

GENERAL SYNOD
DRAFT SAFEGUARDING AND CLERGY DISCIPLINE MEASURE
AND
DRAFT AMENDING CANON NO. 34
REPORT OF THE REVISION COMMITTEE

Chair: Mr Geoffrey Tattersall QC (Manchester)

Ex officio members
(Steering Committee): The Rt Revd Paul Butler, Bishop of Durham (Chair)
The Revd Paul Cartwright (Leeds)
The Ven. Annette Cooper (Chelmsford)
Dr Rachel Jepson (Birmingham)
Dr Anna Thomas-Betts (Oxford)

Appointed members: Mr John Freeman (Chester)
Dr Jamie Harrison (Durham)
The Revd Canon Sharon Jones (Manchester)
The Revd Mark Steadman (Southwark)
The Revd Dr Rowan Williams (York)

Consultants: Ms Jill Sandham (Safeguarding Advisor)
Ms Caroline Mockford (York Diocesan Registrar)

Staff: Mr Stephen Slack (Chief Legal Advisor)
Mr Adrian Iles (Designated Officer)
Mr Christopher Packer (Legislative Counsel)
Mr Stephen York (Solicitor, Legal Office)
Dr Jacqui Philips (Clerk to the Synod)
Mr Sion Hughes Carew (Secretary)

1. The draft Safeguarding and Clergy Discipline Measure ('the draft Measure') and the draft Amending Canon no. 34 ('the draft Amending Canon') both received first consideration at the July 2014 group of sessions of the General Synod. The period for submission of proposals for amendment under Standing Order 53(a) expired on Friday 15 August 2014. The Revision Committee met on three occasions, on the 5 and 19 November, and 22 December 2014.
2. Submissions were received from eleven members of the General Synod, namely the Reverend Paul Benfield (Blackburn), Mr Justin Brett (Chichester), the Reverend Simon Cawdell (Hereford), the Reverend Prebendary Douglas Dettmer (Exeter), Mr Nicholas Harding (Southwell & Nottingham), the Reverend Hugh Lee (Oxford), Mrs Rosemary Lyon (Blackburn), the Venerable Clive Mansell (Rochester), the Reverend Canon Steven Saxby

(Chelmsford), the Reverend Mark Steadman (Southwark) and Mr Adrian Vincent (Guildford). Three members exercised their right under Standing Order 53(b) to attend the meeting and to speak to their proposals (the Reverend Paul Benfield, the Reverend Hugh Lee and Mr Adrian Vincent). The Reverend Mark Steadman attended and spoke to his submissions as a member of the Committee.

3. Before the Committee started to consider the draft Measure and draft Amending Canon clause by clause together with the written proposals from the members of Synod it welcomed five members of the Minister and Clergy Sexual Abuse Survivors group ('MACSAS') to its first meeting, and invited them to make oral representations to the Committee. After the first meeting, the representatives of MACSAS sent to the Committee written material to consider.
4. A list summarising the written proposals for amendment received from members of Synod, together with the Committee's decision in respect of each, is set out in Appendix I in respect of the draft Measure and in Appendix II in respect of the draft Amending Canon. The amendments which the Committee made to the draft Measure and to the draft Amending Canon are reflected respectively in GS 1952A and GS 1953A, now before Synod, and are highlighted in bold. Unless otherwise stated in this report, all decisions of the Committee were unanimous.
5. Appendix III contains a destination table showing how the provisions in the draft Measure at First Consideration Stage (GS 1952) relate to the draft Measure now before the Synod (GS 1952A). Appendix IV does likewise in respect of the draft Amending Canon (GS 1953 at First Consideration Stage compared with GS 1952A now before the Synod).

REPRESENTATIONS FROM MACSAS

The representations

6. The MACSAS representatives told the Committee that in general they welcomed the general purport of the draft Measure and the Amending Canon. However, they went on to raise a number of concerns, as follows:
 - The Clergy Discipline Measure ('the CDM'), the draft Measure and the draft Amending Canon all relied too much on discretion exercised by a diocesan bishop. The MACSAS representatives argued that disciplinary legislation should prescribe what should happen in relation to child abuse, because in such cases there should be no discretionary element unless the circumstances were exceptional or the complaint was made maliciously. It was imperative that there should be a consistent approach across all dioceses to complaints of abuse.
 - The standard of proof in CDM proceedings should be the balance of probabilities, otherwise a complaint could never succeed following an acquittal in the Crown Court or a decision by the Crown Prosecution Service not to prosecute.
 - The meaning of 'proper interest' in section 10(1)(a)(iii) of the CDM, which determined the entitlement of a person to make a complaint, was too narrow – the MACSAS representatives contended that in practice it meant that only a person who experienced or witnessed misconduct was entitled to make a complaint.

- As regards the provisions in **paragraph 4** of the draft Amending Canon relating to risk assessments, MACSAS believed that if a risk assessment looked at whether there was a significant risk that the cleric *will* harm a child or vulnerable adult it would be too limited – the assessment should be as to whether there was a significant risk the cleric *may* cause harm. Furthermore, paragraph 4 should specify certain criteria which the bishop would have to consider when deciding whether to direct a cleric to undergo a risk assessment. Finally, the MACSAS representatives questioned the proposed right for a cleric to seek a review by the President of Tribunals of the bishop’s direction that there be a risk assessment. They were concerned that the review process would be abused, with a view to slowing down the process, and that a review was likely to be requested only by those who presented the most serious safeguarding risk and who therefore ought to undergo an assessment.
- The draft Measure should insert into the CDM a provision equivalent to section 27 of the Equality Act 2010 (which provides a remedy against ‘victimisation’). This would ensure that complaints of abuse were taken seriously by the Church. A submission was also made to the effect that complaints alleging cover ups of abuse within the Church should be taken seriously.
- The definition of ‘vulnerable adult’ should take into account relationships where there was a power imbalance, with one person being under the influence of another (for example, where there was a spiritual or pastoral relationship).
- Concern was expressed that a bishop would have power to waive disqualifications for churchwardens, PCC members, licensed readers and licensed lay workers who had been convicted of an offence listed in Schedule 1 to the Children and Young Persons Act 1933 (‘the 1933 Act’).

The Committee’s reflections on the representations from MACSAS

7. The Committee understood MACSAS’s desire to achieve consistency in the way complaints of abuse were handled. However, the Committee believed that removing all discretion from a bishop when dealing with a complaint of abuse was neither possible nor just. Even prescribing what action a bishop should take save in exceptional circumstances necessarily introduced an element of judgment for the bishop and, consequently, the exercise of a discretion. Furthermore, prescribing what would happen in all complaints of abuse would contravene the basic premise that justice should always consider the individual circumstances of a case. The Committee agreed that the most appropriate way to achieve consistency in the exercise of discretionary powers was for detailed guidance to be provided by the House of Bishops, and under **clause 3** of the draft Measure, bishops would be required to have due regard to such guidance. The Committee noted that a duty to have due regard to guidance required the person concerned to (i) be aware of the guidance, (ii) take it into account when making a decision to which the guidance was relevant, and (iii) depart from it only if there were some cogent reason(s) for doing so – a condition that was not easily satisfied.¹ The Committee also noted that the new draft ‘Guidelines for the Professional Conduct of the Clergy’ offers guidance on the issue of power and authority in pastoral relationships.
8. In respect of MACSAS’s submission on the standard of proof, the Committee noted that under section 18(3)(a) of the CDM the standard of proof applied to complaints was the

¹ See the judicial decision of the House of Lords in *R v Mersey Care NHS Trust, ex parte Munjaz* [2005] UKHL 58.

same as in courts exercising civil jurisdiction, in other words the balance of probabilities. Furthermore, the Code of Practice issued by the Clergy Discipline Commission had been recently modified (with effect from 1 February 2014) to clarify that, notwithstanding an acquittal, complaints could be proceeded with which alleged exactly the same matters as criminal charges – provided that a review of all the evidence in support of the complaint indicated there were, notwithstanding an acquittal, good prospects of successfully proving the alleged misconduct on the balance of probabilities. Consequently, the concerns of MACSAS on this issue had already been met.

