



Lords Spiritual (Women) Bill 2014-15 [Bill 143 2014-15]

Standard Note: SN/PC/07083

Last updated: 16 January 2015

Author: Paul Bowers and Richard Kelly

Section Parliament and Constitution Centre

The Bill accelerates the entry of women to the Lords Spiritual, the bishops who sit in the House of Lords, by filling vacancies with female bishops instead of the usual longest-serving bishop. This will be for a 10 year period, after which it is expected that a rough equality will naturally occur.

The Bill extends to the whole of the UK, because the House of Lords is part of the UK Parliament. It does not touch on devolved matters.

The Bill is available [here](#) and the Explanatory Notes [here](#).

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

Contents

1 Summary 2

2 Introduction 3

3 The Lords Spiritual 3

4 Female bishops 4

5 The Bill 4

6 Human rights issues 6

7 Bishops and Lords Spiritual: who is next on the list? 7

1 Summary

The Church of England has decided to consecrate female bishops, Parliament has approved the necessary legislation, and the first woman to become a bishop within the Church of England has now been chosen. Libby Lane is due to be consecrated as suffragan Bishop of Stockport on 26 January 2015.

There are 26 seats in the House of Lords for archbishops and bishops, known as the Lords Spiritual. These are a remnant of the presence of clergy in the House of Lords since its earliest days. They have been fixed in legislation at 26 since the mid-19th century.

Under the *Bishoprics Act 1878* a vacancy other than the Archbishops of Canterbury or York, or the Bishops of Durham, London or Winchester, is filled by the longest-serving diocesan bishop not yet in the Lords.

As things stand, the first woman to sit as a Lord Spiritual will not take her seat for some years. The retirement age for bishops is 70, though some retire earlier. Over the next 10 years 12 of the seats to be filled by long-service are due to be vacated by retirement, but there are already 10 male bishops in line.

The Bill provides that, should such vacancies arise over the next 10 years, they will be filled by female diocesan bishops where such bishops are available. If no woman is in place or all have seats among the Lords Spiritual when a vacancy arises, the longest-serving male diocesan bishop will become a Lord Spiritual.

2 Introduction

There are 26 seats in the House of Lords reserved for Church of England bishops, who are known as the Lords Spiritual. These are a vestige of the ancient composition of the Lords, in which the Church occupied substantial numbers of seats. They have been fixed at 26 by statute since the mid-19th century, and their number has in fact been at that level since the 16th century.

Five of these seats are filled *ex officio* by the Archbishops of Canterbury and York and the Bishops of Durham, London and Winchester. The remaining 21 are filled by the most senior diocesan bishops, by length of service in that role, in England.

The governing legislation is the [Bishoprics Act 1878](#).

The Church of England has decided to consecrate female bishops, Parliament has approved the necessary legislation, and the first woman to become a bishop within the Church of England has now been chosen. However, the Revd Libby Lane, who is due to be consecrated as Bishop of Stockport on 26 January 2015, will not be eligible to sit in the House of Lords as her post is a suffragan bishop within the Diocese of Chester.¹ The Lords Spiritual are diocesan bishops, plus the provincial archbishops.

Under existing law, the first woman to sit as a Lord Spiritual will not take her seat for some years. The Archbishop of Canterbury is keen to expedite the presence of women among the Lords Spiritual, so he has requested legislation to vary the mechanism by which the Lords Spiritual are chosen in order to accelerate female representation.

The Bill does this by providing that, for the first 10 years after entry into force, a vacancy among the Lords Spiritual other than the five *ex officio* sees will be filled by a female diocesan bishop if there are any in England.

3 The Lords Spiritual

Bishops have been part of the House of Lords since the earliest days of Parliament. The Church, occupying a different position in society than today, was one of the main blocs in medieval Parliaments, alongside the nobility, with which its representatives came to form the Upper House, and representatives of the shires and boroughs. Indeed, it was only after the suppression of the monasteries in the 16th century, which had the consequence of removing the abbots and priors, that the Lords Temporal (those peers who are not Lords Spiritual) formed a majority in the House.²

In 1550, after Henry VIII's reforms, the Church of England had 27 dioceses, 22 in England, 4 in Wales and one on the Isle of Man. However, the Bishop of Sodor and Man did not sit in the House of Lords, but in the Tynwald, leaving 26 Lords Spiritual. These numbers remained constant until 1835, when a period of widespread change began.

