

- (2) Upon referring the matter to the President the bishop shall—
- (a) send or deliver to the President, the complainant and the respondent a copy of the registrar’s written report,
 - (b) notify the complainant and the respondent in writing that the matter has been referred to the President, and
 - (c) consider extending time under rule 18.
- (3) Where the matter is referred to the President, the President shall invite the complainant to make written representations within 21 days as to—
- (a) whether the adult in question was a vulnerable adult at the time of the alleged misconduct, and
 - (b) whether there was good reason why the complainant did not institute proceedings at an earlier date.
- (4) A copy of any representations received from the complainant shall be sent or delivered by the President to the respondent, and the respondent shall be invited by the President to make written representations in reply within 21 days of receipt.
- (5) Having considered any representations from the parties, the President shall determine in writing the issue of vulnerability for the purposes only of section 9(3) of the Measure, and copies of the determination shall be sent or delivered to the bishop, the diocesan registrar, the complainant and the respondent.
- (6) Where the President determines that the adult was a vulnerable adult at the time of the alleged misconduct the complaint shall proceed in accordance with the Measure.
- (7) Where the President determines that the adult was not a vulnerable adult at the time of the alleged misconduct the President may nonetheless give permission under section 9 of the Measure for the proceedings to continue where the President considers there was good reason why the complainant did not institute proceedings at an earlier date.
- (8) Where the President determines that the adult was not a vulnerable adult at the time of the alleged misconduct and that there was no good reason why the complainant did not institute proceedings at an earlier date, the complaint shall stand dismissed.”.
- (2) In rule 106 (interpretation) at the appropriate place there is inserted—
- “;
- “vulnerable adult” has the same meaning as in section 6(2) of the Safeguarding and Clergy Discipline Measure 2016”.

President’s review of a dismissal

3. Rule 16 is amended by substituting for sub-rule (4) the following sub-rule—
- “(4) Within 28 days of receiving the complainant’s request the President shall notify the complainant, the respondent and the bishop in writing as to whether the President is—
- (a) upholding the dismissal, or
 - (b) reversing it and directing the bishop to deal with the complaint in accordance with section 12 of the Measure, or
 - (c) remitting the complaint to the bishop and directing the bishop to reconsider the dismissal.”.

No further action: President’s decision

4. In rule 22 for all the words after “plainly wrong the President may” there is substituted the following—
- “—

- (a) direct the bishop to pursue such of the courses specified in section 12(1)(b) to (e) as the President considers appropriate, or
- (b) remit the complaint to the bishop, and direct the bishop to reconsider the determination that there is to be no further action.”.

Respondent’s answer

5.—(1) Rule 17 is amended as follows.

(2) In sub-rule (1) the words “under section 11(3) of the Measure” are omitted.

(3) In sub-paragraph (b) of sub-rule (1) for the words “rule 15(1)” there are substituted the words “rules 14A(2) or 15(1)”.

(4) In sub-paragraph (c) of sub-rule (2) the words “subject to sub-rule (5),” are omitted.

(5) For sub-rule (5) there is substituted the following sub-rule—

“(5) (a) The bishop may extend time under rule 17(1)(d) for the respondent to submit an answer and any written evidence in support.

(b) Where further time under rule 17(1)(d) is granted the bishop shall consider whether to extend time under rule 18.”.

Suspension

6. The title to rule 61 is amended to “**Suspension of a priest or deacon following arrest**”.

7. After rule 61B the following new rules are inserted—

“Suspension of a priest or deacon under section 36(1)(e) of the Measure

61C.—(1) Where the bishop is satisfied, on the basis of information provided by a local authority or the police, that a priest or deacon holding any preferment in the diocese presents a significant risk of harm, the bishop may suspend the priest or deacon from exercising or performing without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be.

(2) Before serving a notice under section 36(1)(e) of the Measure, or revoking a notice served under section 36(1)(e), the bishop must consult the diocesan safeguarding advisor and such other persons as the bishop considers appropriate.

(3) A notice suspending a priest or deacon under sub-rule (1) shall be in form 16a in the Schedule or in a form which is substantially to the like effect, and may specify any rights or duties which by leave of the bishop are not suspended.