9. The Committee noted that when the CDM was first introduced a policy decision was taken not to define the meaning of '*any ... person who has a proper interest in making the complaint*'. This was because any definition could unwittingly exclude potential complainants who ought to be able to present complaints (something which MACSAS would presumably wish to avoid). This approach had been followed in the Code of Practice, which gave guidance in similarly general terms on the meaning of 'proper interest'. Nonetheless, the Committee resolved that the Legal Office should ask the Clergy Discipline Commission to look at that general guidance specifically from the point of view of complaints of abuse, and in particular to consider amending the Code of Practice to make it explicit that a friend or relative could, on behalf of a survivor, make a complaint about sexual abuse.
10. In relation to risk assessments the Committee agreed that an amendment should be made to **paragraph 4** of the draft Amending Canon to clarify that an assessment made under that paragraph would be in respect of whether a cleric *may*, rather than *will*, be a significant risk.
11. The Committee did not, however, agree that paragraph 4 should prescribe the criteria that a bishop must consider when considering whether to direct that there be a risk assessment. As drafted, the paragraph merely required the bishop to be satisfied that a risk assessment would be justified in all the circumstances – which gave the bishop wide powers to make a direction. If the bishop's decision had to be made by reference (only) to certain specified criteria, in the way MACSAS proposed, the result could in practice be to restrict a bishop's ability to direct that a risk assessment take place – which the Committee did not regard as desirable and which seemed likely to frustrate what MACSAS intended. Consistency across dioceses would, however, be achieved through appropriate guidance from the House of Bishops.
12. With regard to the right to seek a review from the President of the bishop's decision that a cleric must undergo a risk assessment, the Committee took note of advice from the Legal Office that Article 8 of the European Convention on Human Rights was engaged. Under Article 8, which had been incorporated into English law by the Human Rights Act 1998, everyone had the right to respect for private and family life, and interference with private and family life was permissible only if necessary. Such interference would be necessary only if it were proportionate to the legitimate aim pursued, and if there was a fair balance between the interests of the wider community and the requirements of an individual's fundamental rights, in the light of the case as a whole.
13. Providing a process whereby an independent judge (the President of Tribunals) could review the bishop's reasons for directing a risk assessment would help to hold the balance between the interests of children and vulnerable adults, the diocese and the wider Church,

and the cleric's right to privacy. Furthermore, without a right to seek a review, there would be a risk of challenge by way of judicial review in the High Court of the bishop's exercise of the statutory power when directing a risk assessment. The Committee wished to minimise that risk, and therefore believed that the proposed right to a review in paragraph 4 should be preserved.

14. The Committee considered the submission in relation to section 27 of the Equality Act 2010. It noted that the Equality Act was intended to ensure that certain persons were not discriminated against because of protected characteristics (e.g. age, disability, sex, race, religion, sexual orientation). Section 27 gave a right to claim compensation to certain persons who had been 'victims' within the meaning of that Act. The Committee did not support the apparent proposal by MACSAS that the Church of England should, similarly, legislate to allow someone who considered that they had been prejudiced as a result of their making an allegation of sexual abuse to bring a claim for damages.
15. Nonetheless, the Committee recognised that it was imperative that complaints of abuse should be taken seriously and duly considered in accordance with the proper procedures, as should complaints alleging a 'cover up' or other failings in the handling of allegations of abuse. The importance of this was a matter which could and should be addressed in the guidance from the House of Bishops. Indeed, under **clause 3** of the draft Measure certain relevant persons would be under a duty to have due regard to that guidance. Clergy who failed to do so would render themselves liable to disciplinary proceedings in consequence.
16. In respect of the definition of 'vulnerable adult' the Committee recognised that where there was a 'power imbalance', a person could be vulnerable to abuse, and vulnerability could be temporary. Careful consideration had already been given as to how 'vulnerable adult' should be defined to cover those within pastoral or spiritual relationships, but there were difficulties in attempting to define pastoral or spiritual relationships, or power imbalances. The Committee was nonetheless satisfied that the definition of 'vulnerable adult' in **clause 4** of the draft Measure would cover complainants who had had a pastoral relationship with the respondent and who had been taken advantage of by reason of their condition at that time.
17. The Committee recognised that the power for a bishop to waive a disqualification following conviction of an offence listed in Schedule 1 to the 1933 Act could at first glance appear to be inappropriate. However, it noted that Schedule 1 contained a wide range of offences. An assault committed in the course of a playground fight between two schoolboys, both aged under 18, would be a Schedule 1 offence, but that did not mean that the assailant would always be a risk to children. The Committee therefore resolved to keep the power of waiver but agreed that it should not be exercised without professional advice having first been obtained (see paragraph 23 below).

CONSIDERATION OF THE DRAFT MEASURE CLAUSE BY CLAUSE

Clause 1: Churchwardens: disqualification or suspension

Clause 1(1) – disqualification as churchwarden

18. The Reverend Paul Benfield spoke to his submission on **clause 1(1)** and also spoke on behalf of Mrs Rosemary Lyon who had made a similar written submission. Mr Benfield submitted that **clause 1(1)** should be removed. It would rely on self-disclosure by those who were disqualified, and would therefore be likely to be ineffective because those concerned were unlikely to declare they had been barred from working with children and/or vulnerable adults under the Safeguarding and Vulnerable Groups Act 2006 ('the SVGA'). Consequently, **clause 1(1)** would not have the desired outcome of excluding unsuitable candidates from holding office. The Committee also considered the written submission of Mr Nicholas Harding, which put forward a similar argument.
19. The Steering Committee resisted the proposed removal of **clause 1(1)**. It recognised that self-disclosure was not fail-safe, but considered that it would be an improvement on the existing position – under which it was lawful for persons to serve as churchwardens despite being included in a barred list under the SVGA.
20. The Committee agreed with the Steering Committee. It was important to keep **clause 1(1)** even if it relied on self-disclosure.