According to a Church of England report, it was politically unacceptable to increase the number of Lords Spiritual, so any new sees that were created had to be offset by mergers of existing ones to keep the total constant. At the same time, the episcopate was unwilling to have non-parliamentary bishops for fear that this might lead to disestablishment.³ However, the *Bishopric of Manchester Act 1847* provided that the creation of the Manchester see did

¹ A suffragan bishop is junior to a diocesan bishop, whom s/he assists, and usually looks after a smaller area within the diocese.

² There is more information on this on the [History of the House of Lords](#) webpage, and in the more detailed briefing paper, *The History of the House of Lords*, 2011, produced by the Lords Information Office.

³ *Dioceses and Episcopal Sees in England*, C Podmore, July 2008, chapter 2, *The Dioceses of England: an outline history*.

not increase the number of Bishops sitting in the Lords, and provided a mechanism for filling vacancies without increasing the total number of Lords Spiritual, which stayed at 26. Thereafter, attitudes changed with population growth and many new dioceses were created after Manchester (about another 20), while the bishops in Wales ceased to be eligible to be Lords Spiritual in 1920 after disestablishment.

The current arrangements are governed by the *Bishoprics Act 1878*, with the seniority principle that still applies today maintaining the number in the House of Lords at the same level of 26:

- The Lords Spiritual comprise the Archbishops of Canterbury and York, and the Bishops of Durham, London and Winchester, who sit *ex officio*, plus the 21 most senior diocesan bishops in the Church of England.
- On retirement, which is mandatory within the Church at 70, these individuals lose their seats as Lords Spiritual. Some are granted life peerages, allowing them to stay in the House, but under a different category of membership. The Archbishop of Canterbury is traditionally made a life peer on retirement.
- The 21 seats for bishops are not tied to particular dioceses, but fall to the next longest-serving bishop when a vacancy arises. Length of service is preserved if a Lord Spiritual moves from one diocese to another, but not if a diocesan bishop outside the House of Lords moves: his/her seniority would be determined by length of service in the current diocese.

4 Female bishops

The consecration of women as bishops was allowed under the *Bishops and Priests (Consecration and Ordination of Women) Measure 2014 – No 2*, 24 October 2014. Section 1(1) of this made it lawful for the General Synod of the Church of England to provide for the consecration of women as bishops. Section 1(2) confirmed that women may still be ordained as priests, and in consequence the *Priests (Ordination of Women) Measure 1993*, which had been the basis for this, was repealed. Section 2 amended the *Equality Act 2010*, to the effect that the offices of diocesan and suffragan bishop are not considered public offices, and hence are not subject to relevant provisions in sections 50 and 51 of the *Equality Act*.

There is a succinct but detailed account of the long and intense process by which the Church of England reached the position in which the Measure could be adopted in the [Report](#) on it by the Ecclesiastical Committee.⁴ A process to remove legal obstacles to women becoming bishops was set in motion in 2005, following a prior period of debate about the issues. Draft legislation was introduced to the Synod in 2009, and a draft Measure was defeated in November 2012, before a new draft Measure, with other accompanying legal instruments, was approved in July 2014. The first woman to become a bishop will be Libby Lane, who will become suffragan Bishop of Stockport.

5 The Bill

According to the Explanatory Notes on the Bill, the Archbishop of Canterbury, after consultation with the Lords Spiritual and others, requested amendments to the *Bishoprics Act 1878* to accelerate entry of female bishops to the House of Lords, with the present Bill being the result.⁵

⁴ *Bishops and Priests (Consecration and Ordination of Women) Measure*, Ecclesiastical Committee 233rd Report, HL 45/HC 622, 30 September 2014

⁵ Explanatory Notes, para 3

The Bishop of Leicester, Tim Stevens, who is convener of the Lords Spiritual, said,

We know that women bishops will enrich and strengthen the leadership of the Church of England and we are very confident that they will also enrich and strengthen our voice in the House of Lords.

