

GENERAL SYNOD
CLERGY DISCIPLINE COMMISSION
ANNUAL REPORT FOR 2008

This report is made in fulfilment of the duty placed upon the Clergy Discipline Commission by section 3(3)(c) of the Clergy Discipline Measure 2003 to make an annual report to the General Synod, through the House of Bishops, on the exercise of its functions during the previous year. This is the fifth annual report made by the Commission and covers its work in the year to 31st December 2008.

The House of Bishops received this report in May 2009.

MEMBERSHIP

1. The Clergy Discipline Commission ('the Commission') is constituted under section 3 of the Clergy Discipline Measure 2003 ('the Measure'), which provides for the appointment by the Appointments Committee of a Commission of not more than twelve persons, to include at least two from each House of the General Synod and at least two with legal qualifications specified in the Measure.¹ The Chair and Deputy Chair of the Commission are appointed by the Appointments Committee from amongst the legally qualified members after consultation with the Dean of the Arches and Auditor.
2. In 2003 the Appointments Committee appointed twelve members to the Commission (the maximum membership). Each member was appointed for a term of office of either five or three years, all with effect from 1st January 2004. The Right Hon. Sir John Mummery (Lord Justice Mummery) and His Honour Judge John Bullimore were appointed as Chair and Deputy Chair respectively.
3. No changes to the Commission's membership occurred during the year. Full details of the membership as at 31st December 2008 are contained in Appendix 1 to this report.

THE FUNCTIONS OF THE COMMISSION

4. Under section 3(3) of the Measure, the Commission is required to:
 - give general advice to disciplinary tribunals, the courts of the Vicars-General, bishops and archbishops as to the penalties which are appropriate in particular circumstances;
 - issue codes of practice and general policy guidance to persons exercising functions in connection with clergy discipline; and

¹ Defined in s.3(1)(b) to be "persons who have either a seven years general qualification within the meaning of the Courts and Legal Services Act 1990 (c. 41) or who have held or are holding high judicial office or the office of Circuit judge."

- make annually to the General Synod through the House of Bishops a report on the exercise of its functions during the previous year.
5. Under section 39 of the Measure the Commission has a duty to formulate guidance for the purposes of the Measure generally and to promulgate that guidance in a Code of Practice, made with the approval of the Dean of the Arches and Auditor and of the General Synod.
 6. Section 21 of the Measure places a duty on the Commission to compile and maintain a 'provincial panel' for each province, from which members of a bishop's disciplinary tribunal or Vicar-General's court or, in the case of appeals, judges of the Court of Arches or Chancery Court of York are appointed.

THE WORK OF THE COMMISSION IN 2008

7. The Commission met on three occasions during 2008, in January, April and September, and throughout the year has relied upon, and been grateful for, the work of its Secretary, Howard Cattermole, and the Designated Officer, Adrian Iles.
8. Much of the business of the Commission over the year was taken up with the question of how best to begin to address some of the concerns being raised by bishops, registrars, archdeacons and others over the practical operation of the Measure and in particular its pastoral outworkings. As a result, in October 2008 a wide-ranging consultation paper was issued asking for feedback on five specific areas of concern, namely:
 - the separation between the bishop's pastoral and disciplinary functions;
 - delay in proceedings;
 - the relationship between CDM and other proceedings;
 - the handling under the Measure of non-custodial sentences for criminal offences; and,
 - rights of appeal against a tribunal's findings and penalty.

A total of 66 responses were received to the consultation, mostly from bishops and other diocesan officers, and representing a very wide range of perspectives. Following analysis of all comments received, the Commission will shortly be circulating a further paper setting out how it intends to go about responding to the feedback.

9. The Commission welcomed proposals from the House of Bishops for the development of the two new roles of CDM Pastor and CDM Assessor, the former to be appointed by diocesan bishops to provide pastoral care on their behalf, the latter by the archbishops to assess for rehabilitation back into ministry clergy who have been prohibited under the Measure. These proposals are still under discussion, but it is hoped they will be finalised in the course of 2009.
10. The Commission discussed the question of guidance for respondents to complaint proceedings, and agreed that a leaflet should be produced setting out basic information about the disciplinary procedures under the Measure. Feedback was invited on the precise content of the leaflet as part of the consultation process described above, and on the basis of comments received it will be finalised and issued to dioceses later in 2009 in the form of a draft to be adapted to local circumstances.

