

GENERAL SYNOD
CLERGY DISCIPLINE COMMISSION
ANNUAL REPORT FOR 2010

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 seventh annual report made by the Commission and covers its work in the year to 31st December 2010.

The House of Bishops received this report in May 2011.

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. Following the election of the new Synod in October 2010, a number of changes occurred to the membership of the Commission. In the House of Clergy, the Revd Canon Celia Thomson and the Revd Moira Astin were each appointed for a term of 5 years, replacing the Ven Alan Hawker and the Revd Canon Michael Webb, (neither of whom stood for re-election to the Synod). Mr David Mills and Dr Anna Thomas-Betts were appointed from amongst the members of the House of Laity, replacing Mr James Humphrey who did not seek re-election to the Synod and Ms Vasantha Gnanadoss, who now serves on the Steering Committee for the draft Clergy Discipline (Amendment) Measure. The Commission records its gratitude to the Ven Alan Hawker, the Revd Canon Michael Webb, Mr James Humphrey and Ms Gnanadoss for their valuable service to the Commission. Full details of the Commission’s membership are contained in Appendices 1 and 2 to this report.
3. The members of the Commission wish to record their sincere gratitude to the Commission’s staff without whom it could not function at all: first, to Adrian Iles, the Designated Officer, for his excellent work in the formal investigation of, and reports on, complaints under the Measure, the presentation of cases to the disciplinary tribunals and the drafting of many documents; secondly, to Sarah Clemenson, the Secretary to the Commission, for all her work in dealing with the Commission’s correspondence, meetings, minutes and other matters.

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.”

THE WORK OF THE COMMISSION IN 2010

4. The Commission met on three occasions in 2010.
5. As reported last year, the Commission had previously identified a number of ways in which the Code of Practice issued under the Measure could be modified, and the Commission was asked to produce a report for the Archbishops' Council on whether there was a case to amend the Measure and the Code of Practice. The bulk of the Commission's work in 2010 was accordingly taken up with preparing the report and proposing revisions to the Code of Practice.
6. The Commission's proposed revisions to the Code were approved by the Dean of the Arches and Auditor in accordance with section 39(1) of the Measure in July 2010. Pursuant to section 39(3) of the Measure, the Commission sought Synod's approval of the proposed amendments to the Code. An explanatory memorandum, GS 1808X, was produced by the Commission and issued to members of Synod setting out and explaining the revisions that were being proposed to the Code. The revised Code was debated and approved at the February 2011 group of sessions of the Synod, and has now been issued and made available on the Church of England website.
7. The Code was revised to address a number of points of concern previously identified by the Commission. The principal changes were:
 - To emphasise that the procedures under the Measure should only be used for complaints that are potentially sufficiently serious for referral to a tribunal, and should not be used for the determination of grievances or minor complaints.
 - To explain that in cases of misconduct which are not sufficiently serious for action to be taken under the Measure, the bishop may advise and warn a respondent in writing about future behaviour, and keep that warning on the respondent's personal file (known as the blue file).
 - To confirm that child protection and safeguarding officers have a proper interest when making complaints about misconduct concerning children or vulnerable adults.
 - To give further guidance about the role of the bishop and the exercise of pastoral care on his behalf, and to explain the need to keep the bishop's pastoral and disciplinary roles apart in practice to ensure that his impartiality does not appear to be compromised when determining how a complaint is to be resolved.
 - To draw a distinction between resignation outside the provisions of the Measure in response to a complaint, and resignation under the Measure as a penalty by consent.
 - To deal with the relationship between disciplinary proceedings under the Measure and capability proceedings under the Ecclesiastical Offices (Terms of Service) Regulations. In particular, the revised Code makes it clear that, usually, only one set of proceedings, capability or disciplinary, should be actively pursued in respect of the same substantive matter at any one time (and that the latter should normally take precedence), and that a sanction in a capability procedure and a penalty in disciplinary proceedings should not both be imposed in respect of the same specific matter.

8. The Commission produced a report for the Archbishops' Council setting out amendments which it recommended should be made to the Measure – these included both substantive and technical amendments. The Commission's report recommended the following substantive revisions to the Measure:
- An amendment to give effect to Miss Gnanadoss' private member's motion (debated and approved at the February 2009 group of sessions), to make it misconduct for clergy to be members of, or to promote or solicit support for a party or organisation, whose constitution and policies are declared by the House of Bishops to be incompatible with the Church's teaching on race equality.
 - That bishops should be able to take effective disciplinary action against clergy who are barred from working with children and vulnerable adults under the Safeguarding Vulnerable Groups Act 2006, and an amendment should be made to enable disciplinary proceedings to be brought against clergy holding preferment who have not applied to be subject to monitoring under that Act.
 - That bishops should be able to impose a penalty under section 30 of the Measure following a conviction for a serious criminal offence, whether or not a custodial sentence was imposed.
 - That a bishop and respondent should be able to agree a penalty by consent even after a complaint has been referred to the Designated Officer for formal investigation.
 - That parties should be required to obtain permission to appeal before a tribunal's determination could be challenged, so that unmeritorious appeals would not be pursued.
 - That changes be made with regard to the appointment of judges in the Court of Arches and Chancery Court of York when hearing appeals under the Measure.
9. The Council considered the Commission's report in June 2010 and accepted the Commission's recommendations. Accordingly, work began in late 2010 on the production of a draft Clergy Discipline (Amendment) Measure. That draft Measure has now been given First Consideration by the Synod, and been committed to a Revision Committee.
10. The Commission considered the provision of training in respect of the Measure, particularly for new bishops and archdeacons. It will continue to monitor the position in 2011.