Clause 1(2) – waiver of disqualification as churchwarden

21. The Reverend Mark Steadman proposed that the waiver provisions in **clauses 1(2) and 2(3)** needed to be clarified as to whether a waiver of a disqualification was permanent or time limited, and whether a waiver was to be confined to the diocese in question or binding on all other dioceses across the church. He also submitted that the House of Bishops should issue guidance as to the circumstances in which a waiver should be granted, or alternatively, that a bishop should be required to consult the diocesan safeguarding advisor before granting a waiver. In oral submissions Mr Steadman explained that he was not advocating any particular approach as to whether waivers should be permanent or binding on other dioceses, but merely sought an amendment to clarify the position.
22. The Steering Committee agreed with Mr Steadman that **clauses 1(2) and 2(3)** needed to be clarified. It proposed that a waiver should be permanent, and that it should not be confined to the diocese in question but should bind other dioceses. That was desirable from the point of view of certainty and consistency – it would be undesirable if bishops could override decisions made by their predecessors or by fellow bishops in other dioceses. The Committee agreed with the Steering Committee and resolved to amend **clauses 1(2) and 2(3)** accordingly.
23. The Committee bore in mind in this connection the oral submissions from the MACSAS representatives that too much reliance would be placed on an individual bishop's discretion in the exercise of the power to grant a waiver, and that disqualification should not be waived except in exceptional circumstances. Having considered all the submissions carefully the Committee agreed that both **clauses 1(2) and 2(3)** should be amended to

require a bishop to consult the diocesan safeguarding advisor and such other persons as the bishop considered appropriate before waiving a disqualification in respect of churchwardens and PCC members, and furthermore that the bishop should state in writing the reasons for granting a waiver.

24. The Committee agreed not to impose a duty on the House of Bishops to issue guidance as to the circumstances in which disqualification can be waived. It felt that imposing this specific duty would be unnecessary regulation, because the House had already taken the lead on safeguarding issues, and could be expected to issue all such guidance as was desirable or necessary. The Committee took note that the House was introducing new arrangements so that it could deal even more effectively with safeguarding issues – this included appointing a special sub-committee to look at safeguarding matters and make appropriate recommendations to the House.
25. The Reverend Mark Steadman and Mr Justin Brett both made submissions arguing that the effect of the waiver provisions in **clauses 1(2) and 2(3)** was unclear where a convicted person appeared on a barred list under the SVGA. They contended that if a disqualification could be waived following a conviction, the draft Measure was unclear as to whether the waiver could operate if the person concerned appeared on a barred list.
26. The Legal Office advised the Committee that the effect of the draft Measure was clear. **Clause 1(2)** provided that a person’s disqualification under section 2(2)(a) of the Churchwardens’ Measure may be waived. Section 2(2)(a) related solely to disqualification following conviction of an offence listed in Schedule 1 to the 1933 Act. **Clause 1(2)** did not therefore enable the bishop to waive disqualification on any other ground, including inclusion in a barred list. **Clause 2(3)** in respect of waiver of disqualification for PCC members was similar in its effect – the waiver could only operate in respect of disqualification following conviction for a listed offence; disqualification for inclusion in a barred list could not be waived. Consequently, a convicted person whose disqualification was waived would still be barred from serving as churchwarden or on the PCC if included in a barred list.
27. In the light of the legal advice tendered to the Committee, which the Committee accepted, Mr Steadman withdrew his submission.
28. Mr Brett further submitted in respect of both **clauses 1(2) and 2(3)** that there appeared to be an imbalance in that a disqualification could be waived for a person convicted of an offence listed in Schedule 1 to the 1933 Act, but there was to be no waiver provision for a person on a barred list who had no criminal record. The Committee rejected Mr Brett’s submission. It noted that a person could not be included on a barred list unless the appropriate secular statutory procedures had been followed and the Disclosure and Barring Service had concluded that the person concerned posed a risk and was therefore unsuitable to work with children or vulnerable adults. The Committee considered that if a person were included on a barred list it was inconceivable that a bishop would wish to waive the consequential disqualification, and highly undesirable if the bishop actually chose to do so.

Clause 1(3) – suspension of churchwardens

29. The Reverend Mark Steadman proposed that the bishop’s power to suspend churchwardens in **clause 1(3)** should be widened so that a bishop could suspend a churchwarden (i) upon arrest for any offence that could lead to disqualification from holding office as a charity trustee, and (ii) when the churchwarden was being investigated by the police or other statutory agency. He made similar submissions in respect of **clause 2(4)** for the suspension of PCC members, and **clause 6** in respect of the suspension of clergy.
30. The Legal Office advised the Committee that, since conviction of any offence involving dishonesty or deception would (under section 178 of the Charities Act 2011) disqualify a person from holding office as a ‘charity trustee’, Mr Steadman’s proposals went beyond what was required from a safeguarding perspective. In relation to **clauses 1(3) and clause 2(4)**, proposal (i) above was therefore out of order because it did not come within the general purport of the draft Measure, which was to make provision about safeguarding children and vulnerable adults and to amend the CDM. In the light of this advice, Mr Steadman withdrew proposal (i) in respect of **clauses 1(3) and 2(4)**.
31. The Legal Office further advised the Committee that proposal (ii) was out of order in respect of **clauses 1(3) and 2(4)** unless the scope was limited to investigations into misconduct committed against children and vulnerable adults. Mr Steadman confirmed to the Committee that his intention was that his proposed power of suspension should be available only in safeguarding cases.
32. The Committee considered that, since PCCs had joint responsibility with the incumbent or priest in charge for implementing the House of Bishops’ safeguarding policy at parish level, it would be undesirable if a bishop were unable to suspend a churchwarden or a PCC member on receiving information from the police or a local authority that led the bishop to be satisfied that the person concerned presented a significant risk of harm to children or vulnerable adults. The Committee therefore agreed to amend **clauses 1(3) and clause 2(4)** to give the bishop power to suspend in such circumstances, even where there had so far been no arrest or charge, provided the bishop consulted the diocesan safeguarding advisor and such other person(s) as the bishop considered appropriate. The Committee agreed the suspension would be for a period of 3 months but with a right of appeal against suspension to the President of Tribunals. A suspension would be revocable and renewable, subject on each renewal to a fresh right to appeal to the President of Tribunals.
33. To give the bishop flexibility as to what information should be disclosed to those who were notified of the suspension, the Committee agreed that the bishop should merely give them written notice that a suspension had been imposed, instead of giving them a *copy* of the notice of suspension that was served on the churchwarden or PCC member in question. Furthermore, it resolved that the diocesan safeguarding advisor should be notified of a suspension and the bishop should also notify such other persons as the bishop considered appropriate. In the case of suspension of a churchwarden, the Committee agreed a requirement for the suffragan bishops in the diocese to be notified. The Committee agreed to invite the Rule Committee to consider whether rule 63 of the Clergy Discipline Rules 2005 should be revised, to give the bishop similar flexibility as to the information that may be disclosed to others when notified that a cleric has been suspended.

34. In further discussion the Committee considered that **clauses 1(3) and 2(4)** failed to recognise that criminal proceedings could be started without a defendant first having been arrested. Accordingly, it agreed to amend those clauses so that a bishop would be able to suspend a churchwarden or PCC member if that person were charged with an offence listed in Schedule 1 to the 1933 Act without being arrested.

