bylaws and ordinances. Therefore, there is much more divergence in the approaches adopted to the regulation of these individuals at the college chapels.

Looking in more detail at the specific cathedral and college chapel legal instruments: since the introduction of the Cathedrals Measure 2021, the cathedral constitutions and statutes follow to a large extent the same structure and are fairly uniform in the way they deal with

the various issues affecting musicians.¹²⁵⁶ This means that there is consistency in the way the issues are addressed as between the different cathedrals. In comparison, the musical elements of chapel life are not dealt with in the University statutes. Instead they are governed by the individual colleges – which are autonomous institutes. Accordingly, there is far more divergence in music's regulation between the different college legal instruments than in the cathedrals. This reflects the differing situations of the colleges and their history, foundation and tradition: at some colleges the chapel choir is overseen by a professional director of music, whilst at others the chapel choir is run by a student organist; some colleges have child choristers singing the treble line, whilst at others the choir consists of students at the college; at some colleges the choir is made up of choral scholars who receive payment/a scholarship for singing in the choir, whilst at others the choir is entirely made up of volunteers. Therefore, the provisions in the college legal instruments reflect these differences. However, this means that the different legal instruments regarding the regulation of music at the different colleges are not consistent regarding their treatment of the music and musicians in the college chapels.

In short, there is greatest regulatory uniformity between the parishes, a mixture of regulatory uniformity and regulatory diversity as between the cathedrals, and least regulatory uniformity as between the college chapels. Given the different systems for regulating music at the different institutions, should the Church of England introduce a single regulatory regime for all three entities. This would ensure consistency across the three entities. Given the variety of circumstances across the parish churches, cathedrals and college chapels,¹²⁵⁷ it would not be practical to impose one legal framework that could encompass all the different circumstances across all three entities. Therefore, the current structure for the regulation of music and musicians is the most appropriate to ensure flexibility to accommodate the differing circumstances of the parish churches, cathedrals and college chapels.

Principles for the regulation of church music

¹²⁵⁶ Although there is some variety in relation to provisions relating to assistant organists, choral scholars, and choristers, as well as the various groups that impact the musical life at the cathedrals.

¹²⁵⁷ For example, musicians are more likely to be remunerated for their role in the cathedrals and college chapels, than in the parish churches where some organists are volunteers, although many others are employed.

Despite the legal differences between the regulation of music and musicians at the different church institutions, it is possible to articulate principles for the regulation of church music taken from the similarities between the approaches adopted within the Church of England at all three institutions, parish churches, cathedrals and Oxford and Cambridge college chapels. These can be articulated as follows:

1. Music is important to the worshipping life of the church.¹²⁵⁸
2. Theological norms on the use of music within church services represent soft law for the regulation of church music.¹²⁵⁹
3. The current law on music within the church reflects historical practice.
4. Music laws can be found in a variety of different formal sources.¹²⁶⁰
5. The use of music and ordering of music within worship is regulated.
6. The musical elements may be supervised by a musician: director of music or organist.
7. A church may have a choir which is responsible for leading the musical elements of worship.¹²⁶¹
8. The principal musicians in church are the director of music, organist and the choir. issues relating to the employment of musicians are governed by legal regulation
9. Church musicians are appointed by the appropriate competent authority.

¹²⁵⁸ This is reflected in the legal provisions governing music within the church, which permits the use of music within church worship.

¹²⁵⁹ These theological principles underpin the regulation of music within the church, and should be considered when the church legislates for music.

¹²⁶⁰ These include canons, Measures, cathedral and college chapel legal instruments such as constitutions, statutes, bylaws, and ordinances, as well as in Church of England Opinions and Guidance.

¹²⁶¹ The church choir may consist of adult choir members, and may also consist of child choristers.

10. Church musicians have rights and duties, which may be set out in writing to the extent required by law, and issues relating to employment are governed by legal regulation.

11. The Church of England has extensive safeguarding policies and guidance.¹²⁶²

12. There are a number of dispute resolution mechanisms available to those involved in music within churches if necessary.¹²⁶³

These legal principles reflect the recommendations put forward in the conclusions of the Church of England's *Archbishop's Commission's Report on Church Music*, as set out in the introduction to this thesis, but which have not formally been implemented by the Church.¹²⁶⁴

7. Assessment of the current legal framework of music

Finally, it is necessary to assess the current legal framework governing music and musicians to determine if it is fit for purpose, or whether it should be amended. In relation to the overall structure of the legal framework regulating music and musicians (i.e. having different structure for the parish churches, cathedrals and college chapels) this is appropriate because it reflects the differing circumstances of the different institutions and allows flexibility to amend certain aspects as society changes.

In relation to the regulatory framework in parish churches, which is subject to the canons, it is submitted that Canon B20 should be amended. Canon B20 was drafted over 50 years ago, at a time when the majority of parish churches used an organ to accompany the music in worship, and any additional musical provision was through a traditional choir setting.¹²⁶⁵ The

¹²⁶² These policies are applicable on a national, diocesan and parochial level, which apply to those involved in music, and which must be followed by all clergy, officers of the PCC and those engaged by the Church.

¹²⁶³ These procedures can range from: informally 'talking through differences of opinion'; seeking pastoral guidance from the bishop, asking the bishop or archdeacon to determine how the issue should be resolved through a binding arbitration decision, or seeking to reach resolution through an independent third party at mediation

¹²⁶⁴ *In Tune with Heaven: The Report of the Archbishops' Commission on Church Music* (Church House Publishing, Hodder & Stoughton, London, 1992) 252 – 253, and 256.

¹²⁶⁵ As explored in Chapter 3, one of the responses to the Parish Churches Questionnaire pointed out that canon B20 is written "for a time and age that does not have bands, worship teams, small

music used in church worship has changed significantly over the last 50 years, with the introduction of worship bands, new types of music, including the use of recordings in situations where the church may not have an organist. It is submitted that it would be helpful if canon B20 is amended to reflect: the fact that the structure of musical ensembles in churches varies: it does not just consist of an organ with a choir; the person supervising music in churches may not be an organist, choirmaster or director of music, they could be a band leader, or worship leader; the style of music in churches varies and does not only consist of hymns or anthems, but may include worship songs, or incidental music. This would bring the canon in line with current musical practices.

Canon B20.2 should be amended to read [amendments are underlined]:

“~~Where there is an organist, choirmaster or director of music t~~[T]he minister shall pay due heed to ~~his~~the advice and assistance of any individuals appointed to supervise music within the church in the choosing selection of chants, hymns, anthems and other settings, the musical elements of the service and in the ordering of the music of the church; but at all times the final responsibility and decision in these matters rests with the minister”

This would ensure the wording of the canon is inclusive of all the different styles and forms of music incorporated into worship.

Canon B20.3 should be amended to read (to incorporate more fully the theology of music): [amendments are underlined]

It is the duty of the minister to ensure that ~~only such chants, hymns, anthems and other settings are chosen as are~~ appropriate musical items, both in relation to the words and the music, to the solemn act reflect music’s purpose within worship to glorify God and to sanctify the people, to emphasise key elements of the liturgy and to enhance prayer in the House of God as well as to the congregation assembled for that purpose; and to banish all irreverence in the practice and in the performance of the same.

orchestral [accompaniment]...but an age of the organist, choir and choir (master)”. See Question 24 to the Parish Churches Questionnaire, set out in Appendix 2.

This would also reflect a number of the theological purposes of music within worship in the law, and thus ensure that the purpose of music within worship is at the forefront of people's minds when it is being selected for services. Articulation of those norms in the law would ensure music is incorporated effectively into services, which in turn would enhance worship.

In relation to disputes, guidance in the *Archbishops' Commission's Report on music* and in the *LAC Opinion*, recommend that a contract is entered into between an organist or director of music and the PCC at the outset of the relationship, setting out the terms upon which the parties agree to be bound.¹²⁶⁶ This would help prevent disputes arising. In the event that there is a breakdown in the relationship, Church law sets out procedures that can be turned to in more serious cases, but not in the event of less serious conflict. Instead, the *Archbishops' Commission's Report on Music* sets out guidance about mechanisms which can be used in dispute resolution. It would be beneficial for those involved in the Church to ensure that clear policies are in place so that individuals involved in music understand what is required of them to help prevent disputes. It would be helpful to all parties for the Legal Advisory Commission to issue clear guidance on the range of dispute resolution mechanisms available to parties to church disputes so that they can adopt the most appropriate forum in their case.

Finally, there are two areas relating to the regulation of music and musicians within the Church of England, which would benefit from further study. Firstly, building on the conclusions in this thesis, it would be helpful for the Church of England to consider how the use of music in worship has changed over the last 30 years since the last *Archbishops' Commission's Report on Church Music*, and how the suggested changes recommended in this thesis can help facilitate music within worship. Secondly, this study focuses on the legal regulation of music and musicians within the Church of England. The Church of England would benefit from a comparison of how other Christian denominations regulate the use of music and church musicians in their churches, as we may be able to learn from how music governed in these denominations. The Roman Catholic Church has extensive norms relating to the use of music in the liturgy in its instruction on sacred music *Musicam Sacram*. Similarly, music is integral to worship in the Methodist Church. The Church of England could benefit from a comparison with these Christian denominations to consider how music

¹²⁶⁶ This already happens in the cathedrals and Oxford and Cambridge colleges.

is regulated within their worship. Furthermore, music is not addressed by the Statement of Principles of Christian Law, and it would be beneficial for Christian leaders to consider if music can assist as “an expression of shared ecclesiology”.¹²⁶⁷

This thesis establishes that music has played an integral part in worship from the beginning of Christianity, through to present day. This is achieved through legal regulation (whether superficial and facilitative, or more prominent and restrictive). The legal governance of music is essential for its ordering within the liturgy and for enabling its use in worship. Therefore, it is essential that the legal framework regulating music, and governing church musicians is fit for purpose to ensure that music continues to fulfil its fundamental role within the liturgy.

¹²⁶⁷ M. Hill and N. Doe, ‘Principles of Christian Law’ *Ecclesiastical Law Journal* 2017, 19(2), 138 – 155. 1

BIBLIOGRAPHY

Primary Sources

1662 Book of Common Prayer, accessed online via <

<http://justus.anglican.org/resources/bcp/1662/baskerville.htm>

Alternative Service Book 1980, (Hodder & Stoughton; London; 1980)

Archbishops' Commission on Church Music Report: In Tune With Heaven (Church House Publishing, London, 1992)

Archbishops' Commission Report: Music in Worship, (SPCK; London; 1922)

Archbishops' Commission on Church Music Report: Music in Church (1948).