Suspension of a priest or deacon under section 36A of the Measure

61D.—(1) Where an application is made to the President for permission under section 9 of the Measure for proceedings to be instituted against a priest or deacon holding any preferment in a diocese, the bishop may suspend the priest or deacon from exercising or performing without the leave of the bishop any right or duty of or incidental to the priest’s or deacon’s office, provided the bishop is satisfied that the suspension is necessary in all the circumstances of the case.

(2) Before exercising the power of suspension, the bishop must refer the matter to the registrar for written advice on—

- (a) whether the complainant has a proper interest in instituting the proceedings,
- (b) whether there is sufficient substance in the complaint to justify proceeding with it in accordance with the Measure, and
- (c) whether the suspension is necessary in all the circumstances of the case,

and the bishop must have regard to the registrar's report in deciding whether to exercise the power of suspension.

(3) A notice suspending a priest or deacon under sub-rule (1) shall be in form 17a in the Schedule or in a form which is substantially to the like effect, and may specify any rights or duties which by leave of the bishop are not suspended.

(4) A copy of the registrar's report shall be served by the bishop on the priest or deacon at the same time as the notice of suspension.

8.—(1) Rule 62 is amended as follows.

(2) The text of rule 62 becomes sub-rule (1).

(3) In sub-paragraph (1)(e) for the words "the date when the suspension takes effect" there are substituted the words "receipt of the notice of suspension".

(4) After sub-rule (1) the following new sub-rules are inserted—

"(2) A notice of suspension given under rule 61C(3) shall be signed by the bishop and shall—

- (a) state the date from when the suspension takes effect,
- (b) explain that the suspension, unless revoked by the bishop, will continue until the expiry of the period of 3 months following the date of service of the notice on the priest or deacon,
- (c) explain—
 - (i) that the bishop may cause a further notice of suspension to be served on the priest or deacon, and that this will continue for the same period as is specified in paragraph (b),
 - (ii) that a further notice or notices of suspension may thereafter be served on the priest or deacon, and
 - (iii) that such notice or notices may be in different terms from any previous notice.
- (d) state that the effect of the suspension is that the priest or deacon is forbidden to exercise or perform without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be, and
- (e) explain that within a period of 14 days from receipt of the notice of suspension the priest or deacon may appeal against the suspension to the President, who may within 28 days following the lodging of the appeal either confirm or revoke the suspension.

(3) A notice of suspension given under rule 61D(3) shall be signed by the bishop and shall—

- (a) state the date from when the suspension takes effect,
- (b) explain that the suspension, unless revoked by the bishop, will—
 - (i) continue until the expiry of the period of 3 months following the date of service of the notice on the priest or deacon, or,
 - (ii) end if the application for permission to institute proceedings out of time be refused before the expiry of that period, or
 - (iii) end, if permission to institute proceedings be granted before the expiry of that period, upon—
 - (aa) the expiry of the period of 14 days beginning with the day on which disciplinary proceedings are instituted, or
 - (bb) the expiry of the period within which permission was given for proceedings to be instituted if the proceedings are not instituted within that period, or
 - (cc) service of any notice of suspension under section 36(1) of the Measure, as the case may be,

- (c) explain that if the application for permission is not determined before the end of the expiry of the period of 3 months following the date of service of the notice of suspension—
 - (i) the bishop may cause a further notice of suspension to be served on the priest or deacon, and that this will continue for the same period as is specified in paragraph (b)(i),
 - (ii) that a further notice or notices of suspension may thereafter be served on the priest or deacon, and
 - (iii) that such notice or notices may be in different terms from any previous notice,
- (d) state that the effect of the suspension is that the priest or deacon is forbidden to exercise or perform without the leave of the bishop any right or duty of or incidental to the office of priest or deacon, as the case may be, and
- (e) explain that within a period of 14 days from receipt of the notice of suspension the priest or deacon may appeal against the suspension to the President, who may within 28 days following the lodging of the appeal either confirm or revoke the suspension.”.

9.—(1) Rule 63 is amended as follows.

(2) In sub-rule (1) for the words from “A copy of the notice” to “or delivered by the bishop” there are substituted the words “Where a priest or deacon is suspended under rule 60, 61, 61A, 61B or 61D the bishop shall give written notification of the suspension”.