Clause 1(4) – consequential amendment to the Churchwardens Measure

35. The Reverend Paul Benfield made a submission arguing that the proposed amendment to section 8 of the Churchwardens Measure 2001 set out in **clause 1(4)** was not the only consequential amendment that needed to be made to that Measure. He identified section 4(3) of the Churchwardens Measure as requiring a similar amendment so that it referred to the proposed new section 2(1A) which was to be inserted by **clause 1(1)**. The consequence of that amendment was that a candidate for election as churchwarden would have to declare in writing that (s)he was not disqualified by reason of being on a barred list under the SVGA. The Committee agreed to make the amendment, and also resolved that section 6(1) of the Churchwardens Measure needed a similar consequential amendment so that a declaration was likewise made before being admitted to office by the bishop.

Clauses 1(5) and 1(6)

36. No submissions were received in respect of **clauses 1(5) and 1(6)** and the Committee made no amendments.

Clause 2: Parochial Church Council members etc: disqualification or suspension

Clause 2(1) – disqualification from the PCC etc

37. The Reverend Paul Benfield proposed that **clause 2(1)** should be removed. His submission, which was also made on behalf of Mrs Rosemary Lyon, was similar to his submission made in relation to **clause 1(1)**, namely that this provision would be ineffective in attempting to prevent SVGA barred persons from serving on a PCC because it would rely on self-disclosure. He added that this was particularly the case with the election of PCC members because, unlike churchwardens, they were not required to declare that they were not disqualified, and many candidates for election to the PCC would not even know if they were disqualified.
38. The Committee declined to remove **clause 2(1)** on the ground that, as in the case of **clause 1(1)**, if it were removed it would continue to be lawful for barred persons to be eligible to serve on PCCs, which was most undesirable given the role of PCCs at local level in implementing the House of Bishops' safeguarding policies.
39. The Committee acknowledged that further consideration should be given as to whether PCC members should be required to make declarations about their eligibility for office. For the present, however, the Committee considered that it would be better to wait and see whether the draft Protection of Charities Bill (which had recently been published by the Cabinet Office and contained new provisions for the disqualification of charity trustees generally) became law.

Clause 2(2)

40. No submissions were received in respect of **clause 2(2)**, and the Committee made no amendments

Clause 2(3) – waiver of disqualification from the PCC etc

41. Submissions made in respect of **clause 2(3)** and the Committee’s amendments are set out above in paragraphs 21 to 28.

Clause 2(4) – suspension of membership of the PCC etc

42. As reported above in paragraphs 32 to 34 the Committee agreed to amend **clause 2(4)** in a similar manner to the way it had agreed to amend **clause 1(3)**.
43. The Committee also considered a proposal from the Reverend Paul Benfield that **clause 2(4)** be widened in scope so that officers of the PCC could be suspended by the bishop. Mr Benfield argued that unless the proposed amendment was made, it would be possible for a person to be suspended from the PCC following arrest on suspicion of committing an offence listed in Schedule 1 to the 1933 Act but to be able to continue to act as secretary or treasurer – which would be anomalous and undesirable.
44. The Steering Committee had initially resisted the amendment on the ground that incumbents and PCCs had their own safeguarding responsibilities, and could be expected to remove their own officers when the need arose. The Steering Committee had noted that, even if they were not removed by the PCC, the work of a secretary or treasurer would not normally bring them into contact with children and vulnerable adults so there would not be any immediate safeguarding risk.
45. The Steering Committee after further discussion was content that the amendment be made, on the ground that otherwise there was no guarantee that a PCC would remove a treasurer or secretary who was arrested or charged with a relevant offence. The Committee agreed with the Steering Committee and agreed to make the amendment.

Clauses 2(5), 2(6) and 2(7)

46. No submissions were received in respect of **clauses 2(5), 2(6) and 2(7)**, and the Committee made no amendments.

Clause 3 – House of Bishops’ Guidance

Clause 3(1) – duty to have due regard

47. The Reverend Mark Steadman proposed that **clause 3(1)** should set out in general terms the content of any safeguarding advice to be issued by the House of Bishops, and that those terms should include reference to the welfare of children and vulnerable adults as well as a duty to ensure that victims were placed at the centre of responses to allegations. He submitted that in policy terms this would set a clear agenda and would commit the Church

to formulate and implement safeguarding guidance. He pointed to the Children Act 1989² as an example that could be followed.

48. The Committee was advised that the House of Bishops already set out in paragraphs 2.1 to 2.3 of *Protecting All God's Children* the general principles that it followed. That guidance made it clear that the Church of England fully accepted, endorsed and already implemented the principle enshrined in section 1 of the Children Act 1989 that the welfare of the child should be paramount. Accordingly, setting out general safeguarding principles in legislation would achieve very little because the House had already set out the general principles to which it adhered. There was, in any event, a danger in enshrining general principles in legislation. As the Church's understanding and experience of safeguarding continued to deepen and develop, any general principles might need to be revised or augmented, and this would be more difficult to achieve if it had to be done by amending legislation. In the light of this advice, and following discussion by the Committee Mr Steadman withdrew his proposed amendment.
49. Mr Steadman further proposed that **clause 3(1)** should impose a duty on the relevant persons mentioned in **clause 3(2)** to have due regard to practice guidance issued by the Church's national safeguarding team.
50. The Committee was advised by the Safeguarding Advisor that in future the House of Bishops intended to include in its own guidance matters previously included in practice guidance prepared by the national safeguarding team, and consequently the proposed amendment was unnecessary. In the light of that advice, Mr Steadman withdrew his proposed amendment.
51. The Reverend Paul Benfield and Mrs Rosemary Lyon had both questioned the enforcement of the proposed duty upon churchwardens and PCCs to have due regard to the House of Bishops' guidance. Mrs Lyon queried how compliance with the new duty could be monitored. Mr Benfield doubted whether sanctions could be imposed by a bishop or archdeacon for a breach of the duty, and he was therefore uneasy about enacting an obligation that had no obvious means of enforcement.
52. The Legal Office advised the Committee that, although the draft Measure did not provide for the imposition of sanctions on a churchwarden or PCC, that did not mean that the duty imposed upon them would be disregarded or that the provision itself would be ineffective. The Committee was advised that there were a number of examples in various Measures where a duty 'to have due regard' was imposed on certain officers or bodies without any accompanying power to impose sanctions on them in the event of default, without rendering those provisions ineffective. In any event, PCCs were charities, and were subject to investigation and regulation by the Charity Commission (including being subject to the exercise of protective and remedial powers) if they culpably failed to safeguard children and vulnerable adults within the Church locally. Finally, imposing a specific statutory duty on wardens and PCCs to have due regard to guidance from the House of Bishops sent out a strong message that the Church took safeguarding issues seriously.

² Section 1 of the Children Act 1989 provides that when a court determines any question in respect of the upbringing of a child or the administration of a child's property the child's welfare shall be the paramount consideration.