We have reason to suppose that this is supported from all sides of both Houses and we are grateful to the business managers for making time to get this minor amendment to the law in place as soon as possible.⁶

Christopher Lowson, the Bishop of Lincoln, is the next in line to join the Lords Spiritual. He might, along with male colleagues, be overtaken by a woman, should one become a diocesan bishop in England before he joins the Lords Spiritual. He commented on the Bill:

On the one hand, this is quite frustrating, [...] because greater Lincolnshire is under-represented in the House of Lords.

However, far more frustrating has been the wait for women to be able to be ordained bishop, and for an anachronism to be consigned to history. For that to happen completely, it is absolutely right that women bishops are fully represented in all levels of society, parliament and the Church, and I look forward very much to seeing that happen.⁷

The Bill had its first reading on 18 December 2014. Remaining stages in the House of Commons are scheduled for 19 January 2015. In general, the Government explains the reason for fast-tracking bills in the Explanatory Notes, although there is no such explanation in this case. Further information on this matter is available in Standard Note 5256, [Fast-track legislation](#), 12 November 2012.

According to the Explanatory Notes,

The Bill has a single purpose, which is to enable vacancies among Church of England bishops in the House of Lords to be filled, for a limited period, by female bishops instead of male bishops who would otherwise have become members of the House under the current law.⁸

The Bill has two clauses.

Clause 1 does the main business of the Bill. It applies when there is a vacancy among the Lords Spiritual within the next 10 years which would at present be filled by a man according to the seniority principle in section 5 of the *Bishoprics Act 1878*. If there is a woman who is a bishop of a diocese in England but she is not yet entitled to sit in the Lords in that capacity, she will fill the vacancy. If there are two or more such women, the one who became a bishop of a diocese in England first will take the seat.

A woman filling a vacancy in this way will be entitled to a writ of summons in subsequent Parliaments until she ceases to be a diocesan bishop in England or until she fills one of the *ex officio* sees, at which point she would sit in the Lords on a different basis.⁹

The reference to a diocese in England rules out suffragan bishops, and it also rules out the bishoprics of Sodor and Man and of Europe and Gibraltar, both of which are part of the

⁶ [Church of England welcomes publication of Lords Spiritual \(Women\) Bill](#), Church of England media centre, 18 December 2014

⁷ ["Bill will put women bishops at head of queue for House of Lords,"](#) *Church Times*, 19 December 2014

⁸ Bill 143 2014-15 EN, para 1

⁹ Explanatory Notes, para 7

Church of England, but neither of which is in itself the basis for a writ of summons to the Lords.

This method of filling vacancies does not apply to the five *ex officio* sees, that is, Canterbury, York, Durham, London and Winchester. The holders of those offices will continue to sit in the House of Lords by right of appointment.

The provisions of Clause 1 last for 10 years from the coming into force of the Act. Under current arrangements, that is two fixed parliamentary terms.

Clause 2 commences the Act on the day Parliament first meets following the next general election, and also gives the territorial extent.

The Bill determines one aspect of who will sit in the House of Lords. It therefore extends to the whole of the UK, because the House of Lords is part of the UK Parliament. It does not touch on devolved matters, since the UK Parliament is reserved. Its impact on bishops is restricted to those mainland diocesan bishops of the Church of England who are not entitled to sit in the Lords *ex officio*.

The **Explanatory Notes** to the Bill include two Annexes. Annex A shows the territorial extent of each clause (to the whole UK), while Annex B is a flow diagram showing the new process for becoming one of the 21 Lords Spiritual appointed on seniority during the next 10 years.

6 Human rights issues

The Bill accelerates the progress of female bishops into the House of Lords at the expense of male bishops who would otherwise have received writs of summons in due course, and who have had an expectation that they would receive that writ of summons at some point. How is it compatible with human rights law?