(3) In sub-rule (2) for the words from “, a copy of the notice” to “delivered by the bishop” there are substituted the words “upon the suspension of a priest or deacon under rule 60, 61, 61A, 61B or 61D, the bishop may give written notification of the suspension”.

(4) After sub-rule 2 there are inserted the following new sub-rules—

“(3) Where a priest or deacon is suspended under rule 61C the bishop shall give written notification of the suspension to each person referred to in sub-rule (1) and sub-rule (2)(a), (b), (c) and (d) above.

(4) Where a priest or deacon is suspended under rule 61C the bishop may give written notification of the suspension to any other person whom the bishop considers should be notified of the suspension.”.

10.—(1) Rule 64 is amended as follows.

(2) In sub-rule (1)—

- (i) for the words “or rule 61B” there are substituted the words “, rule 61B, rule 61C or rule 61D”, and
- (ii) for the words “a notice”, in the second place where they occur, there is substituted the word “notification”.

(3) For sub-rule (2) there is substituted the following sub-rule—

“(2) Written notification of the revocation of a suspension shall be given by the bishop to the persons to whom notification of suspension was sent or delivered under rule 63.”.

11. In rule 65 for the words “notice of suspension was sent or delivered” there are substituted the words “notification of suspension was given”.

12.—(1) Rule 66 is amended as follows.

(2) In sub-rule 3 after the words “suspension and shall” there is added the word “normally”.

(3) In sub-rule (4) for the word “notice” there is substituted the word “notification”, and for the words “sent or delivered” there is substituted the word “given”.

The Archbishops' list

13. In rule 74(3) for the words “and registrars” there are substituted the words “, registrars and the Designated Officer”.

Proceedings against bishops and archbishops

14. In rules 85, 86, 86A and 86B for the words “rule 62”, in each place where they occur, there are substituted the words “rule 62(1)”.

15. After rule 86B the following new rules are inserted—

“Notice of suspension of a bishop or archbishop under section 37(1)(e) of the Measure

86C. For the purposes of rule 61C a notice of suspension on a bishop or archbishop shall be—

- (a) in form 16b in the Schedule or in a form which is substantially to the same effect,
 - (b) signed by the archbishop of the province in which the bishop to be suspended holds office, or, in the case of an archbishop to be suspended, signed by the other archbishop, and
 - (c) countersigned by the two most senior diocesan bishops in that province or the province of the other archbishop, as the case may be,
- and rule 62(2) shall be construed accordingly.

Notice of suspension of a bishop or archbishop under section 37(A) of the Measure

86D. For the purposes of rule 61D a notice of suspension on a bishop or archbishop shall be—

- (a) in form 17b in the Schedule or in a form which is substantially to the same effect,
 - (b) signed by the archbishop of the province in which the bishop to be suspended holds office, or, in the case of an archbishop to be suspended, signed by the other archbishop, and
 - (c) countersigned by the two most senior diocesan bishops in that province or the province of the other archbishop, as the case may be,
- and rule 62(3) shall be construed accordingly.”.

16.—(1) Rule 87 is amended as follows.

(2) The text of rule 87 becomes sub-rule (1).

(3) Rule 87(1) is amended as follows—

- (a) for the words “rule 63 a copy of the notice”, there are substituted the words “rule 63(1) written notification”,
- (b) for the words “sent or delivered”, there are substituted the words “given by the archbishop”,
- (c) the words “, and rules 64(2), 65 & 66(4) shall be construed accordingly” are omitted.

(4) After sub-rule (1) the following new sub-rules are inserted—

“(2) For the purposes of rule 63(2) the archbishop may give written notification of suspension of a bishop to any of the following—

- (a) any relevant chief constable of police,
- (b) any relevant local authority designated officer,
- (c) the relevant diocesan safeguarding officer,
- (d) the national safeguarding adviser of the Archbishops' Council,
- (e) any diocesan bishop of the diocese,

(f) any other person whom the archbishop considers should be notified of the suspension.

(3) For the purposes of rule 63(3) the archbishop shall give written notification of suspension of a bishop to each person referred to in sub-rule (1) and sub-rule (2)(a) to (e) above.

(4) For the purposes of rule 63(4) the archbishop may give written notification of suspension of a bishop to any other person whom the archbishop considers should be notified of the suspension.