53. In light of the advice given to the Committee the Reverend Paul Benfield withdrew his submissions, and the Committee rejected the submission of Mrs Lyon.
54. The Committee noted that registered charities were required by Regulations to declare whether they had complied with their duty under the Charities Act 2011 to have due regard to the Charity Commission's guidance on public benefit. Building upon that principle the Committee agreed to amend Part 2 of the Church Representation Rules to provide that a PCC must include a statement in its annual report as to whether the council had complied with the duty under **clause 3** to have due regard to the House of Bishops' safeguarding guidance.
55. The Reverend Paul Benfield and Mrs Lyon both raised the question whether a PCC or churchwarden could be legally liable to a victim of abuse if that abuse had been facilitated by some breach on their part of the duty to have due regard to the House's guidance. The Committee was advised by the Legal Office that breaches of statutory duty did not normally give rise to a private law cause of action. Such a cause of action could arise only if it could be shown as a matter of construction of the statute concerned that the statutory duty was imposed for the protection of a limited class of the public and the legislature intended to confer on members of that class a private right of action for breach of that duty. As a matter of statutory construction, it was highly unlikely that a general duty to 'have due regard to' guidance could give rise to a private cause of action for damages in the event of breach. A common law action based on negligence would have more prospects of success if it could be shown that there was a duty of care owed to a victim by the relevant body or person, and that the victim suffered harm as a result of a negligent breach of that duty. However, establishing a specific duty of care would often be problematic; and in any event if there were potential liability, it would already exist at common law regardless of **clause 3** of the draft Measure.
56. In the light of that advice Mr Benfield withdrew his submission and the Committee resolved to make no amendment in response to Mrs Lyon's submission.

Clause 3(2) – relevant persons

57. The Reverend Hugh Lee proposed that the list in **clause 3(2)** of the persons who would be subject to the new duty to have due regard to the House of Bishops' guidance should be extended to cover everybody in the Church – including bishops, priests, deacons, readers, licensed lay ministers, youth workers, Sunday school teachers, organists, choir leaders, churchwardens, PCC members, and all worshippers. In oral submissions he argued that a church should be a safe place to go to, and that was why everyone in church should be subject to the duty to have due regard to the guidance. He was concerned at the possibility of reputational damage to the Church if it were perceived to be failing to take safeguarding matters sufficiently seriously.
58. The Steering Committee opposed the amendment. Whilst agreeing that the responsibility for ensuring a safe Church rested on the whole Church, it believed the proposal was unworkable because it would require everyone, including a worshipper visiting a church for the first time, to have due regard to the guidance issued by the House. The House's guidance was not aimed, and should not be aimed, at members of the Church generally, let alone those who might from time to time attend its services or other events it organised, but

at those who held relevant positions. The Committee agreed with the Steering Committee and rejected the proposed amendment.

59. In discussion the possibility was raised as to whether the amendment proposed by Mr Lee could be restricted so that the duty applied to all individuals who held a relevant position in a church or were volunteer workers. This too was rejected. The House of Bishops' guidance was concerned with giving practical direction to those who were responsible for implementing safeguarding policies, which at local level was the incumbent and the PCC acting jointly; if employees or volunteers did not comply with appropriate safeguarding procedures it was for the incumbent and the PCC to enforce compliance, and if necessary to remove them from their positions.
60. The Reverend Mark Steadman proposed that the list of relevant persons in **clause 3(2)** should be expanded to include employees of the National Church Institutions ('the NCIs'), Diocesan Boards of Finance and all diocesan employees. The Committee noted that the House of Bishops' guidance was not aimed at employees of the NCIs or dioceses, and that most employees in the course of their work would have no dealings with safeguarding matters. Following discussion, Mr Steadman withdrew his proposed amendment.

Clause 4 – meaning of 'child' and 'vulnerable adult'

Clause 4(1)

61. No submissions were received in respect of **clause 4(1)**, and the Committee made no amendments.

Clause 4(2) – meaning of vulnerable adult

62. The Reverend Paul Benfield made a submission pointing out that the definition of 'vulnerable adult' in **clause 4(2)** was different from the definition used in *Promoting a Safe Church* (the House of Bishops policy for safeguarding adults),³ and arguing that it could be confusing to have two different definitions. In the alternative he submitted that although the definition in **clause 4(2)** appeared to cover cases of *temporary* vulnerability, it would be prudent to define vulnerability so that it expressly included *temporary* vulnerability as well as *permanent* vulnerability.
63. The Steering Committee advised the Committee that it was content for the definition in the draft Measure to be different from that used in *Promoting a Safe Church*. The former definition was intended to be wider in scope than the latter, and was more specific as to the type of harm that could render someone vulnerable. Violence, abuse, neglect and exploitation were all expressly covered in the definition in the draft Measure, and it also took account of a person's emotional fragility and distress. The Steering Committee hoped that in due course the definition in *Promoting a Safe Church* would be revised so that it matched that in the draft Measure. The Steering Committee did, however, support Mr Benfield's proposal that the definition should expressly take account of *temporary* vulnerability.

³ 'Promoting a Safe Church' defines a vulnerable adult as: "Any adult aged 18 or over who, by reason of mental or other disability, age, illness or other situation is permanently or for the time being unable to take care of him or herself, or to protect him or herself against significant harm or exploitation."

64. The Committee agreed with the Steering Committee and resolved to reject the submission that the definition of vulnerable adult in **clause 4(2)** should be the same as in *Promoting a Safe Church*. In line with the Steering Committee’s recommendation it accepted Mr Benfield’s alternative submission that **clause 4(2)** should be amended to clarify that temporary and permanent vulnerability were both included.
65. The Reverend Mark Steadman proposed that the definition in **clause 4(2)** should be amended in such a way as to recognise that a person may be made vulnerable by his or her *situation* (which is a concept included in the definition in *Promoting a Safe Church*) and that it was important to recognise the power dynamics that could render a person vulnerable.
66. The Legal Office advised the Committee that the particular circumstances of a person’s ‘situation’ were already covered by the definition in **clause 4(2)**. If a significant imbalance of power were present, it would affect the victim’s ability to protect him- or herself from exploitation, and hence would come within the scope of the existing definition in **clause 4(2)**. In the light of that advice, Mr Steadman orally withdrew his submission.

Clauses 4(3) to 4(8)

67. No submissions were received in respect of **clauses 4(3) to 4(8)**, and the Committee made no amendments.

Clause 5 – removal of limitation period in sexual misconduct cases

Clause 5(1)

68. Written submissions were received from the Reverend Paul Benfield, the Reverend Mark Steadman and the Reverend Hugh Lee.
69. The Reverend Paul Benfield made a submission arguing that issues of vulnerability would not be capable of proper determination at the time a complaint was issued because the bishop’s determination about vulnerability would be made without any input from the respondent, and therefore the full facts would not be known to the bishop at that stage. Furthermore, complainants who were vulnerable at the time of the misconduct might not state that they were vulnerable or give reasons to support any claim of vulnerability. Consequently, he proposed that **clause 5(1)** should remove the limitation period for making a complaint in all sexual misconduct complaints, so that the bishop was not required to make a judgment about who was a ‘vulnerable adult’ within the meaning of **clause 4(2)**.
70. The Legal Office advised the Committee that this proposal if accepted would remove the risk of a bishop’s determination on vulnerability being challenged by way of judicial review proceedings in the High Court. However, it would open up historic complaints where there were no safeguarding issues so that a mature woman, or man, who had never been a parishioner or in the pastoral care of a respondent, would be able to bring a complaint about an alleged consensual sexual affair or other sexual misconduct many years after the alleged events – even though the complainant had never been vulnerable and there was no reason why the complaint could not have been brought sooner. In such cases it could be difficult for the respondent to defend a false or exaggerated complaint after the prolonged passage of time.