ANNUAL ANALYSIS OF COMPLAINTS

11. The annual analysis of complaints made under the Measure, recording by whom complaints were made and how they were dealt with, is presented in Appendix 3.
12. In 2010, 68 complaints were made under the Measure against priests or deacons, as against 59 in 2009. The total number of distinct respondents in respect of those 68 cases was 48. This compares with the total number of clergy falling within the provisions of the Measure as at 31st December 2009 of around 18,000 (including 11,658 licensed stipendiary and non-stipendiary clergy, 1,631 chaplains and clergy in other ministries, and an estimated 4,610 active retired clergy).²

² The statistics are the most recent available and are taken from *Church Statistics 2008/9 (GS Misc 962)*, published by the Research and Statistics Department of the Archbishops' Council in July 2010.

13. Over a third of dioceses (35%) had no complaints at all, and only one had more than 6 complaints. As in previous years, the vast majority of complaints (72%) were made by complainants other than archdeacons, churchwardens or persons nominated by a PCC, with archdeacons making up a further 26% of complainants. No complaints were made by churchwardens in the course of 2010.
14. Almost a quarter of complaints (23%) were dismissed by the bishop, and a quarter (24%) had not been determined by the year-end. A quarter of complaints (26%) were referred to the Designated Officer for formal investigation (compared with 5% of complaints in 2009). Following formal investigation, 3 complaints were referred to a bishop's disciplinary tribunal in 2010 as compared with 2 in 2009, and the President of Tribunals decided that there was no case to answer in respect of a further 4 complaints. 10 complaints referred for formal investigation were outstanding at the year-end³.
15. In the course of 2010, 2 complaints that had been referred to a tribunal (1 in 2009 and 1 in 2010) were withdrawn, one following the respondent's resignation from office, and one where the bishop had meanwhile dealt with the matter under section 30 of the Measure. 2 complaints were heard by a bishop's disciplinary tribunal in 2010 as against 0 in 2009, (although one of those complaints had been referred to a tribunal in 2009).
16. 7 complaints were made against bishops in the course of 2010, of which 2 were dismissed and 1 withdrawn. No decision had been made by the year-end on the remaining 4 complaints. No complaints were brought against either Archbishop.

On behalf of the Commission

Sir John Mummery (Chair)
April 2011

³ All 10 complaints were made about the same respondent and, following investigation, none were referred to a tribunal.

APPENDIX 1: MEMBERSHIP OF THE COMMISSION AS AT 1ST JANUARY 2010

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

Chair (and President of Tribunals)

The Right Hon Lord Justice Mummery¹

Deputy Chair (and Deputy President of Tribunals)

His Honour Judge John Bullimore^{1*}

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

The Right Reverend Christopher Hill, Bishop of Guildford^{4*}

The Right Reverend Peter Forster, Bishop of Chester^{3*}

The Reverend Canon Michael Webb (Newcastle)^{4*}

The Venerable Alan Hawker, Archdeacon of Malmesbury (Bristol)^{2*}

Miss Vasantha Gnanadoss (Southwark)^{4*}

Mr James Humphery (Salisbury)^{2*#}

Other members appointed under section 3

Mr Niall Blackie (Lichfield Diocesan Registrar)^{1#}

The Venerable Annette Cooper, Archdeacon of Colchester^{6*}

The Reverend Canon Cynthia Dowdle^{5*}

Mr Michael Sayers (former Secretary of the Council on Tribunals)^{6#}

- ¹ Further term of five years to expire 31st December 2013
² Further term of two years to expire 31st December 2010
³ Two year term to expire 31st December 2010
⁴ Term extended by one year to expire 31st December 2010
⁵ Appointed until 31st December 2013 (remainder of a term until 31st December 2008 immediately followed by a full five-year term)
⁶ Further term of four years to expire 31st December 2013
* Member of the General Synod
Legally qualified other than those appointed under section 3(1)(b)

APPENDIX 2: MEMBERSHIP OF THE COMMISSION AS AT 31ST DECEMBER 2010

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

Chair (and President of Tribunals)

The Right Hon Lord Justice Mummery*

Deputy Chair (and Deputy President of Tribunals)

His Honour Judge John Bullimore*

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

The Right Reverend Dr Peter Forster, Bishop of Chester+^
The Right Reverend Christopher Hill, Bishop of Guildford+^

Revd Moira Astin (Oxford)+^
Revd Canon Celia Thomson (Gloucester)+^

Dr Anna Thomas-Betts (Oxford)+^
Mr David Mills (Carlisle)+^

Other members appointed under section 3

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

- ^ Member of the General Synod.
- * Appointed to 31st December 2013.
- + Appointed to 31st December 2015.
- # Legally qualified other than those appointed under section 3(1)(b).