11. The Commission considered the problem of imprisoned clergy continuing to receive stipend while steps are taken under section 30(1)(a) of the Measure to remove them from office. The Commission has made a recommendation to the Archbishops' Council (acting as the Central Stipends Authority) with regard to implementing a policy so that stipend is withheld where an office holder is imprisoned, but without prejudice to discretionary help being made available to affected families.
12. The first three practice directions to be issued under section 4 of the Measure, by the Chair as President of Tribunals, were approved by the Commission at its April and September meetings, and have since been published on the Church of England website. The directions concern amendments to allegations of misconduct referred to a tribunal, submissions to a tribunal in relation to penalty and attendance on behalf of a bishop at hearings in private.
13. The Commission continued its consideration of the issue of racism in the context of the Measure, and discussed possible amendments to the Code of Practice and to the 'Guidance on penalties'.
14. During the year oral answers were provided to one question addressed to the Commission at the February 2008 group of sessions of the General Synod and to two at the July 2008 group of sessions, and a written answer was provided to a question in November 2008.
15. A discussion day organised by the Archdeacons' Forum took place with the Chair of the Commission in September 2008, attracting 52 attendees. The day was very well received and covered issues such as delay and its causes, the purpose of the various stages of the formal complaint procedure, the relationship between CDM and other proceedings and the Commission's views on the separation of the bishop's pastoral and disciplinary functions.

ANNUAL ANALYSIS OF COMPLAINTS

16. The third annual analysis of complaints made under the Measure, recording by whom complaints were made and how they were dealt with, is presented in Appendix 2. It should be noted, however, that four dioceses (London, Sheffield, Sodor & Man and Southwark) did not complete a return for 2008, and so the analysis is qualified in that respect.
17. In 2008, 69 complaints were made under the Measure against priests, deacons, bishops or archbishops (excluding those dioceses which did not submit a return), as against 77 in 2007 (for all dioceses). This compares with the total number of clergy falling within the provisions of the Measure as at 31st December 2007 of approximately 22,360 (including 11,913 licensed stipendiary and non-stipendiary clergy, 1,568 chaplains and clergy in other ministries, and an estimated 4,600 active retired clergy).²
18. Just over half of dioceses submitting a return (55%) dealt with between one and five complaints, with a significant minority having no complaints at all (38%). As in previous years, a majority of complaints (65%) were made by complainants other than archdeacons, churchwardens or persons nominated by a PCC, with archdeacons making up a further 25% of complainants.
19. Again approaching two-fifths (36%) of complaints were dismissed by the bishop. Of complaints that were not dismissed, a penalty by consent was imposed in the case of 24%

² The statistics are the most recent available and are taken from *Church Statistics 2006/7* (GS Misc 901), published by the Research and Statistics Department of the Archbishops' Council in 2008.

and no further action was taken on a further 22%. Four complaints were referred for formal investigation by the Designated Officer (as against eight in 2007), and three complaints were referred by the President of Tribunals for determination by a bishop's disciplinary tribunal. Fifteen suspensions were imposed by bishops in the course of complaint proceedings or following arrest.

20. Following the first two bishop's disciplinary tribunals since the coming into force of the Measure in October and November 2007, a further seven cases were determined by tribunals in 2008. Three of these cases were to decide penalty only, the respective respondents having admitted misconduct; the remaining four were contested.

On behalf of the Commission

20th April 2009

John Mummery

Chair

www.cofe.anglican.org/about/churchlawlegis/clergydiscipline

For: information on the Commission and on the operation of the Measure; links to the full text of the Measure, the Rules, the Appeal Rules and the Code of Practice; prescribed forms; practice directions; guidance produced by the Commission

Appendix 1 Membership of the Commission as at 31st December 2008

Appointed under section 3(1)(b) – ‘legally qualified’

The Right Hon Lord Justice Mummery (President of Tribunals) (Chair)*
His Honour Judge John Bullimore (Deputy President of Tribunals) (Deputy Chair)*^

Appointed under section 3(1)(a) – ‘at least two from each House of the General Synod’

The Right Reverend Christopher Hill, the Bishop of Guildford+^
The Right Reverend Michael Hill, the Bishop of Bristol<^

The Reverend Canon Michael Webb (Newcastle)+^
The Venerable Alan Hawker, the Archdeacon of Malmesbury (Bristol)>^

Miss Vasantha Gnanadoss (Southwark)++^
Mr James Humphery (Salisbury)>#^

Other members appointed under section 3

Mr Niall Blackie (Joint Diocesan Registrar – Lichfield)*#
The Venerable Annette Cooper, the Archdeacon of Colchester+^
The Reverend Canon Cynthia Dowdle**^
Mr Michael Sayers (former Secretary of the Council on Tribunals)+#

- # Legally qualified other than those appointed under section 3(1)(b).
- ^ Member of the General Synod.
- * Five-year term from 1st January 2004, renewed to 31st December 2013.
- > Five-year term from 1st January 2004, renewed to 31st December 2010.
- < Five-year term from 1st January 2004.
- + Three-year term from 1st January 2007.
- ** Remainder of a term until 31st December 2008, followed by a full five-year term.
- ++ Remainder of a term until 31st December 2006, followed by a full three-year term.