Balliol College, Oxford: *Statutes made for Balliol College, Oxford (2023); College Handbook; Safeguarding Policy*; Balliol College, Financial Report and Annual Accounts

Bristol Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy and Undivided Trinity in Bristol* (2023)

Birmingham Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Phillip Birmingham* (2023)

Information contained on cathedral choir on Birmingham Cathedral website:

<http://www.birminghamcathedral.com/cathedralchoir/>

Canterbury Cathedral: *Constitution and Statutes of the Cathedral and Metropolitan Church of Christ, Canterbury* (2023)

Carlisle Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy and Undivided Trinity of Carlisle* (2022)

Cathedrals Working Group report published in 2018, https://www.churchofengland.org/sites/default/files/2018-06/Cathedrals%20Working%20Group%20-%20Final%20Report_0.pdf,

Chester Cathedral: *Constitution and Statutes of the Cathedral Church of Christ and the Blessed Virgin Mary in the Diocese of Chester* (2023)

Chichester Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy Trinity in Chichester* (2023)

Church of England House of Bishops, Parish Safeguarding Handbook, (Church House Publishing; London; 2018) <https://www.churchofengland.org/sites/default/files/2019-10/ParishSafeGuardingHandBookAugust2019Web.pdf>

Church of England Canons, available via Church of England website:

<https://www.churchofengland.org/about/leadership-and-governance/legal-resources/canons-church-england/canons-website-edition>

Christ Church College, Oxford: *Statutes of Christ Church College Oxford* (2014)

Clare College, Cambridge: *Statutes of Clare College, Cambridge* (2017)

Common Worship: Services and Prayers for the Church of England (London: Church House Publishing; 2000)

Corpus Christi College Cambridge, *The College of Corpus Christi and of the Blessed Virgin Mary in the University of Cambridge, Statutes* (2018); *Ordinances* (2024); *Staff handbook* (2024)

Coventry Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Michael, Coventry* (2023)
Information contained on cathedral website: <http://www.coventrycathedral.org.uk/wpsite/our-vision/>

Derby Cathedral: *Constitution and Statutes of the Cathedral Church of All Saints, Derby* (2023)

Downing College, Cambridge: *Statutes* (2020); *Ordinances* (2024)

Durham Cathedral: *Constitution and Statutes of the Cathedral Church of Christ, Blessed Mary the Virgin and Saint Cuthbert of Durham* (2023)

Ely Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy and Undivided Trinity of Ely* (2022)

Exeter Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Peter in Exeter* (2023)

Exeter College, Oxford: *Statutes of Exeter College, in the University of Oxford* (2021)

General Synod Legal Advisory Commission opinion “Parish Music: organists and choirmasters and church musicians”, 4 April 2017. <https://www.churchofengland.org/sites/default/files/2017-12/general-synod-legal-advisory-commission-parish-music-organists-and-choirmasters-and-church-musicians.pdf>

Girton College, Cambridge: *Statutes* (2009); *Ordinances* (2022)

Gloucester Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Peter and the Holy and Indivisible Trinity, Gloucester* (2022)

Guildford Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy Spirit, Guildford* (2023)

Hereford Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Mary the Virgin and Saint Ethelbert the King in Hereford* (2023)

House of Bishops Guidance: <https://www.churchofengland.org/safeguarding/policy-and-practice-guidance> accessed 24 December 2024

Jesus College, Cambridge: *Statutes of Jesus College in the University of Cambridge* (2013); Safeguarding Policy, (November 2023); *Jesus College Annual Report and Accounts, 30 June 2017*;

Jesus College, Oxford: *Statutes; Bylaws; Child Safeguarding Policy & Procedures* (2024)

Keble College, Oxford: *Charter and Statutes; Codes of Practice; Safeguarding Policy*

King’s College, Cambridge: *Statutes* (2022); *Ordinances* (2024); *Regulations* (2017); *Director of Music Application Form* (2018)

King’s School Rochester Memorandum and Articles of Association

Lichfield Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Mary and Saint Chad in Lichfield* (2023)

IICSA Report - <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church/part-b-church-england/b1-safeguarding-church-england/b13-safeguarding-policies.html>

Liverpool Cathedral: *Safeguarding Policy*, (2024)

London: St Paul’s Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Paul in London* (2023); Information obtained from St Paul’s cathedral website: <https://www.stpauls.co.uk/cathedral-ministers>,

Magdalen College, Oxford: *Statutes made for Magdalen College Oxford* (2012); *Bylaws* (2014); *Choir Safeguarding Policy* (2023)

Merton College, Oxford: *Statutes made for Merton College* (2015); *Bylaws* (2023); *Child Safeguarding Policy & Procedures* (2023); *Choral and Organ Scholarship Brochure*;

Musicam Sacram, see https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_instr_19670305_musicam-sacram_en.html,

New College, Oxford: *Statutes made for the College of Saint Mary of Winchester in Oxford (2016)*; *Bylaws (2016)*

Newcastle Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Nicholas Newcastle upon Tyne (2022)*

Norwich Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy and Undivided Trinity of Norwich (2022)*

Pembroke College, Oxford: *The College Statutes (2008)*; *The College Regulations (2022)*

Portsmouth Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Thomas of Canterbury, Portsmouth (2023)*; Safeguarding Policy Statement

Queens' College, Cambridge: *Statutes of Queens' College (2017)*

Queen's College, Oxford: *Statutes (2022)*

Rochester Cathedral: *Constitution and Statutes of the Cathedral Church of Christ and the Blessed Virgin Mary, Rochester (2023)*

Sacrosanctum Concilium, 11.3 https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19631204_sacrosanctum-concilium_en.html,

Salisbury Cathedral: *Constitution and Statutes of the Cathedral Church of the Blessed Virgin Mary of Salisbury (2023)*

Sidney Sussex College, Cambridge: *College Statutes (2018)*; *Ordinances (2018, as amended)*; *Regulations*

Southwark Cathedral: *Constitution and Statutes of the Cathedral and Collegiate Church of Saint Saviour and Saint Mary Overy, Southwark (2022)*

Southwell Minster: *Constitution and Statutes of the Cathedral and Parish Church of the Blessed Virgin Mary (2023)*

St Edmund's Hall, Oxford: *Statutes of the College*; *Bylaws of the College*; *Safeguarding Policy (2022)*

St Edmundsbury Cathedral: *Constitution and Statutes of the Cathedral Church of Saint James and Saint Edmund, Bury St Edmunds (2022)*

St John's College, Cambridge: *Statutes for the College of Saint John the Evangelist in the University of Cambridge (2023)*; *Standing Orders (2018)*

Trinity Hall, Cambridge: *Statutes of the College or Hall of the Holy Trinity commonly called Trinity Hall (2017)*

Truro Cathedral: *Constitution and Statutes of the Cathedral Church of the Blessed Virgin Mary in Truro (2023)*; Canon Precentor job application;

University of Oxford: *Commissioners, Statutes Made for the University of Oxford, and for the Colleges and Halls therein (Arkose Press; 2015)*; *Oxford University Statutes*: <https://governance.admin.ox.ac.uk/legislation/preface-constitution-and-statute-making-powers-of-the-university#collapse1380371> ; Safeguarding Statement: <https://hr.admin.ox.ac.uk/safeguarding-at-risk-adults-and-children#collapse1406551>

Wells Cathedral: *Constitution and Statutes of the Cathedral Church of Saint Andrew in Wells (2023)*

Winchester Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy Trinity and of Saint Peter and Saint Paul and Saint Swithun in Winchester* (2022)

Worcester Cathedral: *Constitution and Statutes of the Cathedral Church of the Holy Trinity and the Blessed Mary the Virgin of Worcester* (2023)

Worcester College, Oxford: Statutes (2011)

York Minster: *Constitution and Statutes of the Cathedral and Metropolitan Church of Saint Peter in York* (2022)

Secondary Sources

Anttila, M. E., *Luther's Theology of Music: Spiritual Beauty and Pleasure* (Berlin, de Gruyter, 2013)

Arnold, J., *Sacred Music in Secular Society*

Begbie, J., (ed) *Beholding the Glory: Incarnation through the Arts*, (Darton, Longman & Todd, London, 2000)

Begbie, J., *Theology, Music and Time*, (Cambridge University Press; Cambridge; 2013)

Begbie, J. and Guthrie, S., (ed) *Resonant Witness: Conversations between music and theology*, (Wm. B Eerdsman Publishing Co, USA, 2011)

Behrens, J., *Church Disputes Mediation* (Leominster, 2003)

Belsky, M., and Bessler-Northcut, J., *Law and Theology: Cases and Readings* (Carolina Academic Press, North Carolina, 2005)

Benham H, *Latin Church Music c.1460-1575* (London, 1977)

Betjeman, J., *Guide to English Parish Churches* (Harper Collins, London, 1993)

Bradshaw, P., *The Search for the Origins of Christian Worship* (London, 2002)

Bradshaw, P. and Hoffman, L, (ed) *The Making of Jewish and Christian Worship* (London, 1991)

Bray, G., *The Development of the Canons: A Historical Study and Summary of the Church of England's Canons 1969 to 2020* (Latimer Publications, Oxford, 2020)

Brockliss, L.W.B., *Magdalen College Oxford: A History*, (Magdalen College, 2008)

Brown, D. and Hopps, G., *The Extravagance of Music* (Palgrave, Macmillan, London, 2018)

Blake, S., *A Practical Approach to Alternative Dispute Resolution, 5th edition* (Oxford University Press, Oxford, 2018)

Blume F, *Protestant Church Music: a history* (W. W. Norton & Co, London, 1974)

Blunt J Rev, and Phillimore W, *The book of church law being an exposition of the legal rights and duties of the parochial clergy and the laity* (Rivingtons, London, 1873)

Bursell, R., *Liturgy, Order and the Law* (Oxford, Clarendon Press, 1996)

Bursell, R., 'Turbulent Priests: Clerical Misconduct Under the Clergy Discipline Measure 2003' *Ecc LJ* (2007) 9, 250 – 263

Church of England, *A Brief Guide to Liturgical Copyright*, third edition (Church House Publishing, London, 2000)

Collins Dictionary: accessed via <https://www.collinsdictionary.com/dictionary/english/theology>

The Concise Oxford Dictionary, 1992.

Colchester, A., and Tudway Quilter, D., *A History of Wells Cathedral School* (Wells Cathedral School, Wells, 1985)

Coulson, R., *The History of King's School Rochester* (London, 1989)

Cripps, H, Cripps, R. Sir, and Lawrence A Sir, *A practical treatise on the Law relating to Church and Clergy*, 7th edition (London, Sweet and Maxwell, 1921)

Cross, F.L., *The Oxford Dictionary of the Christian Church; "Theology"* (Oxford University Press, London, 1957)

Dale, Sir William., *The Law of the Parish Church*, seventh edition (Butterworths, London, 1998)

Darbyshire, L., *A Brilliant Foundation for Life: A Portrait of Wells Cathedral School* (Third Millennium, Wells, 2008)

Dix, D. G., *The Shape of the Liturgy* (Oxford, Bloomsbury Publishing Plc, 2015)

Doe, N., *Canon Law in the Anglican Communion* (Oxford University Press, Oxford, 1998)

Doe, N., *The Legal Architecture of English Cathedrals* (Routledge, Oxford, 2018)

Doe, N., *The Legal Framework of the Church of England: A Critical Study in a Comparative Context* (Oxford University Press, Oxford, 2000)

Doe, N., *The Law of the Church in Wales* (University of Wales Press, Cardiff, 2002)

Doe, N., 'The category "Legal Theology" and the study of Christian Laws', in *Journal of Law and Religion*, 32, no 1 (2017), 64 – 70

Doe, N., 'Toward a Critique of the role of Theology in English Ecclesiastical and Canon Law', *Ecclesiastical Law Journal*, 1992 2(11); 328 – 346

Doe, N. and Coleman, S., eds, *The Legal History of the Church of England: From the Reformation to the Present* (Oxford, Hart Publishing, forthcoming February 2024)

Duffy, E., *The Stripping of the Altars: Traditional Religion in England 1400 – 1580* (Yale University Press, London, 2005)

Edwards, K., *The English Secular Cathedrals in the Middle Ages, second edition* (Manchester University Press, 1967)

Elliott, M, and Agarwal Dr R, *The Ultimate Oxbridge College Guide: The Complete Guide to Every Oxford and Cambridge College* (2020)

Fellowes, E., *English Cathedral Music* (London, 1969)

Fielding, S., 'Mediation in the Church of England: Theology and Practice', *Ecclesiastical Law Journal*, (2011) 13(1), 65 – 69

Firmin, C., *Contextual Safeguarding and Child Protection: Rewriting the Rules* (Routledge, London, 2020)

