

GENERAL SYNOD

GUIDELINES FOR THE PROFESSIONAL CONDUCT OF THE CLERGY THE MINISTRY OF ABSOLUTION

1. At its meeting on 30th September the Archbishops' Council considered what advice to offer to the Convocations on its treatment, in the proposed revision of the *Guidelines for the Professional Conduct of the Clergy*, of the ministry of absolution for which provision is made in Canon B 29. The Annex to this paper sets out the background to the revision process.
2. The Working Party preparing the revised draft of the revised *Guidelines* on behalf of the Convocations proposed that the section dealing with 'Reconciliation' should, amongst other matters, describe the current legal position in relation to the formal ministry of absolution.
3. The legal position in that respect is governed by the unrepealed proviso to Canon 113 of the Code of 1603, which reads as follows:

“Provided always, that if any man confess his secret and hidden sins to the minister, for the unburdening of his conscience, and to receive spiritual consolation and ease of mind from him; we do not in any way bind the said minister by this our Constitution, but do straitly charge and admonish him, that he do not at any time reveal and make known to any person whatsoever any crime or offence so committed to his trust and secrecy (except they be such crimes as by the laws of this realm his own life may be called into question for concealing the same), under pain of irregularity.”

4. This is the one provision of the 1603 Code which was not repealed as part of the complete overhaul of the Canons of the Church of England in the 1950s, which led to the present Code being enacted by the Convocations in 1964 and 1969.
5. The effect of the proviso is that, where the formal ministry of absolution as described in Canon B 29 is sought, if the penitent makes a confession with the intention of receiving absolution, the priest is forbidden to reveal or make known to any person what has been confessed. That requirement of absolute confidentiality applies even after the death of the penitent.¹
6. The Archbishops' Council recognised that the practice of the ministry of absolution has a well established place in the life of the Church of England, playing an important part in the spiritual life of some of its members and representing a significant aspect of the ministry of some of its clergy.

¹ As is apparent from the text, the Canon allowed for an exception to the duty of confidentiality where non-disclosure could have rendered the priest himself vulnerable to prosecution for a capital offence. This provision was, however, never operative since by 1603 Parliament had already legislated to abolish the common law capital offence for a person who had knowledge of a treasonous plot not to reveal the plot to the Crown. Instead, it had created a statutory offence of misprision of treason, with a maximum sentence of life imprisonment.

7. However, the Council also recognised the responsibility of the Church to protect children and vulnerable adults from harm, and the force of the argument that the legal framework of the Church should accordingly, in all respects, be such as to enable those who present a risk to children and vulnerable adults to be identified - both so that they can be held to account for past wrongs and be prevented from doing further harm. The Council is also aware that there has been some wider debate as to whether Parliament should legislate to make it an offence not to report evidence of child abuse to the statutory agencies.
8. The Council therefore decided to commission further theological and legal work to enable it to review, in consultation with the House of Bishops, the purpose and effect of the unrepealed proviso to the Canon of 1603, with a view to enabling the Synod to decide whether it wished to legislate to amend it. At their November meeting the Council will consider the terms of that review and who should conduct it, with a view to putting their proposals in those respects to the House of Bishops when it meets in December.
9. In the light of its decision, the Council invited the Working Party undertaking the revision of the *Guidelines* to consider further the section on 'Reconciliation'. It has now been amended to make clear that the present law, which is explained there, is now to be the subject of a review.

William Fittall

SECRETARY GENERAL

22 October 2014

Background to the Revised *Guidelines*

1. There is already a version of the *Guidelines for the Professional Conduct of the Clergy* that has been in existence since 2003 and is currently on the Church of England website². The *Guidelines* are grounded in the Ordinal and were drafted by clergy for clergy, to promote best practice in the conduct of ministry. Although drafted with legal advice, they are guidelines, not a legal code. It was realised eleven years ago that they would ‘...*need to respond to change while holding fast to the basic principles which underlie them.*’³ A Joint Convocations Working Party was been charged with revising and updating them.
2. The text has been extensively revised in liaison with the Legal Office and other interested parties to take account of significant changes since 2003, namely
 - the new Ordinal published in 2007;
 - the Terms of Service legislation;
 - the Clergy Discipline legislation;
 - the introduction of more robust procedures in respect of the safeguarding of children and vulnerable adults;
 - revised procedures with respect to the ministry of exorcism and deliverance; and
 - the increased usage of electronic and social media.
3. The 2003 text included a theological reflection by Dr Francis Bridger. Dr Bridger has refreshed his earlier piece to go with the revised guidelines and this is included as an Appendix to the *Guidelines*.
4. Given episcopal interest in the guidelines an earlier draft was shared with the College of Bishops (comprising all diocesans and suffragans) at its meeting in September 2013, and comments from its discussion have been reflected in the current version. An earlier version of the draft was also considered at meetings of both Convocations in York on 11 July 2014, at which they passed resolutions which:
 - (a) expressed their gratitude to the Joint Working Party for its work in producing a revision of the *Guidelines*;
 - (b) commended the revised *Guidelines* to the General Synod for its consideration; and
 - (c) requested the Working Party to prepare a final version of the revised *Guidelines* for approval by the Convocations following their consideration by the General Synod, taking account of comments made in the course of their consideration by the Convocations and the General Synod.

²See

<http://www.churchofengland.org/media/1168846/guidelines%20for%20the%20professional%20conduct%20of%20the%20clergy.pdf>

³ Foreword to the 2003 version by the Chair of the Working Party, paragraph 5.

5. The draft currently circulated to General Synod takes account of points raised in the Convocation debates in July; and the concerns raised by the Archbishops' Council at its meeting on 30 September. Responsibility for approving any final version would rest with the Convocations following the 'take note' Synod debate.

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