Deputy Prime Minister Nick Clegg made a statement that the Bill was compatible with the European Convention on Human Rights, and a [Memorandum](#) was submitted to that effect.¹⁰ According to this,

The principal human rights issue raised by the Bill is whether a male bishop who would otherwise have become a member of the House of Lords has any Convention rights relating to the loss of that entitlement to a female bishop.¹¹

The Memorandum explores four possibly relevant Convention rights, but rejects them all on the basis of case law at Strasbourg and in domestic courts. In brief, it has been held that the right to participate in the work of the House of Lords is not a civil right within the terms of the Convention, nor is it an obligation, and therefore there is no Article 6 right to a fair and public hearing by an independent and impartial tribunal established by law to determine those rights or obligations.¹² As membership is not a right in this sense, the Government argues that membership and the accompanying allowances are not “possessions” under Article 1 of Protocol 1, nor is the right to receive a writ of summons a part of “private life” under Article 8. The Government does not feel that the Court of Human Rights would entertain any challenge to the composition of the Lords itself, as it is a constitutional matter for the UK, so the presence of bishops is itself not a matter of discrimination under Article 14.¹³

In addition, the provisions of the *Equality Act 2010* do not apply:

¹⁰ *Lords Spiritual (Women) Bill: ECHR Memorandum*, 18 December 2014

¹¹ ECHR Memorandum, para 2

¹² ECHR Memorandum, paras 3-5

¹³ ECHR Memorandum, paras 6-9

a Lord Spiritual's membership of the House of Lords arises as a matter of common law and the Bishops Act 1878 and is not an appointment by or on the recommendation, or subject to the approval, of a member of the executive, within the 2010 Act. This is also consistent with paragraph 3 of Schedule 6 to the 2010 Act, which provides that neither a life peerage nor a hereditary peerage is a public office for the purposes of the Act.¹⁴

7 Bishops and Lords Spiritual: who is next on the list?

Tables 1 and 2 identify the 40 dioceses from which bishops are eligible to sit in the House of Lords. Table 1 lists the five dioceses whose bishops have automatic places in the House of Lords and Table 2 lists the remaining 35 dioceses, in order of appointment to the Lords for the first 21, and in order of seniority of bishops for the remainder.

Table 1: Archbishops and Bishops who are ex officio members of the House of Lords

Diocese	Bishop	Appointed bishop	Joined Lords
Canterbury	Most Rev & Rt Hon Justin Welby	2011*	26-Feb-13
York	Most Rev & Rt Hon Dr John Sentamu	2002**	23-Nov-05
London	Rt Rev & Rt Hon Richard Chartres	1995	05-Dec-95
Durham	Rt Rev Paul Butler	2009***	11-Feb-14
Winchester	Rt Rev Timothy Dakin	2012	07-Mar-12

* appointed Bishop of Durham in 2011 and sat in the Lords as Bishop of Durham 2011-13

** appointed Bishop of Birmingham in 2002

*** appointed Bishop of Southwell and Nottingham in 2009

Sources: House of Lords, *Members of the House of Lords*; Dods People

¹⁴ ECHR Memorandum, para 10. The Memorandum also notes that the *Bishops and Priests (Consecration and Ordination of Women) Measure 2014* provides that the office of bishop is not a public office for the purposes of the *Equality Act 2010*, although this does not cover membership of the Lords Spiritual, since that is a separate status applying to a subset of bishops.

Table 2: Bishops who are members of the House of Lords, by seniority; and those next in line

Diocese	Bishop	Appointed bishop	Joined Lords
Chester	Rt Rev Dr Peter Forster	1996	2001
Leicester	Rt Rev Tim Stevens	1999	2003
Norwich	Rt Rev Graham Jones	1999	2004
Bristol	Rt Rev Michael Hill	2003	2009
Lichfield	Rt Rev Jonathan Gledhill	2003	2009
Derby	Rt Rev Dr Alistair Redfern	2005	2010
Birmingham	Rt Rev David Urquhart	2006	2010
Worcester	Rt Rev Dr John Inge	2008	2012
Coventry	Rt Rev Dr Christopher Cocksworth	2008	2013
Truro	Rt Rev Timothy Thornton	2008	2013
Sheffield	Rt Rev Steven Croft	2009	2013
Carlisle	Rt Rev James Newcome	2009	2013
St Albans	Rt Rev Dr Alan Smith	2009	2013
Peterborough	Rt Rev Donald Allister	2010	2014
Portsmouth	Rt Rev Christopher Foster	2010	2014
Chelmsford	Rt Rev Stephen Cottrell	2010	2014
Rochester	Rt Rev James Langstaff	2010	2014
Ely	Rt Rev Stephen Conway	2010	2014
Southwark	Rt Rev Christopher Chessun	2011	2014
Leeds	Rt Rev Nicholas Baines	2014*	2014
Salisbury	Rt Rev Nicholas Holtam	2011	2014
Lincoln	Rt Rev Christopher Lowson	2011	
Chichester	Rt Rev Dr Martin Warner	2012	
Blackburn	Rt Rev Julian Henderson	2013	
Manchester	Rt Rev David Walker	2013	
Bath and Wells	Rt Rev Peter Hancock	2014	
Exeter	Rt Rev Robert Atwell	2014	
Liverpool	Rt Rev Paul Bayes	2014	
Hereford	Rt Rev Richard Frith	2014	
St Edmundsbury and Ipswich	Rt Rev Martin Seeley#	2014	
Guildford	Rt Rev Andrew Watson#	2014	
Southwell and Nottingham	vacant		
Gloucester	vacant		
Oxford	vacant		
Newcastle	vacant		