Appendix 2**Annual register for 2008 of formal complaints made under the Measure and how they were dealt with****Complaints against Priests and Deacons**

	2008 (2007)	%
Formal complaints made to bishops (total)	63 (71)	
<i>Dioceses with no complaints made</i>	15 (13)*	38% (30%)
<i>Dioceses with between 1 and 5 complaints made</i>	22 (29)*	55% (66%)
<i>Dioceses with 6 or more complaints made</i>	3 (2)*	7% (5%)
Of the total, the following numbers of complaints were made by:		
<i>a person nominated by a PCC under s10(1)(a)(i)</i>	1 (-)	2% (-)
<i>a churchwarden under s10(1)(a)(ii)</i>	5 (13)	8% (18%)
<i>an archdeacon under s10(1)(a)(iii)</i>	16 (16)	25% (23%)
<i>another person under s10(1)(a)(iii)</i>	41 (42)	65% (59%)
Number of complaints delegated under s10 of the Dioceses Measure to a suffragan bishop for determination	6 (4)	
Action taken in 2008 in relation to complaints made in 2008 or earlier		
<i>Dismissed by the bishop under s11(3)</i>	20 (22)	36% (39%)†
<i>No further action under s12(1)(a) & s13</i>	12 (10)	22% (18%)†
<i>Conditional deferment under s12(1)(b) & s14</i>	2 (1)	4% (2%)†
<i>Resolved by conciliation under s12(1)(c) & s15</i>	1 (1)	2% (2%)†
<i>Penalty by consent under s12(1)(d) & s16</i>	13 (14)	24% (25%)†
<i>Formal investigation under s12(1)(e) & s17</i>	4 (8)	7% (14%)†
<i>Withdrawn (rule 59(1)(a))</i>	3 (-)	5% (-)†
<i>No decision as at 31st December 2008</i>	17	

* Four dioceses did not submit an annual return for 2008.

† Percentages exclude complaints on which a decision was pending as at 31st December 2008.

Number of complaints referred unsuccessfully to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	8 (1)
Penalties by consent imposed under s12(1)(d) & s16	
<i>Prohibition for life (with or without resignation)</i>	2 (2)
<i>Limited prohibition (with or without resignation)</i>	6 (9)
<i>Resignation without prohibition including revocation of licence</i>	4 (2)
<i>Injunction</i>	1 (1)
<i>Rebuke</i>	– (1)
Cases referred for formal investigation under s12(1)(e) & s17	
<i>President of Tribunals decided 'No case to answer'</i>	1 (1)
<i>President referred complaint to bishop's disciplinary tribunal</i>	3 (6)
<i>President not decided as at 31st December 2008</i>	– (–)
<i>Formal investigation ongoing as at 31st December 2008</i>	1 (2)
Number of cases determined by a tribunal	7 (2)
Number of suspensions imposed (total)	15 (11)
<i>Suspensions under s36(1)(a) in course of complaint proceedings</i>	7 (6)
<i>Suspensions under s36(1)(b) following arrest</i>	8 (5)
Cases where a penalty of prohibition or removal from office was imposed under s30(1)(a) following conviction and sentence of imprisonment	1 (1)
Cases where a penalty of removal from office or prohibition was imposed under s30(1)(b) following decree of divorce or order for judicial separation	– (1)

Complaints against Bishops and Archbishops

Formal complaints made to archbishops	2008 (2007)
<i>in respect of a bishop or archbishop</i>	6 (6)
How complaints were dealt with	
<i>Dismissed under s11(3)</i>	3 (5)
<i>No further action under s12(1)(a) & s13</i>	– (1)
<i>Conditional deferment under s12(1)(b) & s14</i>	– (–)
<i>Resolved by conciliation under s12(1)(c) & s15</i>	– (–)
<i>Penalty by consent under s12(1)(d) & s16</i>	– (–)
<i>Formal investigation under s12(1)(e) & s17</i>	– (–)
<i>Withdrawn (rule 59(1)(a))</i>	– (–)
<i>No decision as at 31st December 2008</i>	3 (–)
Number of complaints unsuccessfully referred to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	–
Number of Vicar-General's courts held	–
Number of suspensions imposed	–
Cases where a penalty of removal from office or prohibition was imposed under s31(1)(a) following conviction and sentence of imprisonment	–
Cases where a penalty of removal from office or prohibition was imposed under s31(1)(b) following decree of divorce or order for judicial separation	–