71. Having considered the advice given to the Committee, in oral submissions Mr Benfield modified his proposals. He withdrew his submission that the limitation period should be removed in *all* sexual misconduct cases. He argued instead that the limitation period should be removed only for sexual misconduct cases against children and vulnerable adults, but with a procedure allowing the respondent to make submissions to the bishop on the issue of vulnerability. The bishop could then make a determination as to whether or not the victim had been vulnerable at the relevant time, with the respondent having a right to seek a review from the President of Tribunals on the ground that the bishop was ‘plainly wrong’ (i.e. the same test as in section 11(4) and section 13(3)). The Legal Office advised that such a procedure would probably shield bishops from the risk of judicial review proceedings in the High Court.
72. The Reverend Mark Steadman proposed that **clause 5(1)** should remove the limitation period for all complaints alleging any kind of abuse (whether sexual, physical, emotional or spiritual abuse) against children and vulnerable adults. He contended that abuse was not limited to sexual misbehaviour alone, but could involve other physical harm, or emotional or spiritual abuse. In oral submissions to the Committee he emphasised that emotional and spiritual abuse could be just as damaging as physical harm.
73. The Reverend Hugh Lee proposed the limitation period should be removed in respect of all complaints alleging any kind of abuse, whether committed against children or adults regardless of vulnerability. In oral submissions to the Committee he agreed with Mr Steadman that the limitation period should be removed for all types of abuse and contended that, whereas sexual abuse could include other types of abuse, abuse was not necessarily sexual. Furthermore, he argued that abuse was abuse whether the person concerned was vulnerable or not. He therefore advocated removing the limitation period for *all* complaints of abuse.
74. The Committee was reminded by the Legal Office of the reason why there was generally a one-year limitation period for complaints to be made under the CDM. The rationale behind limitation periods was that, in general, justice needed to be administered relatively speedily. It was usually regarded as difficult to call a respondent to account after many years of delay. In general, the quality of evidence deteriorated as time went by – memories faded, witnesses might not be traced, and documents could be lost, making it more difficult to achieve a true and just verdict for all concerned.
75. The Steering Committee advised the Committee that survivors of abuse generally regarded sexual abuse as being in a different category from other types of abuse. For that reason the Steering Committee was in favour of removing the limitation period only in cases of sexual misconduct. It took the view that removing the limitation period in the case of all complaints of abuse, even where the victim was not vulnerable at the time, would be unworkable – it would remove the limitation period from a very wide area, thereby enabling many different types of complaint to be brought many years after the events in question.
76. The Committee acknowledged there was good reason generally for the limitation period, but agreed that sexual abuse was different from other forms of abuse. The Committee recognised that in cases of other forms of abuse, such as psychological, emotional or spiritual abuse, there was a risk that the complaints procedure could be misused by complainants many years after the alleged misconduct. The Committee noted, however,

that complaints alleging other forms of abuse could still be made under section 9 of the CDM where there was good reason why the complainant did not institute proceedings earlier. Following the Committee's discussion the Reverend Mark Steadman withdrew his proposed amendment, and the Committee rejected the Reverend Hugh Lee's proposed amendment of **clause 5(1)**.

77. The Committee accepted the Reverend Paul Benfield's modified oral submission that the limitation period should be removed in cases of sexual misconduct towards children and vulnerable adults save that it resolved that the President of Tribunals, rather than the bishop, would decide the issue of vulnerability. Consequently when a bishop received a complaint about sexual misconduct after more than one year had elapsed since the events in question, if issues of vulnerability arose the bishop would be required to submit the complaint to the President, and the respondent would have the opportunity to make representations to the President on the issue of vulnerability. This would ensure consistency across the dioceses.
78. The Committee considered whether there should be a right of appeal against the decision of the President of Tribunals on the issue of vulnerability. It noted that under the CDM there was no appeal mechanism in respect of any decision made by the President. Furthermore, if the President ruled against a complainant on the issue of vulnerability, the complainant would still be able to make a complaint, in accordance with clause 7(1) of the draft Measure, if there was good reason why the complaint had not been brought earlier. The Committee therefore rejected the idea of there being an appeal against the President's determination on vulnerability. The Committee noted that in due course a change in the Clergy Discipline Rules might be required to prescribe a new form on which to make a complaint in a case of alleged vulnerability, and to include in the alternative an application to make a complaint out of time.

Clause 5(2)

79. No submissions were received in respect of **clause 5(2)** and the Committee made no amendments.

Clause 6 – application to make complaint out of time: power to suspend

Clause 6(1) – suspension of priest or deacon

80. The Reverend Mark Steadman made a submission arguing that the bishop's powers of suspension of clergy in **clause 6** and section 36 of the CDM were too limited and should be widened so that a bishop could suspend when a priest or deacon was being investigated by the police or other statutory agency. In oral submissions he confirmed that his proposal was in respect of investigations into criminal offences against children and vulnerable adults. He argued that there were currently cases where bishops had to invite clerics to step back from ministry, because they were powerless to suspend despite having real safeguarding concerns about them – which was unsatisfactory.
81. The Committee agreed there should be a power of suspension if the bishop received information from the police or a local authority that led the bishop to be satisfied that the person concerned presented a significant risk of harm to children or vulnerable adults, but where there had so far been no arrest or charge. The Committee therefore agreed to amend

the draft Measure to give the bishop power under section 36 of the CDM to impose a suspension in these circumstances, provided the bishop had consulted the diocesan safeguarding advisor and such other person(s) as the bishop considered appropriate. The suspension would be for a period of 3 months but with a right of appeal against suspension to the President of Tribunals. A suspension would be revocable and renewable, subject on each renewal to a fresh right to appeal to the President of Tribunals.

82. In discussions the Committee considered that the existing power of suspension under section 36 failed to recognise that criminal proceedings for serious offences could be started without a defendant first having been arrested. Accordingly, the Committee agreed to introduce an amendment so that suspensions could be imposed when a priest or deacon was charged with a criminal offence without being arrested.

Clause 6(2) – suspension of bishop or archbishop

83. The Committee agreed that amendments similar to those described above in respect of section 36 of the CDM should be made to **clause 6(2)** in respect of the suspension of bishops and archbishops under section 37 of the CDM.

Clause 6(3)

84. No submissions were received in respect of **clause 6(2)** and the Committee made no amendments.

Clause 7 – Registrar of tribunals: delegation of functions

85. No submissions were received in respect of **clause 7** and the Committee made no amendments.

Clause 8 – Short title, commencement and extent

86. The Reverend Hugh Lee proposed that the draft Measure and the draft Amending Canon should be amended so that they applied to the Diocese in Europe.
87. The Legal Office advised the Committee that, in accordance with a well-established practice reflecting principles concerning the territorial extent of legislation, both the draft Measure and the draft Amending Canon would apply directly to the provinces of Canterbury and York only. The territory of the Diocese in Europe was outside the provinces of Canterbury and York, so the draft legislation could not apply to it directly.
88. However, under the terms of the diocese's own Constitution it deemed itself to be part of the province of Canterbury and to be subject to the metropolitan jurisdiction of the Archbishop of Canterbury. The constitution of the diocese further provided that, subject to the provisions of the Diocese in Europe Measure 1980 and the diocese's Constitution, and so far as the local law of any state or country permitted, the canons and other ecclesiastical law of the Church of England would, so far as applicable, apply in the diocese with such modifications or exceptions as, on the submission of the diocesan bishop after consultation with the diocesan synod, were deemed appropriate by the Archbishop of Canterbury acting with the concurrence of the vicar general and as specified in an instrument under the hand of the Archbishop.