* appointed Bishop of Bradford in 2003 and sat in the Lords as Bishop of Bradford from 2010

Bishop has been appointed but not yet consecrated

Sources: House of Lords, *Members of the House of Lords*; Dods People

Table 3 lists the bishops who currently sit in the House of Lords in order of age. Bishops must retire at 70, although in practice most retire before that age. One sitting bishop, the Bishop of Leicester, has given notice of his intention to retire in July 2015.¹⁵

Of the 26 bishops who currently sit in the House of Lords, 14 will have reached the compulsory retirement age by 7 May 2025, the date on which the provisions of the *Lords Spiritual (Women) Bill* would cease to apply if it receives Royal Assent before the general election scheduled for 7 May 2015. By coincidence, there are currently 10 eligible (male) bishops not in the House of Lords, plus four vacant dioceses.

¹⁵ Diocese of Leicester, [Bishop Tim announces retirement](#), 18 November 2014

Table 3: Bishops who are members of the House of Lords, by age

Diocese	Bishop	Date of Birth	Joined Lords
Leicester	Rt Rev Tim Stevens	31/12/1946	2003
Derby	Rt Rev Dr Alistair Redfern	01/09/1948	2010
Lichfield	Rt Rev Jonathan Gledhill	15/02/1949	2009
Bristol	Rt Rev Michael Hill	17/04/1949	2009
York	Most Rev & Rt Hon Dr John Sentamu	10/06/1949	2005
London	Rt Rev & Rt Hon Richard Chartres	11/07/1949	1995
Chester	Rt Rev Dr Peter Forster	16/03/1950	2001
Norwich	Rt Rev Graham Jones	19/01/1951	2004
Birmingham	Rt Rev David Urquhart	14/04/1952	2010
Peterborough	Rt Rev Donald Allister	27/08/1952	2014
Carlisle	Rt Rev James Newcome	24/07/1953	2013
Portsmouth	Rt Rev Christopher Foster	07/11/1953	2014
Salisbury	Rt Rev Nicholas Holtam	08/08/1954	2014
Worcester	Rt Rev Dr John Inge	26/02/1955	2012
Durham	Rt Rev Paul Butler	18/09/1955	2014
Canterbury	Most Rev & Rt Hon Justin Welby	16/01/1956	2013*
Rochester	Rt Rev James Langstaff	27/06/1956	2014
St Albans	Rt Rev Dr Alan Smith	14/02/1957	2013
Truro	Rt Rev Timothy Thornton	14/04/1957	2013
Sheffield	Rt Rev Steven Croft	29/05/1957	2013
Southwark	Rt Rev Christopher Chessun	05/08/1957	2014
Leeds	Rt Rev Nicholas Baines	13/11/1957	2014**
Ely	Rt Rev Stephen Conway	22/12/1957	2014
Winchester	Rt Rev Timothy Dakin	06/02/1958	2012
Chelmsford	Rt Rev Stephen Cottrell	31/08/1958	2014
Coventry	Rt Rev Dr Christopher Cocksworth	12/01/1959	2013

* first sat in the Lords as Bishop of Durham, 2011

** first sat in the Lords as Bishop of Bradford, 2010

Sources: House of Lords, *Members of the House of Lords*; Dods People; Debretts