Foley, E., *Foundations of Christian Music: The Music of Pre-Constantinian Christianity* (Grove Books Ltd, Nottingham, 1992)

Ford, D., *Theology: A Very Short Introduction* (Oxford University Press, Oxford, 1999)

Gill, G. D., *Music in Catholic Liturgy: A Pastoral and Theological Companion to Sing to the Lord* (Hildenbrand Books, Chicago, 2009)

Godolphin, J., *Repertorium Canonicum: An abridgment of the ecclesiastical laws of this realm consistent with the temporal* (London, 1680)

Grey, R., *A System of English Ecclesiastical Law* (London, 1730)

Hallam, S., (ed) *The Oxford Handbook of Music Psychology* (Oxford University Press, Oxford, 2012)

Hallam, S. and Hilmonides, E., *The Power of Music: an Exploration of the Evidence* (OpenBook Publishers, Cambridge, 2022)

Halsbury's Laws of England, 5th ed., 2011

Hammar, R. R., *The Church Guide to Copyright Law*, 3rd edition (Church Law & Tax Report, London, 2001)

Heaney, M. L., *Music as Theology: What Music says about the Word* (Princeton Theological Monograph Series, USA, 2012)

Heaney, M. L., Can Music "Mirror" God? A Theological-Hermeneutical Exploration of Arvo Pärt's Spiegel im Spiegel, *Religions* 2014, 5, 361 – 384

Hill, M., *Ecclesiastical Law*, 4th edition (Oxford University Press, Oxford, 2018)

Hill, M., 'Mediation: An Untapped Resource for the Church of England?' *Ecclesiastical Law Journal*, (2011) 13(1), 57 – 65

Hoppin, R., *Medieval Music* (W.W Norton & Company, 1978)

Jenkins, S, *England's Cathedrals* (Little Brown, 2016)

Jones, G., (ed) *The Blackwell Companion to Modern Theology* (Blackwell Publishing Ltd, 2004)

Jordaan, B., *Negotiation and Dispute Resolution for Lawyers* (Edward Elgar Publishing Ltd, Cheltenham, 2022)

Joulu, R., *Law, technology and dispute resolution: privatisation of coercion* (Taylor & Francis, New York, 2019)

King, R., 'Mediation in Faculty Applications', *Ecclesiastical Law Journal*, (2006) 8 (39), 475 – 478

Lambert, The Rev W, *The Canons of the first four General Councils of the Church and those of the early local Greek Synods* (London, 1868)

Leach R and Williams B, *Everything Else an Organist should know* (Epsom, Organist Publications, 2005)

Le Huray P., *Music and the Reformation in England 1549 – 1630* (London, 1967)

Lehmberg, S., *English Cathedrals: a history* (Hambledon and London, London, 2005)

Lewis, D and Sargeant, M, *Employment Law* (London, Routledge, Ninth edition, 2020)

Lynch, D. A., *God in Sound and Silence: Music as Theology* (Pickwick Publications, Oregon, 2018)

MacCulloch, D., *Reformation: Europe's House Divided* (Penguin Books, London, 2004)

Mackie, K., *The ADR Practice Guide: commercial dispute resolution* (Butterworths, London, 2000)

Maconie, R., The Concept of music <https://www.rca.org/resources/theology-and-place-music-worship> - 14.01.20.

McIlroy, D., *Christian Perspectives on Law: A Biblical View of Law and Justice* (Authentic Media, London, 2004)

McIlroy, D., *The End of Law: How Law's Claims Relate to Law's Aims* (Edward Elgar Publishing Ltd, London, 2019)

McKinnon J (ed), *Antiquity and the Middle Ages: From Ancient Greece to the 15th century* (Macmillan Press Limited, 1990)

McKinnon J, *Music in Early Christian Literature* (Cambridge University Press, 1987)

Murphy, J., *Divorced from Reality: Rethinking Family Dispute Resolution* (New York University Press, New York, 2015)

Nettle, B., *The New Grove Dictionary of Music*

Opderbeck, D. W., *Law and Theology: Classic Questions and Contemporary Perspectives* (Fortress Press; 2019)

Orme, N, *The History of England's Cathedrals* (Yale University Press, 2024)

Phillimore R Sir, *The Ecclesiastical Law of the Church of England*, vol 1 (London, Henry Sweet, 1873)

Pocklington D and Cranmer F, "Parish Music Guidance: employment issues" in *Law & Religion UK*, 30 May 2017, - <http://www.lawandreligionuk.com/2017/06/12/parish-music-guidance-employment-issues/#Sholl%20v%20PCC%20of%20St%20Michael's%20with%20St%20James,%20Croydon>

The Principles of Canon Law Common to the Churches of the Anglican Communion, second edition (Anglican Consultative Council, London, 2022)

Rees, R. D., *The Role of Music and Musicians in Current English Parish Church Worship: the Attitudes of Clergy and Organists* (1990, Department of Music, University of Sheffield)

Routley E, *A Short History of English Church Music* (Mowbray Ltd, 1997)

Ruff, A., *Sacred Music and Liturgical Reform: Treasures and Transformations* (Illinois, Hillenbrand Books, 2007)

Saliers, D. E., *Music and Theology*, (Abingdon Press, Nashville, 2007)

Sandberg, R., *Law and Religion* (Cambridge, Cambridge University Press, 2011)

Slapper, G. and Kelly, D., *The English Legal System*, Fourth edition (London, Cavendish Publishing Ltd, 1999)

Spink I, *Restoration Cathedral Music 1660 – 1714* (Clarendon Press, Oxford, 1995)

Spreadbury, K. and Hubbard, R., *The Adult Safeguarding Practice Handbook* (Policy Press, Bristol, 2020)

Strunk, O. *Strunk's Source Readings in Music History* (W.W. Norton & Company, New York, 1998)

Taruskin, R., *Oxford History of Western Music* (Oxford University Press, Oxford, 2009)

Thaut, M. and Hodges, D., (ed) *The Oxford Handbook of Music and the Brain* (Online edn, Oxford Academic, 2018)

Thomas, M.. *English Cathedral Music in the Twentieth Century* (Routledge, 2015)

Thomas Revd Dr Martin, *English Cathedral Music and liturgy in the Twentieth Century* (Routledge, London, 2015)

Tomlinson, *Hereford Cathedral School: A History over 800 years* (Logaston Press, London, 2018)

Vallance, Aymer, *The old colleges of Oxford: their architectural history illustrated and described* (London, Batsford, 1912)

Wayment, H, *King's College Chapel Cambridge and the Great Windows* (King's College, 1992)

Weber, W., 'The History of Musical Canon' in *Rethinking Music*, ed. N Cook and M. Everist (Oxford University Press, Oxford, 1999)

Weyer van der R., (ed) *Hildegard in a Nutshell* (London, Hodder & Stoughton, 1997)

Wilson-Dickson, A., *The Story of Christian Music* (Lion Publishing Ltd, Oxford, 2003)

APPENDIX 1

B20 OF THE MUSICIANS AND MUSIC OF THE CHURCH

1. In all churches and chapels, other than in cathedral or collegiate churches or chapels where the matter is governed by or dependent upon the statutes or customs of the same,¹²⁶⁸ the functions of appointing any organist, choirmaster (by whatever name called) or director of music, and of terminating the appointment of any organist, choirmaster or director of music, shall be exercisable by the minister with the agreement of the parochial church council, except that if the archdeacon of the archdeaconry in which the parish church is situated, in the case of termination of appointment, considers that the circumstances are such that the requirement as to the agreement of the parochial church council should be dispensed with, the archdeacon may direct accordingly. Where the minister is also the archdeacon of the archdeaconry concerned, the function of the archdeacon under this paragraph shall be exercised by the bishop of the diocese.
2. Where there is an organist, choirmaster or director of music the minister shall pay due heed to his advice and assistance in the choosing of chants, hymns, anthems and other settings, and in the ordering of the music of the church; but at all times the final responsibility and decision in these matters rests with the minister.
3. It is the duty of the minister to ensure that only such chants, hymns, anthems and other settings are chosen as are appropriate, both the words and the music, to the solemn act of worship and prayer in the House of God as well as to the congregation assembled for that purpose; and to banish all irreverence in the practice and in the performance of the same.

¹²⁶⁸ It is important to note that Canon B20 does not apply to cathedrals or collegiate churches and chapels since these issues are governed by the statutes, constitutions or customs of each individual institution. For this reason, this thesis considers the regulation of music at these institutions separately. Therefore, this chapter only deals with the provisions for music at parish churches in England and Wales. The position in cathedrals and college chapels will be considered in subsequent chapters.

APPENDIX 2 - PARISH CHURCHES QUESTIONNAIRES

2.1 Churches Contacted

1. Bath Abbey
2. St Martin in the Bull Ring, Birmingham
3. St Botolph's Church, Boston
4. St Mary Redcliffe, Bristol
5. St Mary's Church, Bury St Edmunds
6. Church of St Mary the Great, Cambridge
7. Cheltenham Minster
8. Church of St Mary and All Saints, Chesterfield
9. Christchurch Priory
10. Holy Trinity Church, Coventry
11. St Wulfram's Church, Grantham
12. Great Malvern Priory
13. Great Yarmouth Minster
14. St Mary, Hadleigh
15. All Saint's Church, Hertford
16. King's Lyn Minster
17. St James' Church, Louth
18. St Laurence's Church, Ludlow
19. All Saints Church, Fulham
20. All Saints Church, Kingston upon Thames
21. Christ Church, Spitalfields
22. St Marylebone Parish Church
23. St Martin-in-the Fields
24. St Mary's Church, Lutterworth
25. St Peter Mancroft, Norwich
26. All Saints' Church, Northampton
27. Pershore Abbey
28. Romsey Abbey

29. St Andrew's Church, Rugby
30. St Mary the Virgin, Saffron Walden
31. St Chad's Church, Shrewsbury
32. Church of the Holy Trinity, Stratford-upon-Avon
33. Sherborne Abbey
34. Shrewsbury Abbey
35. St Mary Magdalene, Taunton
36. Tewkesbury Abbey
37. Waltham Abbey Church
38. Collegiate Church of St Mary, Warwick
39. Wimborne Minster
40. St Peter's Collegiate Church, Wolverhampton
41. Beverley Minster
42. Bolton Priory
43. Bridlington Priory
44. Cartmel Priory
45. St George's Minster, Doncaster
46. Grimsby Minster
47. Halifax Minster
48. St Peter's Church, Harrogate
49. Hexham Abbey
50. Hull Minster
51. Kendal Parish Church
52. Lancaster Priory
53. Leeds Minster
54. Liverpool Parish Church
55. St Mary's Church Nantwich
56. Church of St Mary Magdalene, Newark-on-Trent
57. St Mary's Church, Nottingham
58. Church of St Peter and St Paul, Ormskirk
59. Rotherham Minster
60. Selby Abbey
61. Holy Trinity Church, Southport
62. Church of St Wilfrid, Standish

63. Sunderland Minster
64. Ashbourne, St Oswald's
65. Dronfield St John the Baptist
66. Buxton St John's
67. Holy Trinity, Dartford
68. St Mary the Less, Cambridge
69. St Barnabas, Dulwich
70. St Stephen, South Dulwich
71. St John, East Dulwich
72. St Peter, Walworth
73. St George the Martyr, Southwark
74. St Mary, Battersea
75. St Luke, Battersea
76. St Mary, Barnes
77. St Michael and All Angels, Barnes
78. St Mary, Putney
79. All Saints, Putney
80. St Margaret, Putney
81. St Anne, Kew
82. St Mary Magdalene, Richmond
83. St Mark, Battersea Rise
84. St Michael and All Angels, Southfields
85. St Giles, Camberwell
86. Holy Trinity, Cambridge
87. St Barnabas, Cambridge
88. St Andrew the Less (aka Christchurch), Cambridge
89. St Andrew the Great (aka Holy Sepulchre), Cambridge
90. St James, Cambridge
91. St Oswald's church, Oswestry
92. St Marys, Beverley
93. Howden Minster
94. St Edward, Chelmsford
95. St Andrew, Hornchurch, Chelmsford
96. St Margaret, Barking, Chelmsford

