

GENERAL SYNOD
CLERGY DISCIPLINE COMMISSION
ANNUAL REPORT FOR 2016

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 thirteenth annual report made by the Commission and covers its work in the year to 31 December 2016.

The House of Bishops received this report in May 2017.

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. There were no changes in the Commission’s membership during the course of 2016. The membership of the Commission is set out as at 31 December 2016 in Appendix 1.

THE WORK OF THE COMMISSION IN 2016

3. The Commission met on three occasions in 2016.
4. At its January meeting the Commission analysed responses it had received to a consultation previously circulated to all diocesan bishops, secretaries, registrars, archdeacons, chairs of diocesan Houses of Clergy, diocesan HR advisors, diocesan communications advisors and the Dean of the Arches and Auditor. The consultation concerned confidentiality and the publication of the outcome of clergy discipline cases. There was a good response to the consultation, and overall the responses received had been supportive of the Commission’s position, as set out in the Code of Practice, including the policy that all penalties imposed ought to be published in the interests of transparency.
5. The Commission nonetheless took the opportunity to review its policies on confidentiality of complaints and the publication of penalties. The Commission reaffirmed its existing position and approved and circulated a guidance note to all diocesan bishops and registrars as a reminder of, and explanation for, the Commission’s policies.

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.”

6. The Commission continued to monitor the progress of the draft Safeguarding and Clergy Discipline Measure, which received the Royal Assent shortly before Easter; and the amended Clergy Discipline Rules, which were made by the Rule Committee in May, and approved by the General Synod in July. The Rules had been amended in line with amendments made to the Measure, in respect of complaints of sexual misconduct against vulnerable adults, suspension, and various other matters. At its April meeting, in the light of these amendments and new provisions, the Commission updated its Code of Practice, with the approval of the Dean of the Arches and Auditor, which was then approved by the Synod in July. The amended Code of Practice came into force on 1 January 2017.
7. The Commission considered whether its guidance on penalties should be revised, in particular with regard to the issue of discrimination. The existing guidance dealt with racist conduct as a serious aggravating feature in any case. The Commission agreed to extend this principle to cover expressly all unfair discrimination, and therefore revised and reissued its guidance to this effect in April 2016.
8. At its October meeting, the Commission heard from the Revd Canon and Worshipful Dr Rupert Bursell QC, who served as a diocesan chancellor and a legally qualified member of the provincial panels established under s.21 of the Measure, from which members are appointed to serve on bishops' disciplinary tribunals. Dr Bursell made some observations on the operation of the Measure and its processes from his perspective, in particular regarding the need for suitable training of those involved, in particular archdeacons, the clarity of the Code of Practice in relation to reaching the threshold for complaints to succeed, and the amount of time tribunal hearings took to be arranged. The Commission were grateful to Dr Bursell for raising these matters, and would consider what further action or guidance would be necessary in the future.
9. The Commission received regular reports at its meetings on the progress of cases that had been referred by bishops to the Designated Officer for formal investigation under the Clergy Discipline Measure.

ANNUAL ANALYSIS OF COMPLAINTS

10. 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 2.
11. In 2016, 90 complaints were made under the Measure against priests or deacons, as against 67 in 2015. The total number of respondents in respect of those cases was 82. This compares with the total number of clergy falling within the provisions of the Measure as at 31 December 2015 of around 20,450 (including approximately 11,300 licensed stipendiary and non-stipendiary clergy, 2,670 chaplains and clergy in other ministries, and an estimated 6,480 active retired clergy and those holding a permission/licence to officiate).² As in previous years, the number of clergy against whom a complaint was made remains very low – some 0.4% of the total number.
12. 26% of dioceses had no complaints at all, compared with 19% in 2015, and 7% had six or more complaints. As in previous years, the majority of complaints (62%) were made by

² The statistics are the most recent available and are taken from *Ministry Statistics 2012 to 2015*, published by the Research and Statistics Department of the Archbishops' Council in June 2016.

complainants other than archdeacons, churchwardens or persons nominated by a PCC, with archdeacons making up a further 33% of complainants, a slight decrease on last year.

13. 30% of complaints were dismissed by the bishop in 2016 (an increase on 2015) and no further action was taken in a further 10%. A penalty by consent was imposed in 17% of the complaints, 3% were conditionally deferred, while 6% of the complaints were referred to the Designated Officer for formal investigation: a decrease on 2015. 34% of the complaints made in 2016 or earlier were in the process of being dealt with by dioceses at the year-end. Following formal investigation, the President or Deputy President of Tribunals decided there was no case to answer in respect of two complaints, four complaints were referred to a bishop's disciplinary tribunal, and three investigations were ongoing at the end of the year. Three complaints were concluded by a bishop's disciplinary tribunal in 2016.
14. There were five cases where a penalty of prohibition or removal from office was imposed under section 30(1)(a) of the Measure following conviction.
15. Six complaints were made against bishops in the course of 2016, and three were dismissed. Four complaints were outstanding at the year-end (compared with two at the end of 2015).
16. No complaints were brought against the Archbishops.
17. During the course of the year, the President and Deputy President of Tribunals considered 32 applications and reviews.

