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## LEGAL OFFICE MEMORANDUM

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**DATE:** 27 SEPTEMBER 2010  
**TO:** COLIN PODMORE, SECRETARY TO THE DIOCESES COMMISSION  
**CC:**  
**FROM:** ALEXANDER MCGREGOR, DEPUTY LEGAL ADVISER  
**RE:** **SAME PERSON HOLDING OFFICES OF SUFFRAGAN BISHOP AND DEAN –  
WHETHER ANY LEGAL OBSTACLES**

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You have asked whether it would be legally possible for the same person to hold the offices of suffragan bishop in, and dean of the (or a) cathedral of, a diocese. The scenario you have in mind would involve the suffragan bishop receiving delegated episcopal authority for the area in which the cathedral of which he was dean was situated.

While there are no express statutory or canonical provisions that prohibits it, such an arrangement could give rise to conflicts of interest that would be likely to make it unworkable from the legal point of view.

The Cathedrals Measure establishes a system under which the dean and the bishop have independent authority. The dean is required, inter alia, "to ensure that the constitution and statutes [of the cathedral] are faithfully observed" (section 7(2)(b), Cathedrals Measure 1999). The bishop is required "as Visitor to hear and determine any question as to the construction of the constitution and statutes" (section 6(4)). In the scenario you mention, the dean would be an episcopal colleague (and deputy) of the diocesan bishop. The suffragan/dean would not be independent from the bishop nor the bishop independent from him.

That could have the effect of undermining the effectiveness of the provisions for the governance of the cathedral in the 1999 Measure which rely on the independence of the bishop and the dean from one another. Suppose, for example, a dispute between the dean and the canons which involved the bishop having to exercise his function as visitor. The canons might reasonably maintain a case that the bishop was not in fact an impartial tribunal given his relationship with the dean who was also his suffragan. A way round might be found on a case-by-case basis – by the bishop leaving the visitation to his vicar-general or by appointing another bishop as his commissary. But it would be unsatisfactory if the bishop were, in effect, generally ruled-out from conducting a visitation of his own cathedral.

The diocesan also has the function of consenting to (or withholding consent from) proposed changes to the constitution and statutes agreed by the cathedral council. Again, this is intended to be a function requiring independence – in this case from those proposing such changes. The dean would be a prominent member of the council. A relationship of diocesan and suffragan between the bishop and the dean would seem to undermine – or at least call into question – the degree of independence with which the diocesan would – or would be seen to – operate in this regard.

Other conflicts of interest that might well arise include the following situations:

- the exercise of any patronage in the gift of the cathedral.

The dean, as suffragan with an area responsibility, might be placed in position where his membership of the chapter as patron and his role as ‘area bishop’ were in conflict;

- where the cathedral in question was a parish-church cathedral, the dean being both ‘area bishop’ and incumbent of the same parish.

How problematic this would be might depend upon the precise nature of the episcopal functions delegated to him – but, by way of just two examples taken at random, it would be absurd if parents whose child the dean – *as vicar* of the parish – had refused or delayed to baptize then had to apply to him *as area bishop* for directions under Canon B22.2; or if the dean had to apply to himself for directions in the event of a notorious and evil liver seeking to be admitted to the Holy Communion.

There would, therefore, be significant legal difficulties involved with the scenario you have asked about. They should be considered as being of substance and would seem, in practice, to preclude the scenario in question.

Alexander McGregor  
Deputy Legal Adviser

The Legal Office  
Church House  
Westminster

September 2010