97. All Saints, Cranham, Chelmsford
98. St Laurence, Upminster, Chelmsford
99. Good Shepherd, Collier Row, Chelmsford
100. St Chad, Chadwell Heath, Chelmsford
101. Holy Trinity Much Wenlock
102. Cradley in the benefice of Cradley with Mathon and Storridge
103. Leominster Priory
104. Holy Trinity, Hereford
105. St Marys, Ross on Wye
106. St John, Westwood
107. St Mark, Coventry
108. St Paul, Leamington
109. St Augustine, Kilburn
110. St James, Sussex Gardens
111. St Gabriel, Pimlico
112. St George Hanover Square
113. St Giles in the Fields
114. St Peter Eaton Square
115. Grosvenor Chapel
116. Royal Chapel of the Savoy
117. St Bartholomew the Great
118. St Bride, Fleet St
119. St James, Garlickhythe
120. St Michael, Cornhill
121. St Mary le Bow
122. Holy Sepulchre without Newgate
123. St Stephen, Walbrook
124. Holy Trinity, Aldershot
125. St Peter, Farnborough
126. All Saints, Fleet
127. Elvetham Heath, Fleet
128. Christ Church, Cove
129. St Nicolas, Cranleigh
130. St John the Baptist, Wonersh

131. St Saviour, Guildford
132. Christ Church, Guildford
133. Holy Trinity, Guildford
134. St John, Stoke-Next-Guildford
135. St John the Evangelist, Merrow
136. Emmanuel, Stoughton
137. St Thomas, The Bourne
138. St Andrew, Farnham
139. St Luke, Grayshott
140. St John the Evangelist, Busbridge
141. St Mary, Chiddingfold
142. Saints Peter & Paul, Godalming
143. St Bartholomew, Haslemere
144. St Stephen, Shottermill
145. All Saints, Witley
146. St Michael, Camberley
147. St Paul, Camberley
148. St Martin, Camberley
149. St Lawrence, Chobham
150. St Peter, Frimley
151. All Saints, Lightwater

2.2 Methodology

The churches contacted with the Parish Church Questionnaire, included those with a strong musical tradition (because these churches are most likely to have encountered issues being considered in this study): those with a music director and a choir, or which are known to utilise music within their worship. At the time of preparing the Parish Church Questionnaire, I identified that the “Greater Churches Network” website,¹²⁶⁹ listed 63 churches which had a strong musical tradition. I contacted all the churches listed in this network.¹²⁷⁰ In addition, I contacted all the archdeacons in the Church of England,¹²⁷¹ via the Venerable Jane Steen (now Bishop of Lynn), who identified an additional 88 parish churches with a strong musical tradition. The Parish Church Questionnaires were sent via email to 151 parish priests between September 2020 and January 2021 and I requested a response by April 2021. Of the 151 parish churches contacted, I received a completed questionnaire from 46 parish priests, representing approximately 30% of the churches contacted.¹²⁷² Additionally, a number of parishes contacted me to indicate they were not in a position to respond to the questionnaire, many explaining that they were struggling with the Covid-19 pandemic and so were unable to assist me with my research. Whilst the number of completed questionnaires received represents a small percentage of those parishes contacted, the results still provide some interesting insights into the perception of music within the churches and set out any areas of the law which do not assist churches in practice, which are worth considering for the purposes of this study. Furthermore, the responses have further highlighted the importance of this study, with one parish priest stating that his parish was in the process of appointing a new Director of Music and that once the Director of Music had been appointed he would use the questionnaire as a starting point for meeting with the Director of Music to agree formal policies and parameters for the position going forward.

A wide cross-section of parish churches from across a spectrum of different churchmanships responded to the questionnaire: whilst the majority of those responding identified as “central”

¹²⁶⁹Formerly the Greater Churches Network, this network is now the Major Churches Network:

<https://www.majorchurches.org/aboutus>.

¹²⁷⁰ See list of churches contacted in Appendix 2.1.

¹²⁷¹ because they could identify churches within their care that are likely to have a strong musical tradition, and to have encountered the issues discussed in this study.

¹²⁷² See Appendix 2 for the questions included in the Parish Church Questionnaire, the churches contacted, and a more comprehensive methodology.

or “moderate catholic”, a number indicated they are evangelical or catholic. The majority of the churches (27) had a choir for which auditions were held, with 18 churches having a separate (non-auditioning) singing group or choir, and 11 having a separate instrumental group. In addition, 5 churches indicated they had a youth or children’s choir or band, and one indicated it had a contemporary worship band.



2.3 Parish Churches Questionnaire

Interview Consent Form

I understand that my participation in this project will involve completing a questionnaire about the governance of music in Anglican churches, cathedrals and college chapels in England and Wales.

I understand that participation in this study is entirely voluntary and that I can withdraw from the study at any time without giving a reason.

I understand that I am free to ask any questions at any time. If for any reason I experience discomfort during participation in this project, I am free to withdraw.

I understand that my participation in this interview is anonymous and the information I provide will be held anonymously, such that only the interviewer can trace this information back to me individually. The data will be stored in accordance with the Data Protection Act (2018).

Please indicate whether you agree with the following statements, please initial box:

	Initials
I have read and understood all the information provided, and have received adequate time to consider all the documentation.	
I have been given adequate opportunity to ask questions about the research.	
I am aware of, and consent to the written and/or digital recording of my discussion with the researcher.	
I consent to the information and opinions I provide being used in the research.	

Interviewee Declaration

I consent to participate in the study conducted by Charlotte Wright, Cardiff School of Law and Politics

Signature:

Print Name: Date:

Additional Contact Information	
Researcher's Supervisor	<i>Professor Norman Doe</i> Doe@cardiff.ac.uk
Cardiff School of Law and Politics Research Ethics Committee (SREC)	This project has received ethical approval from the Cardiff School of Law and Politics Research Ethics Committee (SREC) on 13 February 2020 (Internal Reference: SREC/201119/12). The Cardiff School of Law and Politics Research Ethics Committee (SREC) can be contacted at: School Research Officer Cardiff School of Law and Politics Cardiff University Law Building Museum Avenue Cardiff CF10 3AX Email: LAWPL-Ethics@cardiff.ac.uk

A. The role of music in worship

CANON B20 OF THE MUSICIANS AND MUSIC OF THE CHURCH

2. Where there is an organist, choirmaster or director of music the minister shall pay due heed to his advice and assistance in the choosing of chants, hymns, anthems and other settings, and in the ordering of the music of the church; but at all times the final responsibility and decision in these matters rests with the minister.

3. It is the duty of the minister to ensure that only such chants, hymns, anthems and other settings are chosen as are appropriate, both the words and the music, to the solemn act of worship and prayer in the House of God as well as to the congregation assembled for that purpose; and to banish all irreverence in the practice and in the performance of the same.

1. How would you describe the character of worship currently practised in your church?

Evangelical	
Moderate evangelical	
Central	
Moderate catholic	
Catholic	

2. Which of the following does your church have? (please tick all that apply)

A choir for which auditions are held	
A separate singing group (non-auditioning)	
A separate instrumental group	
Other (please specify)	
None of the above	

3. Which elements of the service in your church are sung by the congregation (please tick all that apply)?

Hymns	
Psalms	
Ordinary (e.g. Kyrie, Gloria, Sanctus, Agnus Dei etc)	
Responses to Eucharistic Prayer	
Other (please specify)	

4. Which elements of the service in your church are sung by the choir only?

Hymns	
Psalms	
Ordinary (e.g. Kyrie, Gloria, Sanctus, Agnus Dei etc)	
Other (please specify)	

5. What is the language of anthems/musical elements of the service? (Please tick all that apply)

English	
Latin	
Other (please specify)	

6. Who selects congregational hymns/music for services?

Priest alone	
Director of Music/Organist alone	
Priest and Director of Music/Organist jointly	

A worship committee (or its equivalent)	
---	--

7. Who selects the music sung by the choir for services?

Priest	
Director of Music/Organist	
Priest and Director of Music/Organist jointly	
A worship committee (or its equivalent)	

8. Are there meetings between the clergy and Director of Music or Organist to discuss the music included in services?

Yes		No	
-----	--	----	--

9. Do you (the minister) feel able to determine the suitability of the music for the choir/congregation's capabilities?

Yes		No	
-----	--	----	--

10. Does the Director of Music/Organist have any formal training for the post?

Yes		No	
-----	--	----	--

11. Does the priest have any formal musical training?

Yes		No	
-----	--	----	--

12.(a) Does your church have a worship committee or equivalent?

Yes		No	
-----	--	----	--

(b) If not, do you feel this would be beneficial?

Yes		No	
-----	--	----	--

13. Does your church have a working group for music (i.e. a select group which meets to decide the music for services)? –

Yes		No	
-----	--	----	--

(b) If not, do you feel this would be beneficial?

Yes		No	
-----	--	----	--

14. Canon B20 does not contain any guidance on the selection of organ voluntaries or incidental music – do you feel the church needs more guidance on the selection of such music?

Yes		No	
-----	--	----	--

15. Is the Director of Music/Organist included as a member of the PCC?

Yes		No	
-----	--	----	--

(b) Do you find it is beneficial having the Director of Music on the PCC?

Yes		No		Not applicable	
-----	--	----	--	----------------	--

(c) If you find it beneficial please highlight the benefits

--

16. Does the PCC ever discuss music?

Yes		No	
-----	--	----	--

17. Do you consider that the Director of Music is a “minister of music” (i.e. the person who leads the music in the worship)?

Yes		No	
-----	--	----	--

18. Do you feel it is important to have a Director of Music/organist who is a communicant?

Yes		No	
-----	--	----	--

(b) Please explain why.

--

19. Do you feel it is important to have a Director of Music/organist who is sympathetic to the Christian religion?

Yes		No	
-----	--	----	--

(b) Please explain why.

--

20. On a scale of 1 – 5 can you please indicate the degree to which you think that musical elements of your service have an impact on congregation numbers?

1		2		3		4		5	
---	--	---	--	---	--	---	--	---	--

21. Does your church have a policy on music in worship?

Yes		No	
-----	--	----	--

(b) If so, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) Who designed and approved the policy

--

22. Do you perceive any problems with the way music is incorporated into worship in your church?

Yes		No	
-----	--	----	--

(b) Are there any changes you would like to see to the way in which music is incorporated into worship in your church?

23. Do you feel that Canon B20 (set out above) assists the inclusion of music in worship?

Yes		No	
-----	--	----	--

24. Would you like to see any changes to Canon B20 (set out above)?

Yes		No	
-----	--	----	--

(b) If so, please explain what changes you would like to see

--

25. What do you think is the purpose of music within worship?

To provide a medium for evangelism	
To provide contrast or establish mood	
To uplift the soul	
To worship and praise God	
To help more people to pray	
To promote corporate awareness and fellowship in worship	

To illuminate and intensify the words of the service	
Other (please specify)	

B. Appointment/removal of musicians and disputes

Relevant canon

CANON B20 OF THE MUSICIANS AND MUSIC OF THE CHURCH

1. In all churches and chapels, other than in cathedral or collegiate churches or chapels where the matter is governed by or dependent upon the statutes or customs of the same, the functions of appointing any organist, choirmaster (by whatever name called) or director of music, and of terminating the appointment of any organist, choirmaster or director of music, shall be exercisable by the minister with the agreement of the parochial church council, except that if the archdeacon of the archdeaconry in which the parish is situated in the case of termination of an appointment, considers that the circumstances are such that the requirement as to the agreement of the parochial church council should be dispensed with, the archdeacon may direct accordingly. Where the minister is also the archdeacon of the archdeaconry concerned, the function of the archdeacon under this paragraph shall be exercisable by the bishop of the diocese.