On behalf of the Commission

The Rt Hon. Sir Andrew McFarlane (Chair)
May 2017

APPENDIX 3: MEMBERSHIP OF THE COMMISSION AS AT 31ST DECEMBER 2016

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

Chair (and President of Tribunals)

The Rt Hon Lord Justice McFarlane*

Deputy Chair (and Deputy President of Tribunals)

Sir Mark Hedley*

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

The Rt Revd Nicholas Baines, Bishop of Leeds+^

The Rt Revd Christopher Lowson, Bishop of Lincoln+^

The Revd Canon John Sinclair (Newcastle)+^

The Ven. Jackie Searle, Archdeacon of Gloucester (Gloucester)+^

Canon Carol Wolstenholme (Newcastle)+^

Mr David Mills MBE (Carlisle)+^

Other members appointed under section 3

Mr Martin Follett (Diocesan Registrar of Exeter and Truro)*#

The Revd Canon Jane Sinclair*

The Ven. Moira Astin, Archdeacon of Reigate*

Dr Jamie Harrison (Durham)*^

^ Member of the General Synod.

* Appointed to 31st December 2018.

+ Appointed to 31st December 2020.

Legally qualified other than those appointed under section 3(1)(b).

APPENDIX 2: ANALYSIS OF FORMAL COMPLAINTS MADE UNDER THE MEASURE AND HOW THEY WERE DEALT WITH

Complaints against Priests and Deacons

	2016 (2015)	%
Formal complaints made to bishops (total)	90 (67)	
<i>Dioceses with no complaints made</i>	11 (8)	26 % (19%)
<i>Dioceses with between 1 and 5 complaints made</i>	28 (33)	67% (79%)
<i>Dioceses with 6 or more complaints made</i>	3 (1)	7% (2%)
Of the total, the following numbers of complaints were made by:		
<i>a person nominated by a PCC under s10(1)(a)(i)</i>	4 (4)	4% (6%)
<i>a churchwarden under s10(1)(a)(ii)</i>	0 (1)	0% (1%)
<i>an archdeacon under s10(1)(a)(iii)</i>	30 (27)	33% (40%)
<i>another person under s10(1)(a)(iii)</i>	56 (35)	62% (52%)
Number of complaints delegated under s13 Dioceses, Pastoral and Mission Measure to a suffragan bishop for determination	11 (10)	12% (15%)
Action taken in 2016 in relation to complaints made in 2016 or earlier		
<i>Dismissed by the bishop under s11(3)</i>	31 (21)	30% (26%)
<i>No further action under s12(1)(a) & s13</i>	10 (14)	10% (17%)
<i>Conditional deferment under s12(1)(b) & s14</i>	3 (4)	3% (5%)
<i>Resolved by conciliation under s12(1)(c) & s15</i>	0 (0)	0% (0%)
<i>Penalty by consent under s12(1)(d) & s16</i>	18 (16)	17% (20%)
<i>Formal investigation under s12(1)(e) & s17</i>	6 (8)	6% (10%)
<i>Withdrawn (rule 59(1)(a))</i>	1 (1)	1% (1%)
<i>No decision as at 31st December 2016</i>	35 (17)	34% (21%)

Number of complaints referred unsuccessfully to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	0 (0)
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Penalties by consent imposed under s12(1)(d) & s16	
<i>Prohibition for life (with or without resignation)</i>	1 (2)
<i>Limited prohibition (with or without resignation)</i>	11 (6)
<i>Resignation without prohibition including revocation of licence</i>	0 (0)
<i>Injunction</i>	1 (3)
<i>Rebuke</i>	3 (4)
<i>Injunction and Rebuke</i>	4 (1)
Cases referred for formal investigation under s12(1)(e) & s17	
<i>President of Tribunals decided 'No case to answer'</i>	2(2)
<i>President referred complaint to bishop's disciplinary tribunal</i>	4 (2)
<i>President not decided as at 31st December 2016</i>	1 (0)
<i>Formal investigation ongoing as at 31st December 2016</i>	3 (4)
<i>No further steps taken under s16(3A) (penalty by consent)</i>	0 (0)
Number of cases determined by a tribunal	3 (1)
Complaints withdrawn from a tribunal or otherwise terminated	1(0)
Number of suspensions imposed (total)	24 (16)
<i>Suspensions under s36(1)(a) in course of complaint proceedings</i>	10 (2)
<i>Suspensions under s36(1)(b) following arrest</i>	13 (11)
<i>Suspensions under s36(1)(c) following conviction</i>	1 (3)
<i>Suspensions under s36(1)(d) following inclusion in a barred list</i>	0 (0)
Cases where a penalty of prohibition or removal from office was imposed under s30(1)(a) following conviction and sentence of imprisonment	5 (8)
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	0 (0)
Cases where a penalty of removal from office or prohibition was imposed under s30(1)(c) following inclusion in a barred list	0 (0)

Complaints against Bishops and Archbishops

Formal complaints made to archbishops	2016 (2015)
<i>in respect of a bishop</i>	6 (6)
<i>in respect of the other archbishop</i>	0 (0)
Action taken in 2016 in relation to complaints made in 2016 or earlier	
<i>Dismissed under s11(3)</i>	3 (6)
<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 (1)
<i>Formal investigation under s12(1)(e) & s17</i>	0 (0)
<i>Withdrawn (rule 59(1)(a))</i>	0 (0)
<i>No decision as at 31st December 2016</i>	4 (2)
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 (1)
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)
Cases where a penalty of removal from office or prohibition was imposed under s31(1)(c) following inclusion in a barred list	0 (0)

<i>Applications and reviews before the President/Deputy President of Tribunals</i>	
<i>Application to bring a complaint out of time (s9)</i>	24 (14 granted)
<i>Review of a dismissal (s11(4))</i>	5 (0 reversed)
<i>Referral of a decision of no further action (s13(3))</i>	3 (0 overturned)
<i>Consulted by bishop re penalty in case of divorce/conviction (s30(2))</i>	7
<i>Appeal against notice of suspension (s36(6))</i>	0
<i>Review of inclusion of name in list under s38(1)(a) to (d) (s38(2))</i>	0