89. This arrangement for applying Measures and canon law to the Diocese in Europe under its own constitution would apply to both the draft Measure and the draft Amending Canon. The Committee was therefore advised that no amendments should be made to the draft Measure or the draft Amending Canon with respect to the Diocese in Europe. Rather, the draft Measure and draft Amending Canon would be applied to the diocese, with or without modification, under the terms of its own Constitution.
90. The Steering Committee indicated that, in light of the legal advice, it opposed the amendment. The Committee agreed with the Steering Committee and rejected the Reverend Hugh Lee's submission.

Other proposals

Safeguarding training for churchwardens

91. Mr Justin Brett proposed that the draft Measure should include a requirement for compulsory safeguarding training for churchwardens before they took office – contending that they would in consequence be better able to protect vulnerable members of the Church.
92. The Steering Committee opposed the proposed amendment. It believed that it would be impractical to ensure all churchwardens received suitable safeguarding training before taking office.
93. The Committee discussed the issue as to whether it was appropriate for there to be training for churchwardens without making provision for the training of all PCC members, given that the PCC as a corporate body had safeguarding responsibilities. The Committee considered whether all PCC members should be under a duty to undergo safeguarding training, but rejected the idea as being impractical.
94. The Committee agreed there would also be practical problems in trying to implement compulsory safeguarding training for churchwardens. It would be premature for candidates for office to be trained *before* the Annual Meeting of Parishioners in case they were not later elected. If training were to be undertaken *after* election but before admission to office (which under section 6 of the Churchwardens Measure 2001 has to take place by 31st July in each year) then there might well be practical difficulties in arranging appropriate and sufficient training within the available window and in ensuring that all elected wardens were able to attend. It would be unfortunate if any elected wardens were ineligible to be admitted to office because they had not completed their training.
95. The Committee therefore considered whether there should be a specific duty on churchwardens to undergo safeguarding training after they were admitted to office. This was rejected by 6 votes to 2 votes. The majority of the Committee noted that since churchwardens would be under a duty by virtue of **clause 3** to have due regard to the House of Bishops' guidance, there would be an implicit duty on them to acquaint themselves with that guidance, and therefore there was no need to impose on them a separate requirement that they must undergo compulsory safeguarding training.

Legal Aid

96. The Reverend Mark Steadman proposed that the Church of England (Legal Aid) Measure 1994 (the “1994 Measure”) should be amended so that ecclesiastical legal aid would be available to clergy who were undergoing risk assessments or involved in employment disputes, or when proceedings were contemplated against them.
97. The Committee was advised by the Legal Office that the policy for ecclesiastical legal aid under the 1994 Measure was that it was available, subject to means, for proceedings where a member of the clergy could potentially be removed from office. Risk assessments did not come within that category. Risk assessments were used to inform and facilitate further enquiries and investigations and to enable the diocese to manage any ascertainable risk. Consequently, a cleric undergoing a risk assessment was not liable to be removed from office unless a complaint was made under the CDM. If CDM proceedings were brought, then the respondent cleric would, under the existing law, be eligible to apply for ecclesiastical legal aid.
98. The Committee was also advised that the proposal for ecclesiastical legal aid to be made available where proceedings were ‘contemplated’ against a cleric was too uncertain in its effect to be workable. The Legal Aid Commission would have difficulty applying any test of eligibility if the threshold for receiving ecclesiastical legal aid were the ‘contemplation’ of proceedings against the cleric.
99. The Committee agreed to reject Mr Steadman’s proposals, but in discussion considered that a cleric who was placed under suspension may need legal advice about the nature and effect of the suspension, and whether there were grounds to appeal successfully to the President of Tribunals against the suspension. The Committee therefore agreed that a new clause be inserted into the draft Measure to amend the 1994 Measure, so that legal aid could be made available to clergy placed under suspension where the bishop had received information from the police or a local authority and was satisfied there was a significant risk of harm to a child or vulnerable adult.

Positions of trust

100. The Reverend Hugh Lee proposed that, since it was against the law for people in positions of trust (e.g. teachers) to have sexual relations with a person in their care aged 16 or 17, the draft Measure and/or draft Amending Canon should be amended correspondingly to make it a criminal offence for any person in the Church in a position of trust to have sexual relations with a child aged 16 or 17.
101. The Committee was advised by the Legal Office that there was no precedent for Church legislation to amend the criminal law, and Parliament would probably be most reluctant to accede to any attempt by the General Synod to do so.
102. In oral submissions Mr Lee argued that if the Church did not amend the criminal law, it should instead draw Parliament’s attention to the serious lacuna in section 21 of the Sexual Offences Act 2003, because clergy were not included in the list of persons in positions of trust. The Legal Office advised the Committee that such representations on behalf of the Church had already been made.

103. The Steering Committee indicated that it opposed Mr Lee's proposed amendment because it sought to create a criminal offence. The Committee agreed with the Steering Committee and rejected the proposal.

Consenting adults

104. The Reverend Hugh Lee proposed that the concept of 'consenting adults' should not be included in the draft Measure or draft Amending Canon. He argued that since the Church's teaching was that sexual activity should take place only in the context of marriage, it was not appropriate for a cleric to defend his or her sexual advances on the grounds that the other person consented.

105. The Committee noted that, contrary to Mr Lee's submission, the concept of 'consenting adults' did not feature in the draft Measure, the draft Amending Canon or the CDM. If a cleric's conduct was unbecoming within the meaning of section 8(1)(d) of the CDM because it involved engaging in sexual activity outside marriage, it was no defence under the CDM for him or her to argue that the other party was a consenting adult.

106. The Steering Committee opposed the amendment, considering it to be misconceived. The Committee agreed and rejected the proposed amendment.

Abuse committed in another country

107. The Reverend Hugh Lee proposed that the draft Measure should take account of the possibility that abuse may have occurred in another country, and that that would be unlikely to come to light in a Disclosure and Barring Service check. When addressing the Committee he clarified that his concern was about how the Church could discover if clergy from abroad had been convicted of criminal offences overseas.

108. The Legal Office advised the Committee that under the Overseas and Other Clergy (Ministry and Ordination) Measure 1967 if any overseas cleric wished to officiate in the Church of England he or she needed to apply to the relevant archbishop for written permission. Having obtained such permission the cleric would then need to obtain written authority from the diocesan bishop in whose diocese the overseas cleric wished to minister. As a matter of practice the archbishops did not grant permission until they had made enquiries with the overseas sending bishop and received confirmation that the cleric was safe to receive; thereafter it was for the receiving bishop to decide whether or not to provide the authority required to allow the overseas cleric to officiate in his or her diocese.

109. The Steering Committee advised the Committee that it was opposed to any amendment of the draft Measure because there was already a distinct legal framework for overseas clergy, and this draft legislation was not the appropriate means to ensure that the necessary information was obtained from abroad. The Committee agreed and rejected Mr Lee's proposed amendment.