26. Please indicate the number of people involved in music within your church and whether they have an employment contract or not:

	Male	Female	Employment contract Y/N?
Director of Music			
Assistant Director of Music			
Organist			
Organ Scholar			
Choristers aged 19 and above			
Choristers aged between 14 and 18			
Choristers under 13			
Other			

27. What is the procedure in your church for the appointment/termination of the Director of Music/Organist?

--

28. Does your church have a Policy/guidance in place on the appointment/termination of the position of Director of Music/Organist?

Yes		No	
-----	--	----	--

29. Please explain how choir members are appointed and, if necessary, dismissed in your church?

--

30. Is there a policy/guidance in place on the appointment and dismissal of choir members?

Yes		No	
-----	--	----	--

31. Under Canon B20(1) the contract of the organist, director of music or choirmaster may be terminated by the minister, with the agreement of the PCC – have you ever used this canon?

Yes		No	
-----	--	----	--

32.(a) Does your church have a policy/guidance in place for determining disputes between the minister and Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If Yes, could you please explain the procedure.

--

(d) If the answer to 32(a) above was no, do you think there should be one?

Yes		No	
-----	--	----	--

33. Have you encountered any problems with your working relationship with your Director of Music/Organist?

Yes		No	
-----	--	----	--

(b) If yes, please set out the nature of any problems encountered:

Choice of music	
Flexibility in arrangements	
Communication with musicians	
Provision of additional worship	
Changes in service times	
Quality of performance in comparison with expectation	
Other (please explain)	

34. Do you have a policy for resolving disputes between clergy and the Organist/Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If yes, could you please explain the procedure.

--

35. Do you have a policy for resolving any disputes in general which arise in relation to music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If so, could you please explain the procedure.

--

36. Do you feel that the following issues should have a bearing on whether an individual is allowed to be involved in the church choir (please tick all that apply)?

Frequent attendance at services	
Frequent attendance at rehearsals	
Is a practising member of the Church of England	
Adhering to Anglican principles	
Leading an exemplary private life	
Other (please explain)	

APPENDIX 3 - CATHEDRALS QUESTIONNAIRES

3.1 Cathedrals Contacted

1. Birmingham
2. Blackburn
3. Bradford
4. Bristol
5. Christ Church Canterbury
6. Carlisle
7. Chelmsford
8. Chester
9. Chichester
10. Coventry
11. Derby
12. Durham
13. Ely
14. Exeter
15. Gloucester
16. Guildford
17. Hereford
18. Leicester
19. Lichfield
20. Lincoln
21. Liverpool
22. Manchester
23. Newcastle
24. Norwich
25. Peterborough
26. Portsmouth
27. Ripon
28. Rochester

29. Salisbury
30. Sheffield
31. Southwark
32. Southwell Minster, Nottingham
33. St Albans
34. St Edmondsbury
35. St Paul's, London
36. Truro
37. Wakefield
38. Wells
39. Westminster Abbey
40. Winchester
41. Worcester
42. St Peter – York Minster



3.2 (a) Cathedrals Questionnaire - Dean

Interview Consent Form

I understand that my participation in this project will involve completing a questionnaire about the governance of music in Anglican churches, cathedrals and college chapels in England and Wales.

I understand that participation in this study is entirely voluntary and that I can withdraw from the study at any time without giving a reason.

I understand that I am free to ask any questions at any time. If for any reason I experience discomfort during participation in this project, I am free to withdraw.

I understand that my participation in this interview is not anonymous and the information I provide will not be held anonymously. The data will be stored in accordance with the Data Protection Act (2018).

Please indicate whether you agree with the following statements, please initial box:

	Initials
I have read and understood all the information provided, and have received adequate time to consider all the documentation.	
I have been given adequate opportunity to ask questions about the research.	
I am aware of, and consent to the written and/or digital recording of my discussion with the researcher.	
I consent to the information and opinions I provide being used in the research.	

Interviewee Declaration

I consent to participate in the study conducted by Charlotte Wright, Cardiff School of Law and Politics

Signature:

Print Name: Date:

Additional Contact Information	
Researcher's Supervisor	<i>Professor Norman Doe</i> Doe@cardiff.ac.uk
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Selection of Music

1. What do you consider is the purpose of including music in the service (please rank in order)?

To enhance the solemnity of the service	
To honour and glorify God	
To offer thanksgiving to God	
As a means of creating, fostering and deepening the fellowship of the congregation	
For evangelism	
Other (please specify)	

2. Does your cathedral have formal written guidance on how music should be selected for inclusion in services?

Yes		No	
-----	--	----	--

3. Does your cathedral include modern forms of music in worship?

No, never	
Occasionally in separate services	
Frequently in separate services	
Frequently, incorporated into the traditional choral services	

4.(a) Do you find ways to explore and experiment with music and liturgy?

Yes		No	
-----	--	----	--

(b) If the answer to 4.(a) above was yes, how?

5. What is the dean's role in the selection of music in worship?

Dean simply has oversight of music selected	
Selection of music is the responsibility of the Precentor/Director of Music and the dean has no involvement	
Selection of music is through collaboration with Precentor/Director of Music	
Music is selected by the Dean alone	

Chapter

6. The statutes of each cathedral state that the duty of Chapter is to direct and oversee the worship and mission of the Cathedral and the administration of its affairs. In practice how much direct input does the Chapter have into the selection of music in the cathedral?

7. Is the Director of Music required to report to the Chapter on the selection of music within services?

Yes		No	
-----	--	----	--

8. Does the Director of Music sit on Chapter?

Yes		No	
-----	--	----	--

9.(a) Does the Chapter invite members of the cathedral staff such as the Director of Music to attend Chapter meetings to report on specific issues?

Yes		No	
-----	--	----	--

(b) If so, how often is the Director of Music invited to attend Chapter meetings?

(c) If asked to attend Chapter meetings, what sort of issues is the Director of Music asked to report on?

--

10. Do you feel it would be helpful if the Director of Music was a member of Chapter?

Yes		No	
-----	--	----	--

11.(a) Is there an ability for the Director of Music to feed into/influence decisions made by Chapter?

Yes		No	
-----	--	----	--

(b) If so, how?

--

12. Do you feel it would be beneficial for a member of the “music department” to be a member of:

	Yes	No
Chapter		
Council		

13. If your Cathedral does not have provision for a musician to attend the Chapter/Council meetings, do you feel that this has a detrimental effect on the music at your cathedral?

Yes		No	
-----	--	----	--

Precentor

14. Does your cathedral have a Precentor?

Yes		No	
-----	--	----	--

15. Is the position of Precentor mandatory in your cathedral?

Yes		No	
-----	--	----	--

16. In the majority of cathedrals where the role of Precentor is dealt with in the statutes he/she is described as “head of the music and liturgy department”. This suggests he/she is above the director of music. How does the precentor view his/her role at your cathedral?

one of collaboration with the Director of Music	
The Director of Music is subordinate to the Precentor	
The Precentor has the final say over decisions relating to the music	
Other relationship (please specify)	

17. Do you consider that the Precentor requires knowledge of liturgy and music (even though this is not specified in the statutes)?

Liturgy only	
Music only	

Both liturgy and music	
------------------------	--

Appointment/removal of musicians

18. Please indicate the number of people involved in music within your cathedral and whether they have an employment contract or not:

	Male	Female	Employment contract Y/N?
Director of Music			
Assistant Director of Music			
Organist			
Organ Scholar			
Lay clerks aged 19 and above			
Choral Scholars			
Choristers aged between 14 and 18			
Choristers under 13			
Other			

Director of Music

19. What is the procedure in your cathedral for the appointment/removal of the Director of Music/Organist?

--

20. Does your cathedral have a written policy/guidance in place on the appointment/removal of the position of Director of Music/Organist?

Yes		No	
-----	--	----	--

21.(a) Do you feel it is important to have a Director of Music/organist who is sympathetic to the Christian religion?

Yes		No	
-----	--	----	--

(b) Please explain why.

--

22.(a) Do you feel it is important to have a Director of Music/organist who is a communicant?

Yes		No	
-----	--	----	--

(b) Please explain why.

--

23. What do you consider are the duties of the Director of Music?

--

24. Are the Director of Music's duties set out in any of the following documents:

Job application	
Employment contract	
Other formal document (please specify)	

25. If specific duties are not set out in a formal document, do you feel it would be beneficial if the Director of Music's duties were set out in a formal document (e.g. the statutes)?

Yes		No	
-----	--	----	--

26. Please explain what formal musical qualifications/training is the Director of Music/Organist required to have for the post?

--

27. The statutes of a number of cathedral state that the Director of Music's duties include to 'supervise the music in the cathedral'. Please explain what you understand by this phrase.

Not applicable to my cathedral

Lay clerks

28. In practice, who is responsible for appointing the lay clerks at your cathedral?

Chapter alone	
Dean alone	
Director of Music alone	
Dean and Director of Music jointly	
Chapter on recommendation of Director	
Other (please specify)	

29. Please explain how lay clerks are appointed and, if necessary, dismissed in your cathedral?

--

30.(a) Is there a policy/guidance in place on the appointment and dismissal of lay clerks?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
--------	--	----------	--

Written		Unwritten	
---------	--	-----------	--

31. Who determines the duties of the lay clerks?

Chapter alone	
Dean alone	
Director of Music alone	
Dean and Director of Music	

32. Are the lay clerks' duties set out in their employment contracts or in a written formal document?

Yes		No	
-----	--	----	--

33. What are the duties of the lay clerks?

--

34. Do you feel that the following issues should have a bearing on whether an individual is appointed as a lay clerk in the cathedral choir (please tick all that apply)?

Frequent attendance at services	
Frequent attendance at rehearsals	
Is a practising member of the Church of England	
Adhering to Anglican principles	
Leading an exemplary private life	
Other (please explain)	

35. The Cathedrals Measure specifically makes reference to the requirement for cathedrals to have a Dean, Precentor and Director of Music, whereas it does not specifically require the cathedral to make appointments of any other positions, e.g. assistant organist, organ scholars, lay clerks, choral scholars, or choristers. The Statutes often given Chapter a discretion whether to appoint people to these positions. From a legal standpoint it suggests that those

not placed on statutory footing are afforded less rights than others. Do you consider that this is the case in practice?

Yes		No	
-----	--	----	--

Choristers

36. The vast majority of cathedrals now have girls singing treble line either alongside or as separate choir to the boy trebles, what is driving this change?

Equality legislation/measures	
Dropping number of boy trebles	
Changing culture	
Other (please explain)	

37. The statutes for many cathedrals state that the Head Teacher shall have input into whether a particular chorister may be selected as a chorister at the cathedral, in practice how much influence does the Head Teacher have on the decision to appoint a child as a chorister?