APPENDIX 3: ANALYSIS OF FORMAL COMPLAINTS MADE UNDER THE MEASURE AND HOW THEY WERE DEALT WITH

Complaints against Priests and Deacons

	2010 (2009)	%
Formal complaints made to bishops (total)	68 (59)	
<i>Dioceses with no complaints made</i>	15 (17)	35% (40%)
<i>Dioceses with between 1 and 5 complaints made</i>	27 (24)	63% (56%)
<i>Dioceses with 6 or more complaints made</i>	1 (2)	2% (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)	1% (3%)
<i>a churchwarden under s10(1)(a)(ii)</i>	0 (1)	0% (2%)
<i>an archdeacon under s10(1)(a)(iii)</i>	18 (14)	26% (24%)
<i>another person under s10(1)(a)(iii)</i>	49 (39)	72% (66%)
Number of complaints delegated under s13 Dioceses, Pastoral and Mission Measure to a suffragan bishop for determination	19 (10)	
Action taken in 2010 in relation to complaints made in 2010 or earlier †		
<i>Dismissed by the bishop under s11(3)</i>	16 (16)	23%
<i>No further action under s12(1)(a) & s13</i>	6 (3)	8%
<i>Conditional deferment under s12(1)(b) & s14</i>	2 (3)	3%
<i>Resolved by conciliation under s12(1)(c) & s15</i>	2 (2)	3%
<i>Penalty by consent under s12(1)(d) & s16</i>	9 (18)	13%
<i>Formal investigation under s12(1)(e) & s17</i>	18 (5)	25%
<i>Withdrawn (rule 59(1)(a))</i>	1 (2)	1%
<i>No decision as at 31st December 2010</i>	17 (18)	24%

* One diocese did not provide this information in 2009.

† There were 8 outstanding complaints from 2008 that were determined in the course of 2009.

Number of complaints referred unsuccessfully to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	0 (6)
Penalties by consent imposed under s12(1)(d) & s16	
<i>Prohibition for life (with or without resignation)</i>	8 (1)
<i>Limited prohibition (with or without resignation)</i>	7 (8)
<i>Resignation without prohibition including revocation of licence</i>	0 (1)
<i>Injunction</i>	0 (0)
<i>Rebuke</i>	0 (7)
<i>Injunction and Rebuke</i>	0 (1)
Cases referred for formal investigation under s12(1)(e) & s17	
<i>President of Tribunals decided 'No case to answer'</i>	4 (0)
<i>President referred complaint to bishop's disciplinary tribunal</i>	3 [‡] (2)
<i>President not decided as at 31st December 2010</i>	10 (0)
<i>Formal investigation ongoing as at 31st December 2010</i>	0 (3)
Number of cases determined by a tribunal	2 [§] (0)
Number of suspensions imposed (total)	14 (8)
<i>Suspensions under s36(1)(a) in course of complaint proceedings</i>	5 (3)
<i>Suspensions under s36(1)(b) following arrest</i>	9 (5)
Cases where a penalty of prohibition or removal from office was imposed under s30(1)(a) following conviction and sentence of imprisonment	2 (3)
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	2 (2)

[‡] One complaint referred to a tribunal was subsequently withdrawn; and a case referred to a tribunal in 2009 was also withdrawn in the course of 2010.

[§] One case determined by a tribunal was outstanding from 2009; a third case referred to a tribunal was not heard in the course of 2010.

Complaints against Bishops and Archbishops

Formal complaints made to archbishops	2010 (2009)
<i>in respect of a bishop</i>	7 (3)
<i>in respect of the other archbishop</i>	0 (0)
How complaints were dealt with	
<i>Dismissed under s11(3)</i>	2 (3 ^{**})
<i>No further action under s12(1)(a) & s13</i>	0 (0)
<i>Conditional deferment under s12(1)(b) & s14</i>	0 (0)
<i>Resolved by conciliation under s12(1)(c) & s15</i>	0 (0)
<i>Penalty by consent under s12(1)(d) & s16</i>	0 (0)
<i>Formal investigation under s12(1)(e) & s17</i>	0 (0)
<i>Withdrawn (rule 59(1)(a))</i>	1 (0)
<i>No decision as at 31st December 2010</i>	4 (1)
Number of complaints unsuccessfully referred to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	0 (0)
Number of Vicar-General's courts held	0 (0)
Number of suspensions imposed	0 (0)
Cases where a penalty of removal from office or prohibition was imposed under s31(1)(a) following conviction and sentence of imprisonment	0 (0)
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	0 (0)

^{**} Number includes one case on which a decision was outstanding from 2008.

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