(5) Rules 64(2), 65 & 66(4) shall be construed in accordance with sub-rules (1) to (4) above.”.

17.—(1) Rule 88 is amended as follows.

(2) The text of rule 88 becomes sub-rule (1).

(3) Rule 88(1) is amended as follows—

(a) for the words “rule 63 a copy of the notice”, there are substituted the words “rule 63(1) written notification”,

(b) for the words “sent or delivered”, there is substituted the word “given”, and

(c) the words “, and rules 64(2), 65 and 66(4) shall be construed accordingly” are omitted.

(4) After sub-rule (1) the following new sub-rules are inserted—

“(2) For the purposes of rule 63(2) written notification of suspension of an archbishop may be given by the other archbishop to any of the following—

(a) any relevant chief constable of police,

(b) any relevant local authority designated officer,

(c) any relevant diocesan safeguarding officer,

(d) the national safeguarding adviser of the Archbishops’ Council,

(e) any other person whom the other archbishop considers should be notified of the suspension.

(3) For the purposes of rule 63(3) written notification of suspension of an archbishop shall be given by the other archbishop to each person referred to in sub-rule (1) and sub-rule (2)(a) to (d) above.

(4) For the purposes of rule 63(4) written notification of suspension of an archbishop may be given by the other archbishop to any other person whom the other archbishop considers should be notified of the suspension.

(5) Rules 64(2), 65 and 66(4) shall be construed in accordance with sub-rules (1) to (4) above.”.

Amendments to forms 12a, 12b, 13a, 13b, 14a, 14b, 15a and 15b

18.—(1) Forms 12a, 12b, 13a, 13b, 14a, 14b, 15a and 15b are amended as follows.

(2) In each form—

(a) an asterisk is inserted before the word “**EXCEPT**”,

(b) for the words “should send a copy of any appeal to me. The President may” there are substituted the words “must send or deliver a copy of any appeal to me. The President will normally”,

(c) in the left hand margin of each form next to the paragraph concerning appeals to the President of Tribunals the following note is inserted—

“The appellant should contact the Legal Office if the appeal is not determined within 28 days.”.

(3) In the left hand margin of forms 12b, 13b, 14b and 15b next to the paragraph where the words “you should contact the registrar” occur the following note is inserted—

“‘registrar’ means the provincial registrar, or in the case of a complaint against an archbishop it means the provincial registrar of the other province.”.

Forms 16a, 16b, 17a and 17b

19. After form 15b in the Schedule to the Clergy Discipline Rules 2005 there are added forms 16a, 16b, 17a and 17b set out in the Schedule to these rules.

Citation and commencement

20.—(1) These rules may be cited as the Clergy Discipline (Amendment) Rules 2016.

(2) These rules shall come into force on such date as the Archbishops of Canterbury and York may jointly appoint.

*C R George
C J Angus
T J Briden
R D H Bursell
S Butler
J P Dziegiel
+A Guildford
T P Jones
C F Mockford
V J H Rees
+A St. Albans
C E Vann*

Church House, London
Approved by the General Synod on
** July 2016

J Philips
Clerk to the Synod

SCHEDULE
FORMS

Rule 18

FORM 16a (Rule 61C)

Clergy Discipline Measure 2003

Notice of suspension under section 36(1)(e) of the Measure to a priest or deacon

Insert the name of the person to be suspended.

To:.....

I am satisfied, on the basis of information provided by the local authority or the police, that you present a significant risk of harm within the meaning of section 36(2A) of the Clergy Discipline Measure.

Enter the date from when the suspension takes effect.

You are now suspended with effect from

ANY RIGHT TO A STIPEND AND HOUSING WILL NOT BE AFFECTED DURING ANY PERIOD OF SUSPENSION

Unless revoked the suspension will continue until the expiry of the period of three months following the date of service of this notice. Further successive notices of suspension, which may be in different terms from any previous notice, may be served on you for similar periods.

**Delete as appropriate.*

The effect of the suspension is that you are forbidden to exercise or perform without my permission any right or duty of or incidental to the office of *priest or *deacon *EXCEPT the following rights or duties:

Enter here the rights and duties which the suspended person MAY exercise or perform WITHOUT having to seek permission first.