The Head Teacher has little involvement in the selection of the choristers	
The Head Teacher is consulted on the decision but the final decision lays with the cathedral	
The decision is made jointly between the cathedral and the Head Teacher	
The Head Teacher may veto the decision to appoint a chorister if it is felt inappropriate	

38. What criteria do you use to determine whether a child is suitable to become a chorister

Aptitude for singing	
Enthusiasm for singing	

Intellectual ability	
Support of parents	
Other (please specify)	

39.(a) In Tune with Heaven report to Archbishops’ Commission on Church Music recommends that cathedrals seek ways of recruiting children from less wealthy backgrounds into the choir – does your cathedral seek to achieve this?

Yes		No	
-----	--	----	--

(b) What steps have been implemented to achieve this?

40. In Tune with Heaven also recommends that cathedrals seek ways of providing the same liturgical education for girls as those enjoyed by boys. How does your cathedral seek to achieve this?

--

41. Does the Chapter consider that they could completely dispense with choir/choristers since they only have a discretion to appoint, or do they consider that they are bound by custom and tradition?

Chapter could dispense with choir altogether	
Chapter is bound by tradition and custom and so will always have a duty to appoint a choir	

42. In a number of instances where the statutes of a cathedral do not mention the appointment of a specific role, such as the assistant organist/organ scholar the website makes it clear that individuals are appointed to that role. If this is the case at your cathedral, do you consider that there is a requirement to make these appointments in the future?

Yes		No	
-----	--	----	--

43. If your cathedral does not make a specific reference to the appointment of lay clerks/organ scholar etc in the statutes, do you consider that the provision for appointing individuals to this post is legally enabled under the general provision in the statutes allowing chapter to oversee administration of the cathedral?

Yes		No	
Not applicable			

44. The vast majority of cathedral websites refer to the “music department”. Which of the following do you consider make up the music department at your cathedral?

Dean	
Precentor	
Succentor	
Organist/Director of Music	
Assistant Organist	
Organ Scholar	
Lay Clerks	
Choral Scholars	
Boy Choristers	
Girl Choristers	
Administrators	
Others (please list)	

45.(a) Does the inclusion in the “music department” have any legal standing/status/implications for those members included in it, within the cathedral?

Yes		No	
-----	--	----	--

(b) If the answer to x above is ‘yes’ please explain what the implications are.

--

46. Should the statutes make provision for the music department?

Yes		No	
-----	--	----	--

47. The statutes/website for a number of cathedrals refer to the “Choral Foundation”. Please explain what you understand this phrase to mean:

--

48. Which individuals to you consider the “Choral Foundation” consists of?

Dean	
Precentor	
Succentor	
Organist/Director of Music	
Assistant Organist	
Organ Scholar	
Lay Clerks	
Choral Scholars	
Boy Choristers	
Girl Choristers	
Administrators	
Others (please list)	

49.(a) What is the purpose of the Choral Foundation?

--

(b) Does it place any additional duties on members?

Yes		No	
-----	--	----	--

(c) If so, what duties?

(d) Does it afford them any rights simply as a member of the Foundation?

Yes		No	
-----	--	----	--

(e) If so, what additional rights?

(f) What do you believe are the legal implications of the term?

50. In a number of instances a cathedral's statutes don't specify a maximum or minimum number of choristers or lay clerks, but the website states that there will be a specific number.

Do you consider that this maximum/minimum is binding?

Yes		No	
-----	--	----	--

Dispute Resolution

51.(a) Does your cathedral have a policy/guidance in place for determining disputes between the minister and Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If Yes, could you please explain the procedure.

--

(d) If the answer to 51.(a) above was no, do you think there should be a policy for determining disputes?

Yes		No	
-----	--	----	--

52.(a) Have you encountered any problems with your working relationship with your Director of Music/Organist?

Yes		No	
-----	--	----	--

(b) If yes, please set out the nature of any problems encountered:

Choice of music	
Flexibility in arrangements	
Communication with musicians	
Provision of additional worship	
Changes in service times	
Quality of performance in comparison with expectation	

Other (please explain)	
------------------------	--

53.(a) Do you have a policy for resolving disputes between clergy and the Organist/Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If yes, could you please explain the procedure.

--

54.(a) Do you have a policy for resolving any disputes in general which arise in relation to music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If so, could you please explain the procedure.

--



3.2 (b) Cathedrals Questionnaire – Director of Music

Interview Consent Form

I understand that my participation in this project will involve completing a questionnaire about the governance of music in Anglican churches, cathedrals and college chapels in England and Wales.

I understand that participation in this study is entirely voluntary and that I can withdraw from the study at any time without giving a reason.

I understand that I am free to ask any questions at any time. If for any reason I experience discomfort during participation in this project, I am free to withdraw.

I understand that my participation in this interview is not anonymous and the information I provide will not be held anonymously. The data will be stored in accordance with the Data Protection Act (2018).

Please indicate whether you agree with the following statements, please initial box:

	Initials
I have read and understood all the information provided, and have received adequate time to consider all the documentation.	
I have been given adequate opportunity to ask questions about the research.	
I am aware of, and consent to the written and/or digital recording of my discussion with the researcher.	
I consent to the information and opinions I provide being used in the research.	

Interviewee Declaration

I consent to participate in the study conducted by Charlotte Wright, Cardiff School of Law and Politics

Signature:

Print Name: Date:

Additional Contact Information	
Researcher's Supervisor	<i>Professor Norman Doe</i> Doe@cardiff.ac.uk
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Selection of Music

1. What do you believe is the purpose of including music in the service (please rank in order)?

To enhance the solemnity of the service	
To honour and glorify God	
To offer thanksgiving to God	
As a means of creating, fostering and deepening the fellowship of the congregation	
For evangelism	
Other (please specify)	

2. Does your cathedral have formal written guidance on how music should be selected for inclusion in services?

Yes		No	
-----	--	----	--

3. Does your cathedral include modern forms of music in worship?

No, never	
Occasionally in separate services	
Frequently in separate services	
Frequently, incorporated into the traditional choral services	

4.(a) Do you find ways to explore and experiment with music and liturgy?

Yes		No	
-----	--	----	--

(b) If the answer to 4.(a) above was yes, how?

Chapter

5. The statutes of each cathedral state that the duty of Chapter is to direct and oversee the worship and mission of the Cathedral and the administration of its affairs. In practice how much direct input does the Chapter have into the selection of music in the cathedral?

6. Are you required to report to the Chapter on the selection of music within services?

Yes		No	
-----	--	----	--

7. Do you sit on Chapter?

Yes		No	
-----	--	----	--

8.(a) Does Chapter invite you to attend Chapter meetings to report on specific issues?

Yes		No	
-----	--	----	--

(b) If so, how often are you invited to attend Chapter meetings?

--

(c) If asked to attend Chapter meetings, what sort of issues are you asked to report on?

--

9. Do you feel it would be helpful if you were a member of Chapter?

Yes		No	
-----	--	----	--

10.(a) Is there an ability for you to feed into/influence decisions made by Chapter?

Yes		No	
-----	--	----	--

(b) If so, how?

--

11. Do you feel it would be beneficial for a member of the “music department” to be a member of:

	Yes	No
Chapter		
Council		

12. If your Cathedral does not have provision for a musician to attend the Chapter/Council meetings, do you feel that this has a detrimental effect on the music at your cathedral?

Yes		No	
-----	--	----	--

13. Does your cathedral have a Precentor?

Yes		No	
-----	--	----	--

14. Is the position of Precentor mandatory in your cathedral?

Yes		No	
-----	--	----	--

15. Do you consider that the Precentor requires knowledge of liturgy and music (even though this is not specified in the statutes)?

Liturgy only	
Music only	
Both liturgy and music	

16. What is the dean's role in the selection of music in worship?

Dean simply has oversight of music selected	
Selection of music is the responsibility of the Precentor/Director of Music and the dean has no involvement	
Selection of music is through collaboration with Precentor/Director of Music	
Music is selected by the Dean alone	

Appointment/removal of musicians

17. Please indicate the number of people involved in music within your cathedral and whether they have an employment contract or not:

	Male	Female	Employment contract Y/N?
Director of Music			
Assistant Director of Music			
Organist			
Organ Scholar			
Lay clerks aged 19 and above			
Choral Scholars			
Choristers aged between 14 and 18			
Choristers under 13			
Other			

Director of Music

18. What is the procedure in your cathedral for the appointment/removal of the role of Director of Music/Organist?

--

19. Does your cathedral have a written policy/guidance in place on the appointment/removal of the position of Director of Music/Organist?

Yes		No	
-----	--	----	--

20.(a) Do you feel it is important that the Director of Music/organist is sympathetic to the Christian religion?

Yes		No	
-----	--	----	--

(b) Please explain why.

21.(a) Do you feel it is important that the Director of Music/organist who is a communicant?

Yes		No	
-----	--	----	--

(b) Please explain why.

22. What do you consider are your duties?

23.(a) Are your duties set out in any of the following documents:

Job application	
Employment contract	
Other formal document (please specify)	

(b) If specific duties are not set out in a formal document, do you feel it would be beneficial if your duties were set out in a formal document (e.g. the statutes)?

Yes		No	
-----	--	----	--

24. Please explain what formal musical qualifications/training you are required to have for the post?

--

25. The statutes of a number of cathedrals state that the Director of Music's duties include to 'supervise the music in the cathedral'. Please explain what you understand by this phrase.

Not applicable to my cathedral

Lay clerks

26. In practice, who is responsible for appointing the lay clerks at your cathedral?

Chapter alone	
Dean alone	
Director of Music alone	
Dean and Director of Music jointly	
Chapter on recommendation of Director	
Other (please specify)	

27. Please explain how lay clerks are appointed and, if necessary, dismissed in your cathedral?

--

28.(a) Is there a policy/guidance in place on the appointment and dismissal of lay clerks?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
--------	--	----------	--

Written		Unwritten	
---------	--	-----------	--

29. Who determines the duties of the lay clerks?

Chapter alone	
Dean alone	
Director of Music alone	
Dean and Director of Music	

30. Are the lay clerks' duties set out in their employment contracts or in a written formal document?

Yes		No	
-----	--	----	--

31. What are the duties of the lay clerks?

--

32. Do you feel that the following issues should have a bearing on whether an individual is appointed as a lay clerk in the cathedral choir (please tick all that apply)?

Frequent attendance at services	
Frequent attendance at rehearsals	
Is a practising member of the Church of England	
Adhering to Anglican principles	
Leading an exemplary private life	
Other (please explain)	

33. The Cathedrals Measure specifically makes reference to the requirement for cathedrals to have a Dean, Precentor and Director of Music, whereas it does not specifically require the cathedral to make appointments of any other positions, e.g. assistant organist, organ scholars, lay clerks, choral scholars, or choristers. The Statutes often given Chapter a discretion whether to appoint people to these positions. From a legal standpoint it suggests that those

not placed on statutory footing are afforded less rights than others. Do you consider that this is the case in practice?

Yes		No	
-----	--	----	--

Choristers

34. The vast majority of cathedrals now have girls singing treble line either alongside or as separate choir to the boy trebles, what is driving this change?

Equality legislation/measures	
Dropping number of boy trebles	
Changing culture	
Other (please explain)	

35. The statutes for many cathedrals state that the Head Teacher shall have input into whether a particular chorister may be selected as a chorister at the cathedral, in practice how much influence does the Head Teacher have on the decision to appoint a child as a chorister?

The Head Teacher has little involvement in the selection of the choristers	
The Head Teacher is consulted on the decision but the final decision lays with the cathedral	
The decision is made jointly between the cathedral and the Head Teacher	
The Head Teacher may veto the decision to appoint a chorister if it is felt inappropriate	

36. What criteria do you use to determine whether a child is suitable to become a chorister

Aptitude for singing	
----------------------	--

Enthusiasm for singing	
Intellectual ability	
Support of parents	
Other (please specify)	

37. In Tune with Heaven report to Archbishops’ Commission on Church Music recommends that cathedrals seek ways of recruiting children from less wealthy backgrounds into the choir – does your cathedral seek to achieve this?

Yes		No	
-----	--	----	--

38. What steps have been implemented to achieve this?

39. In Tune with Heaven also recommends that cathedrals seek ways of providing the same liturgical education for girls as those enjoyed by boys. How does your cathedral seek to achieve this?

--

40. The vast majority of cathedral websites refer to the “music department”. Which of the following do you consider make up the music department at your cathedral?

Dean	
Precentor	
Succentor	
Organist/Director of Music	
Assistant Organist	
Organ Scholar	
Lay Clerks	
Choral Scholars	

Boy Choristers	
Girl Choristers	
Administrators	
Others (please list)	

41.(a) Does the inclusion in the “music department” have any legal standing/status/implications for those members included in it, within the cathedral?

Yes		No	
-----	--	----	--

(b) If the answer to 41.(a) above is ‘yes’ please explain what the implications are.

--

42. Should the statutes make provision for the music department?

Yes		No	
-----	--	----	--

43. The statutes/website for a number of cathedrals refer to the “Choral Foundation”. Please explain what you understand this phrase to mean:

--

44. Which individuals to you consider the “Choral Foundation” consists of?

Dean	
Precentor	
Succentor	
Organist/Director of Music	
Assistant Organist	
Organ Scholar	

Lay Clerks	
Choral Scholars	
Boy Choristers	
Girl Choristers	
Administrators	
Others (please list)	

45.(a) What is the purpose of the Choral Foundation?

(b) Does it place any additional duties on members?

Yes		No	
-----	--	----	--

(c) If so, what duties?

(d) Does it afford them any rights simply as a member of the Foundation?

Yes		No	
-----	--	----	--

(e) If so, what additional rights?

(f) What do you believe are the legal implications of the term?

46. In a number of instances a cathedral's statutes don't specify a maximum or minimum number of choristers or lay clerks, but the website states that there will be a specific number. Do you consider that this maximum/minimum is binding?

Yes		No	
-----	--	----	--

Dispute Resolution

47.(a) Does your cathedral have a policy/guidance in place for determining disputes between the minister and Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If Yes, could you please explain the procedure.

--

(d) If the answer to 47(a) above was no, do you think there should be a policy for determining disputes?

Yes		No	
-----	--	----	--

48.(a) Have you encountered any problems with your working relationship with the Dean and/or Precentor?

Yes		No	
-----	--	----	--

(b) If yes, please set out the nature of any problems encountered:

Choice of music	
Flexibility in arrangements	
Communication with musicians	
Provision of additional worship	
Changes in service times	
Quality of performance in comparison with expectation	

Other (please explain)	
------------------------	--

49.(a) Does your cathedral have a policy for resolving disputes between clergy and the Organist/Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If yes, could you please explain the procedure.

--

50.(a) Do you have a policy for resolving any disputes in general which arise in relation to music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If so, could you please explain the procedure.

--

APPENDIX 4 - COLLEGE CHAPEL QUESTIONNAIRES

4.1 Colleges Contacted

Cambridge Colleges

1. Christ's
2. Churchill
3. Clare
4. Clare Hall
5. Corpus Christi
6. Downing
7. Emmanuel
8. Girton
9. Gonville & Caius
10. Jesus
11. Kings
12. Magdalene
13. Pembroke
14. Peterhouse
15. Queens'
16. Robinson
17. Selwyn
18. Sidney Sussex
19. St Catherine's
20. St John's
21. Trinity
22. Trinity Hall

Oxford Colleges

1. Balliol
2. Brasenose
3. Christ Church
4. Corpus Christi
5. Exeter
6. Hertford
7. Jesus
8. Keble
9. Lady Margaret Hall
10. Lincoln
11. Magdalen
12. Merton
13. New
14. Oriel
15. Pembroke
16. Queens
17. Regents Park
18. St Edmund's Hall
19. St Hughs
20. St Johns
21. St Peters
22. Somerville
23. Trinity
24. University
25. Wadham
26. Worcester



4.2 (a) College Chapels questionnaire - Chaplain

Interview Consent Form

I understand that my participation in this project will involve completing a questionnaire about the governance of music in Anglican churches, cathedrals and college chapels in England and Wales.

I understand that participation in this study is entirely voluntary and that I can withdraw from the study at any time without giving a reason.

I understand that I am free to ask any questions at any time. If for any reason I experience discomfort during participation in this project, I am free to withdraw.

I understand that my participation in this interview is not anonymous and the information I provide will not be held anonymously. The data will be stored in accordance with the Data Protection Act (2018).

Please indicate whether you agree with the following statements, please initial box:

	Initials
I have read and understood all the information provided, and have received adequate time to consider all the documentation.	
I have been given adequate opportunity to ask questions about the research.	
I am aware of, and consent to the written and/or digital recording of my discussion with the researcher.	
I consent to the information and opinions I provide being used in the research.	

Interviewee Declaration

I consent to participate in the study conducted by Charlotte Wright, Cardiff School of Law and Politics

Signature:

Print Name: Date:

Additional Contact Information	
Researcher's Supervisor	<i>Professor Norman Doe</i> Doe@cardiff.ac.uk
Cardiff School of Law and Politics Research Ethics Committee (SREC)	This project has received ethical approval from the Cardiff School of Law and Politics Research Ethics Committee (SREC) on 13 February 2020 (Internal Reference: SREC/201119/12). The Cardiff School of Law and Politics Research Ethics Committee (SREC) can be contacted at: School Research Officer Cardiff School of Law and Politics Cardiff University Law Building Museum Avenue Cardiff CF10 3AX Email: LAWPL-Ethics@cardiff.ac.uk

1. The Objects of the majority of the colleges list ‘the advancement of religion, education and learning...’ and to achieve this they state that they maintain and support a chapel. Since the provision of choral sung services has become part of the tradition of the colleges, do you feel that the colleges through tradition/custom have become obliged to provide choral sung services?

Yes		No	
-----	--	----	--

2. Do you feel the college could remove the provision of choral services in the future if it was deemed necessary?

Yes		No	
-----	--	----	--

3. The statutes of many of the colleges require that the college makes provision for the daily use of services ‘according to the Book of Common Prayer’. Which form of service does the college use?

--

4.(a) Does your college create its own service booklets?

Yes		No	
-----	--	----	--

(b) Who authorises the use of the service booklets in your college?

--

(c) Do the service booklets deal with the use of music within the services?

Yes		No	
-----	--	----	--

Selection of Music

5. How would you describe the character of worship currently practised in your chapel?

Evangelical	
Moderate evangelical	
Central	
Moderate catholic	
Catholic	

6. What is the language of anthems/musical elements of the service? (Please tick all that apply)

English	
Latin	
Other (please specify)	

7. What do you think is the purpose of music within worship?

To provide a medium for evangelism	
To provide contrast or establish mood	
To uplift the soul	
To worship and praise God	
To help more people to pray	

To promote corporate awareness and fellowship in worship	
To illuminate and intensify the words of the service	
Other (please specify)	

8. Does your chapel include modern forms of music in worship?

No, never	
Occasionally in separate services	
Frequently in separate services	
Frequently, incorporated into the traditional choral services	

9.(a) Do you find ways to explore and experiment with music and liturgy?

Yes		No	
-----	--	----	--

(b) If the answer to 9(a) above was yes, how?

--

10. Who selects congregational hymns/music for services?

Chaplain alone	
Director of Music/Organist alone	
Chaplain and Director of Music/Organist jointly	
Other (please explain)	

11. Who selects the music sung by the choir for services?

Chaplain alone	
Director of Music/Organist alone	
Chaplain and Director of Music/Organist jointly	
Other (please explain)	

12. Are there meetings between the chaplain/clergy and Director of Music or Organist to discuss the music included in services?

Yes		No	
-----	--	----	--

13. Do you (the chaplain) feel able to determine the suitability of the music for the choir/congregation's capabilities?

Yes		No	
-----	--	----	--

14.(a) Does your chapel have a policy on music in worship?

Yes		No	
-----	--	----	--

(b) If so, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) Who designed and approved the policy

--

15.(a) Do you perceive any problems with the way music is incorporated into worship in your chapel?

Yes		No	
-----	--	----	--

(b) Are there any changes you would like to see to the way in which music is incorporated into worship in your chapel?

16. On a scale of 1 – 5 can you please indicate the degree to which you think that musical elements of your service have an impact on congregation numbers?

1		2		3		4		5	
---	--	---	--	---	--	---	--	---	--

17.(a) Does your chapel have a Chapel Committee or equivalent?

Yes		No	
-----	--	----	--

(b) If so, what are the duties of the Chapel Committee?

--

(c) Where are the Chapel Committee's duties set out?

--

(d) To whom is the Chapel Committee accountable?

--

18.(a) Does your college have any additional committees which have an impact on the music or musicians within the chapel?

Yes		No	
-----	--	----	--

(b) If it does, please provide a brief list of the name of the committee with an explanation of its role.

--

Individuals involved in music

19. Please indicate the number of people involved in music within your chapel and whether they have an employment contract or not:

	Male	Female	Employment contract Y/N?
Dean of Divinity			
Chaplain			
Director of Music			
Assistant Director of Music			
Organist			
Organ Scholar			
Academical clerks			

Choral Scholars (aged 19+)			
Choristers aged between 14 and 18			
Choristers under 13			
Other			

20.(a) Has the Visitor ever been called to consider any issues experienced with the music in the chapel?

Yes		No	
-----	--	----	--

(b) If so, what sort of issues has he been required to consider?

Chaplain/Dean of Divinity

21. Does the Dean of Divinity/Chaplain have any formal musical training?

Yes		No	
-----	--	----	--

Director of Music

22. What is the procedure in your chapel for the appointment/removal of the Director of Music/Organist?

--

23. Does your chapel have a Policy/guidance in place on the appointment/removal from post of the position of Director of Music/Organist?

Yes		No	
-----	--	----	--

24. Does the Director of Music/Organist have any formal training for the post?

Yes		No	
-----	--	----	--

25. What do you consider are the duties of the Director of Music?

--

26. Are the Director of Music's duties set out in any of the following documents:

Job application	
Employment contract	
Other formal document (please specify)	
N/A	

27. If specific duties are not set out in a formal document, do you feel it would be beneficial if the Director of Music's duties were set out in a formal document (e.g. the statutes)?

Yes		No	
-----	--	----	--

28.(a) Does the Director of Music sit on any college committees?

Yes		No	
-----	--	----	--

(b) If the answer above is yes, please list all the committees that the Director of Music sits on?

--

(c) Does the Director of Music have a duty to sit on these committees?

Yes		No	
-----	--	----	--

29.(a) Do you feel it is important to have a Director of Music/organist who is a communicant?

Yes		No	
-----	--	----	--

(b) Please explain why.

--

30.(a) Do you feel it is important to have a Director of Music/organist who is sympathetic to the Christian religion?

Yes		No	
-----	--	----	--

(b) Please explain why.

--

Organ Scholars

31. Please explain how the organ scholars are appointed and, if necessary, dismissed in your chapel?

--

32. What are the organ scholar's duties?

--

33.(a) Does your college have any guidance on the roles and/or duties of the organ scholars?

Yes		No	
-----	--	----	--

(b) If so, please list the documents the duties are set out in.

--

Academical clerks

34. Please explain how the academical clerks are appointed and, if necessary, dismissed in your chapel?

--

35. Is there a policy/guidance in place on the appointment and dismissal of clerks?

Yes		No	
-----	--	----	--

36. Do you feel that the following issues should have a bearing on whether an individual is allowed to be involved in the chapel choir (please tick all that apply)?