The appellant should contact the Legal Office if the appeal is not determined within 28 days.

You may appeal against this suspension to the President of Tribunals. Any appeal must be in writing setting out the grounds of the appeal, and must be received by the President, c/o The Legal Office of the National Institutions of the Church of England, Church House, Great Smith Street, London SW1P 3AZ, within 14 days of receipt by you of this notice. At the same time you must send or deliver a copy of any appeal to me. The President will normally within 28 days after receipt of your written appeal either confirm or revoke the suspension.

If you need further clarification about this notice of suspension you should contact the registrar. You may also wish to contact your own legal advisor.

The notice must be signed and dated.

Signed.....

Bishop of.....

Dated.....

FORM 16b (Rule 86C)

Clergy Discipline Measure 2003

Notice of suspension under section 37(1)(e) of the Measure to a bishop or archbishop

Insert the name of the person to be suspended.

To:.....

I am satisfied, on the basis of information provided by the local authority or the police, that you present a significant risk of harm within the meaning of section 36(2A) of the Clergy Discipline Measure.

Enter the date from when the suspension takes effect.

You are now suspended with effect from

ANY RIGHT TO A STIPEND AND HOUSING WILL NOT BE AFFECTED DURING ANY PERIOD OF SUSPENSION

Unless revoked the suspension will continue until the expiry of the period of three months following the date of service of this notice. Further successive notices of suspension, which may be in different terms from any previous notice, may be served on you for similar periods.

*Delete as appropriate.

The effect of the suspension is that you are forbidden to exercise or perform without my permission any right or duty of or incidental to the office of *bishop or *archbishop *EXCEPT the following rights or duties:

Enter here the rights and duties which the suspended person MAY exercise or perform WITHOUT having to seek permission first.

You may appeal against this suspension to the President of Tribunals. Any appeal must be in writing setting out the grounds of the appeal, and must be received by the President, c/o The Legal Office of the National Institutions of the Church of England, Church House, Great Smith Street, London SW1P 3AZ, within 14 days of receipt by you of this notice. At the same time you must send or deliver a copy of any appeal to me. The President will normally within 28 days after receipt of your written appeal either confirm or revoke the suspension.

The appellant should contact the Legal Office if the appeal is not determined within 28 days.

'registrar' means the provincial registrar, or in the case of a complaint against an archbishop it means the provincial registrar of the other province.

If you need further clarification about this notice of suspension you should contact the registrar. You may also wish to contact your own legal advisor.

Signed.....

Archbishop of.....

Dated.....

This notice must be countersigned by the two most senior diocesan bishops of the province of the archbishop giving the notice, to signify their consent.

Countersigned.....

Bishop of.....

Dated.....

Countersigned.....

Bishop of.....

Countersigned.....

FORM 17a (Rule 61D)

Clergy Discipline Measure 2003

Notice of suspension under section 36(A) of the Measure to a priest or deacon

Insert the name of the person to be suspended.

To:.....

An application has been made to the President of Tribunals by.....dated..... for permission to institute disciplinary proceedings out of time against you. I have considered a written report from the registrar and I am satisfied it is necessary to suspend you pending determination of the application. A copy of the registrar’s report is attached to this notice of suspension.

Enter the date from when the suspension takes effect.

You are now suspended with effect from.....

ANY RIGHT TO A STIPEND AND HOUSING WILL NOT BE AFFECTED DURING ANY PERIOD OF SUSPENSION

Unless revoked the suspension will continue until the expiry of the period of three months following the date of service of this notice, save that:

- (i) if the application for permission is meanwhile determined and refused, the suspension will end with the refusal, or
- (ii) if the application for permission is meanwhile granted the suspension will end (a) on the expiry of the period of 14 days beginning with the day on which disciplinary proceedings are instituted, or (b) on the expiry of the period within which permission was given for proceedings to be instituted if the proceedings are not instituted within that period, or (c) upon service of any notice of suspension under section 36(1) of the Clergy Discipline Measure, as the case may be.

If the application for permission is not determined before the end of the expiry of three months following date of service of this notice, further successive notices of suspension, which may be in different terms from any previous notice, may be served on you for similar periods.