Frequent attendance at services	
Frequent attendance at rehearsals	
Is a practising member of the Church of England	
Adhering to Anglican principles	
Leading an exemplary private life	
Other (please explain)	

37.(a) Where the statutes do not set out a maximum or minimum number of academical clerks or choristers it would appear that the college does not have to maintain a specific number of individuals in the choir. Do you feel that there is a duty upon you/the Director of Music/the College to ensure that there are a specific number of people in the choir?

Yes		No	
-----	--	----	--

(b) If so, what is the number that you believe you are required to maintain?

--

Child Choristers (if applicable)

38. In practice how much influence does the Head Teacher of a student's school have on the decision to appoint a child as a chorister?

The Head Teacher has little involvement in the selection of the choristers	
The Head Teacher is consulted on the decision but the final decision lays with the college	
The decision is made jointly between the college and the Head Teacher	
The Head Teacher may veto the decision to appoint a chorister if it is felt inappropriate	

39. What criteria do you use to determine whether a child is suitable to become a chorister

Aptitude for singing	
Enthusiasm for singing	
Intellectual ability	
Support of parents	
Other (please specify)	

40. Do you have a formal written document setting out the role of the choristers together with their rights and duties?

Yes		No	
-----	--	----	--

Dispute Resolution

41. (a) Does your chapel have a policy/guidance in place for determining disputes between the chaplain and Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If Yes, could you please explain the procedure.

--

(d) If the answer to x(a) above was no, do you think there should be one?

Yes		No	
-----	--	----	--

42.(a) Have you encountered any problems with your working relationship with your Director of Music/Organist?

Yes		No	
-----	--	----	--

(b) If yes, please set out the nature of any problems encountered:

Choice of music	
Flexibility in arrangements	
Communication with musicians	
Provision of additional worship	
Changes in service times	
Quality of performance in comparison with expectation	
Other (please explain)	

43.(a) Do you have a policy for resolving any disputes in general which arise in relation to music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If so, could you please explain the procedure.

--



4.2 (b) College Chapels questionnaire – Director of Music

Interview Consent Form

I understand that my participation in this project will involve completing a questionnaire about the governance of music in Anglican churches, cathedrals and college chapels in England and Wales.

I understand that participation in this study is entirely voluntary and that I can withdraw from the study at any time without giving a reason.

I understand that I am free to ask any questions at any time. If for any reason I experience discomfort during participation in this project, I am free to withdraw.

I understand that my participation in this interview is not anonymous and the information I provide will not be held anonymously. The data will be stored in accordance with the Data Protection Act (2018).

Please indicate whether you agree with the following statements, please initial box:

	Initials
I have read and understood all the information provided, and have received adequate time to consider all the documentation.	
I have been given adequate opportunity to ask questions about the research.	
I am aware of, and consent to the written and/or digital recording of my discussion with the researcher.	
I consent to the information and opinions I provide being used in the research.	

Interviewee Declaration

I consent to participate in the study conducted by Charlotte Wright, Cardiff School of Law and Politics

Signature:

Print Name: Date:

Additional Contact Information	
Researcher's Supervisor	<i>Professor Norman Doe</i> Doe@cardiff.ac.uk
Cardiff School of Law and Politics Research Ethics Committee (SREC)	This project has received ethical approval from the Cardiff School of Law and Politics Research Ethics Committee (SREC) on 13 February 2020 (Internal Reference: SREC/201119/12). The Cardiff School of Law and Politics Research Ethics Committee (SREC) can be contacted at: School Research Officer Cardiff School of Law and Politics Cardiff University Law Building Museum Avenue Cardiff CF10 3AX Email: LAWPL-Ethics@cardiff.ac.uk

1. The Objects of the majority of the colleges list ‘the advancement of religion, education and learning...’ and to achieve this they state that they maintain and support a chapel. Since the provision of choral sung services has become part of the tradition of the colleges, do you feel that the colleges through tradition/custom have become obliged to provide choral sung services?

Yes		No	
-----	--	----	--

2. Do you feel the college could remove the provision of choral services in the future if it was deemed necessary?

Yes		No	
-----	--	----	--

3. The statutes of many of the colleges require that the college makes provision for the daily use of services ‘according to the Book of Common Prayer’. Which form of service does the college use?

--

4.(a) Does your college create its own service booklets?

Yes		No	
-----	--	----	--

(b) Who authorises the use of the service booklets in your college?

--

(c) Do the service booklets deal with the use of music within the services?

Yes		No	
-----	--	----	--

Selection of Music

5. How would you describe the character of worship currently practised in your chapel?

Evangelical	
Moderate evangelical	
Central	
Moderate catholic	
Catholic	

6. What is the language of anthems/musical elements of the service? (Please tick all that apply)

English	
Latin	
Other (please specify)	

7. What do you think is the purpose of music within worship?

To provide a medium for evangelism	
To provide contrast or establish mood	
To uplift the soul	
To worship and praise God	
To help more people to pray	
To promote corporate awareness and fellowship in worship	

To illuminate and intensify the words of the service	
Other (please specify)	

8. Does your chapel include modern forms of music in worship?

No, never	
Occasionally in separate services	
Frequently in separate services	
Frequently, incorporated into the traditional choral services	

9.(a) Do you find ways to explore and experiment with music and liturgy?

Yes		No	
-----	--	----	--

(b) If the answer to 9(a) above was yes, how?

--

10. Who selects congregational hymns/music for services?

Chaplain alone	
Director of Music/Organist alone	
Chaplain and Director of Music/Organist jointly	
Other (please explain)	

11. Who selects the music sung by the choir for services?

Chaplain alone	
Director of Music/Organist alone	
Chaplain and Director of Music/Organist jointly	
Other (please explain)	

12. Are there meetings between the chaplain/clergy and Director of Music or Organist to discuss the music included in services?

Yes		No	
-----	--	----	--

13. Do you (the director of music) feel that the chaplain is able to determine the suitability of the music for the choir/congregation's capabilities?

Yes		No	
-----	--	----	--

14.(a) Does your chapel have a policy on music in worship?

Yes		No	
-----	--	----	--

(b) If so, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) Who designed and approved the policy

--

15.(a) Do you perceive any problems with the way music is incorporated into worship in your chapel?

Yes		No	
-----	--	----	--

(b) Are there any changes you would like to see to the way in which music is incorporated into worship in your chapel?

--

16. On a scale of 1 – 5 can you please indicate the degree to which you think that musical elements of your service have an impact on congregation numbers?

1		2		3		4		5	
---	--	---	--	---	--	---	--	---	--

17.(a) Does your chapel have a Chapel Committee or equivalent?

Yes		No	
-----	--	----	--

(b) If so, what are the duties of the Chapel Committee?

(c) Where are the Chapel Committee's duties set out?

(d) To whom is the Chapel Committee accountable?

18.(a) Does your college have any additional committees which have an impact on the music or musicians within the chapel?

Yes		No	
-----	--	----	--

(b) If it does, please provide a brief list of the name of the committee with an explanation of its role.

Individuals involved in music

19. Please indicate the number of people involved in music within your chapel and whether they have an employment contract or not:

	Male	Female	Employment contract Y/N?
Dean of Divinity			
Chaplain			
Director of Music			
Assistant Director of Music			
Organist			
Organ Scholar			
Academical clerks			

Choral Scholars (aged 19+)			
Choristers aged between 14 and 18			
Choristers under 13			
Other			

20.(a) Has the Visitor ever been called to consider any issues experienced with the music in the chapel?

Yes		No	
-----	--	----	--

(b) If so, what sort of issues has he been required to consider?

Chaplain/Dean of Divinity

21. Does the Dean of Divinity/Chaplain have any formal musical training?

Yes		No	
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Director of Music

22. What is the procedure in your chapel for the appointment/removal of the Director of Music/Organist?

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23. Does your chapel have a Policy/guidance in place on the appointment/removal from post of the position of Director of Music/Organist?

Yes		No	
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24. Do you have any formal training for your post as Director of Music/organist?

Yes		No	
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25. What do you consider are the duties of the Director of Music?

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26. Are the Director of Music's duties set out in any of the following documents:

Job application	
Employment contract	
Other formal document (please specify)	
N/A	

27. If specific duties are not set out in a formal document, do you feel it would be beneficial if the Director of Music's duties were set out in a formal document (e.g. the statutes)?

Yes		No	
-----	--	----	--

28.(a) Do you sit on any college committees in your capacity as Director of Music?

Yes		No	
-----	--	----	--

(b) If the answer above is yes, please list all the committees that you sit on?

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29. Do you have a duty to sit on these committees in your capacity as Director of Music?

Yes		No	
-----	--	----	--

30.(a) Do you feel it is important that you are a communicant for your post as Director of Music?

Yes		No	
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(b) Please explain why.

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31.(a) Do you feel it is important that you are sympathetic to the Christian religion for your role as Director of Music?

Yes		No	
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(b) Please explain why.

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Organ Scholars

32. Please explain how the organ scholars are appointed and, if necessary, dismissed in your chapel?

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33. What are the organ scholar's duties?

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34.(a) Does your college have any guidance on the roles and/or duties of the organ scholars?

Yes		No	
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(b) If so, please list the documents the duties are set out in.

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Academical clerks

35. Please explain how the academical clerks are appointed and, if necessary, dismissed in your chapel?

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36. Is there a policy/guidance in place on the appointment and dismissal of clerks?

Yes		No	
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37. Do you feel that the following issues should have a bearing on whether an individual is allowed to be involved in the chapel choir (please tick all that apply)?

Frequent attendance at services	
Frequent attendance at rehearsals	
Is a practising member of the Church of England	
Adhering to Anglican principles	
Leading an exemplary private life	
Other (please explain)	

38.(a) Where the statutes do not set out a maximum or minimum number of academical clerks or choristers it would appear that the college does not have to maintain a specific number of individuals in the choir. Do you feel that there is a duty upon you/the Director of Music/the College to ensure that there are a specific number of people in the choir?

Yes		No	
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(b) If so, what is the number that you believe you are required to maintain?

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Child Choristers (if applicable)

39. In practice how much influence does the Head Teacher of a student's school have on the decision to appoint a child as a chorister?

The Head Teacher has little involvement in the selection of the choristers	
The Head Teacher is consulted on the decision but the final decision lays with the college	
The decision is made jointly between the college and the Head Teacher	
The Head Teacher may veto the decision to appoint a chorister if it is felt inappropriate	

40. What criteria do you use to determine whether a child is suitable to become a chorister

Aptitude for singing	
Enthusiasm for singing	
Intellectual ability	
Support of parents	
Other (please specify)	

41. Do you have a formal written document setting out the role of the choristers together with their rights and duties?

Yes		No	
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Dispute Resolution

42. (a) Does your chapel have a policy/guidance in place for determining disputes between the chaplain and Director of Music?

Yes		No	
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(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If Yes, could you please explain the procedure.

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(d) If the answer to 42(a) above was no, do you think there should be one?

Yes		No	
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43.(a) Have you encountered any problems with your working relationship with your Chaplain?

Yes		No	
-----	--	----	--

(b) If yes, please set out the nature of any problems encountered:

Choice of music	
Flexibility in arrangements	
Communication with musicians	
Provision of additional worship	
Changes in service times	
Quality of performance in comparison with expectation	
Other (please explain)	

44.(a) Do you have a policy for resolving any disputes in general which arise in relation to music?

Yes		No	
-----	--	----	--

(b) If the answer above is Yes, how would you describe the policy (please tick all that apply)?

Formal		Informal	
Written		Unwritten	

(c) If so, could you please explain the procedure.

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