The effect of the suspension is that you are forbidden to exercise or perform without my permission any right or duty of or incidental to the office of *priest or *deacon *EXCEPT the following rights or duties:

**Delete as appropriate.*

Enter here the rights and duties which the suspended person MAY exercise or perform WITHOUT having to seek permission first.

The appellant should contact the Legal Office if the appeal is not determined within 28 days.

You may appeal against this suspension to the President of Tribunals. Any appeal must be in writing setting out the grounds of the appeal, and must be received by the President, c/o The Legal Office of the National Institutions of the Church of England, Church House, Great Smith Street, London SW1P 3AZ, within 14 days of receipt by you of this notice. At the same time you must send or deliver a copy of any appeal to me. The President will normally within 28 days after receipt of your written appeal either confirm or revoke the suspension.

If you need further clarification about this notice of suspension you should contact the registrar. You may also wish to contact your own legal advisor.

The notice must be signed and dated.

Signed.....

Bishop of.....

Dated.....

FORM 17b (Rule 86D)

Clergy Discipline Measure 2003

Notice of suspension under section 37(A) of the Measure to a bishop or archbishop

Insert the name of the person to be suspended.

To:.....

An application has been made to the President of Tribunals by.....dated..... for permission to institute disciplinary proceedings out of time against you. I have considered a written report from the registrar and I am satisfied it is necessary to suspend you pending determination of the application. A copy of the registrar's report is attached to this notice of suspension.

Enter the date from when the suspension takes effect.

You are now suspended with effect from.....

ANY RIGHT TO A STIPEND AND HOUSING WILL NOT BE AFFECTED DURING ANY PERIOD OF SUSPENSION

Unless revoked the suspension will continue until the expiry of the period of three months following the date of service of this notice, save that:

- (i) if the application for permission is meanwhile determined and refused, the suspension will end with the refusal, or
(ii) if the application for permission is meanwhile granted the suspension will end (a) on the expiry of the period of 14 days beginning with the day on which disciplinary proceedings are instituted, or (b) on the expiry of the period within which permission was given for proceedings to be instituted if the proceedings are not instituted within that period, or (c) upon service of any notice of suspension under section 37(1) of the Clergy Discipline Measure, as the case may be.

If the application for permission is not determined before the end of the expiry of three months following date of service of this notice, further successive notices of suspension, which may be in different terms from any previous notice, may be served on you for similar periods.

The effect of the suspension is that you are forbidden to exercise or perform without my permission any right or duty of or incidental to the office of *bishop or *archbishop *EXCEPT the following rights or duties:

*Delete as appropriate.

Enter here the rights and duties which the suspended person MAY exercise or perform WITHOUT having to seek permission first.

The appellant should contact the Legal Office if the appeal is not determined within 28 days.

'registrar' means the provincial registrar, or in the case of a complaint against an archbishop it means the provincial registrar of the other province.

This notice must be countersigned by the two most senior diocesan bishops of the province of the archbishop giving the notice, to signify their consent.

You may appeal against this suspension to the President of Tribunals. Any appeal must be in writing setting out the grounds of the appeal, and must be received by the President, c/o The Legal Office of the National Institutions of the Church of England, Church House, Great Smith Street, London SW1P 3AZ, within 14 days of receipt by you of this notice. At the same time you must send or deliver a copy of any appeal to me. The President will normally within 28 days after receipt of your written appeal either confirm or revoke the suspension.

If you need further clarification about this notice of suspension you should contact the registrar. You may also wish to contact your own legal advisor.

Signed.....

Archbishop of.....

Dated.....

Countersigned.....

Bishop of.....

Dated.....

Countersigned.....

Bishop of.....

Countersigned.....

EXPLANATORY NOTE

(This note is not part of the Order)

These rules are made under section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 as amended by section 45 of the Clergy Discipline Measure 2003. The rules amend the Clergy Discipline Rules S.I. 2005 No. 2022, as amended by the Clergy Discipline (Amendment) Rules S.I. 2013 No. 1917, which provide a code of procedure for the determination under the Clergy Discipline Measure of formal complaints alleging misconduct against a clerk in Holy Orders other than in relation to matters involving doctrine, ritual or ceremonial, and for the imposition of penalties following certain findings or orders of secular bodies.