Section 8(1) of the Clergy Discipline Measure

110. The Committee noted concerns expressed by the MACSAS representatives that complaints relating to safeguarding needed to be taken seriously and dealt with properly, and that the person making the complaint needed to be treated with respect and kept informed about the

progress of his or her complaint. The Committee agreed that the appropriate way to deal with those concerns was through appropriate holistic guidance from the House of Bishops, rather than by legislation, since guidance could address the matter in a more detailed and flexible way.

111. The Committee noted that dealing with MACSAS's concerns in that way would not provide a remedy equivalent to that found in section 27 of the Equality Act 2010 for those who believed their complaint had not been dealt with properly, but it bore in mind that, in the case of clergy and bishops, failure to have due regard to such guidance would involve misconduct for the purposes of the CDM as a failure to do an act required by ecclesiastical law contrary to section 8(1)(b) of the CDM.
112. However, since the Church was committed to the principle that safeguarding complaints must be dealt with in an appropriate and suitable manner, and that proper account should be taken of the House of Bishops' guidance generally, the Committee agreed that the definition of misconduct in section 8(1) of the CDM should be amended to provide expressly that failure to have due regard to the House of Bishops' safeguarding guidance would be misconduct. This would send an appropriate message to all clergy, including bishops.

Technical amendments

Reviews by the President of Tribunals

113. The Steering Committee had had its attention drawn by the Deputy President of Tribunals to a lacuna in sections 11(4) and 13(3) of the CDM. Those provisions dealt with requests by a complainant for a review by the President of Tribunals (or Deputy President) of the bishop's determination of a complaint. Section 11(4) covered complaints that had been dismissed by the bishop, and section 13(3) concerned complaints where the bishop had determined to take no further action.⁴
114. Under the CDM on a review of the bishop's decision the President could either uphold the bishop's decision or, if the President considered the bishop was plainly wrong, direct the bishop to consider the complaint in accordance with the next stage of the CDM. There was therefore no power, if the President on review adjudged the bishop to be plainly wrong, to remit the matter back to the bishop with a direction that the bishop reconsider the matter. Such an option would be suitable for cases where the bishop's reasons for dismissing the complaint or for taking no further action, as the case may be, contained an error, but where dismissal or no further action could still be the appropriate course to take if the bishop were to apply the correct principles identified by the President.
115. The Steering Committee therefore proposed that sections 11(4) and 13(3) of the CDM be amended by the draft Measure so as to enable the President of Tribunals to remit complaints to the bishop with a direction that the bishop reconsider the matter.
116. The Committee agreed that the proposed amendments be made.

⁴ The difference between dismissing a complaint and taking no further action on a complaint is that a dismissal takes place at the preliminary scrutiny stage, whereas a determination that there is to be no further action is made at a later stage after a respondent has been invited to submit an Answer to the complaint.

Reappointment of Tribunal Chairs

117. The Chair of a bishop's disciplinary tribunal is appointed by the President of Tribunals from among the legally qualified members of the relevant provincial panel who have been nominated by the archbishop of the province in accordance with section 21(2)(c) of the CDM. Each provincial panel has ten such legally qualified members.
118. The practice has been for the two different provincial panels to have the same ten legally qualified members, so that they may more easily obtain experience of chairing a tribunal.
119. All the members of a provincial panel (whether clerical, lay or legally qualified) are appointed for a term of six years at a time, but in practice the expiry of the terms has been staggered.
120. Under section 21(5) of the CDM no member of a panel (whether clerical, lay or legally qualified) may serve for more than two terms. Whilst there may be good cause for restricting the length of time for which clergy and laity generally may serve on a provincial panel, so that the panels are cyclically refreshed, there does not seem to be the same justification for restricting experienced Chairs to two terms, especially when they are difficult to replace.
121. The Steering Committee therefore proposed that section 21 of the CDM be amended by the draft Measure so as to enable legally qualified members of a provincial panel to be eligible for re-appointment after their second term has ended. The Legal Office reported that the Dean of the Arches and Auditor has been consulted and supported the proposal.
122. The Committee agreed that the proposed amendment be made. There voted in favour: 10; against 0. One member declared an interest and abstained.

CONSIDERATION OF THE DRAFT AMENDING CANON CLAUSE BY CLAUSE

The Preamble

123. The Reverend Prebendary Douglas Dettmer (Exeter) proposed that **the preamble**, referring to 'Of the admission and licensing of lay readers', should be corrected to read 'Of the admission and licensing of lay workers'.
124. The Legal Office advised the Committee that Prebendary Dettmer was correct. The part of **the preamble** to which he referred was based on the title of Canon E 8 which applied to lay *workers*. Nonetheless, the Committee was advised that this was a printing correction and could be made in the next print without any formal amendment. The Committee agreed that the amendment should be made by way of printing correction.

Paragraph 1 – Canon B 43 (Of relations with other Churches)

125. The Reverend Mark Steadman criticised **paragraph 1** of the draft Amending Canon as having a real weakness in that it introduced a subjective test by allowing clergy to rely on what they thought they knew about clergy from other churches. He suggested there would be inconsistency amongst clergy as to what 'appropriate enquiries' meant, and how they could be 'satisfied' that the minister or lay person was in good standing. He proposed that

clergy should be under a duty to make written enquiry of the other person's bishop, superintendent or other supervisor to establish whether the visitor was of good standing. When orally addressing the Committee he clarified that his concern was to ensure that clergy kept proper records to prove they had made appropriate enquiries.

126. The Reverend Simon Cawdell argued that clear supplementary guidance would be needed on how incumbents should check the good standing of fellow clergy from ecumenical partner churches, and also fellow clergy from the Church of England who were invited under Canon C 8 to officiate.
127. The Committee agreed it was not appropriate to amend **paragraph 1** to deal with the question about the enquiries that ought to be made and the records that ought to be kept by clergy. These issues were better dealt with in guidance from the House of Bishops rather than by legislation.
128. The Reverend Simon Cawdell proposed that **paragraph 1(3)** should be amended so as to provide expressly for team rectors and vicars. He suggested in relation to team ministries that there could often be confusion between incumbents (team rectors) and clergy 'of incumbent status' (team vicars). He proposed that **paragraph 1** be amended to impose joint and several responsibility on all members of a team ministry to ensure under Canon B 43.1 that an invited person from another church was 'in good standing'.
129. The Committee noted that the term 'incumbent' was defined for the purposes of Canon B 43 in Canon B 43.12(2), and included priests-in-charge and team vicars who had been assigned a special cure of souls in respect of the parish. Consequently, some team vicars were already covered by the provisions in Canon B 43.1. But in cases where the team vicar had not been assigned a special cure of souls, the team rector, as the senior minister in the parish was the person who had to be satisfied as to 'good standing'.
130. The Committee rejected the proposed amendment. It concluded that if the amendment were accepted, the team rector would no longer be the sole person to make the final decision as to who was 'in good standing'. That was not desirable, particularly if the team rector and team vicar were to disagree.
131. The Venerable Clive Mansell raised in a written submission the question of visiting overseas clergy from the Anglican Communion, and how an incumbent could ascertain whether the visitor was 'in good standing'.
132. For the reasons set out in paragraphs 108 and 109 the Revision Committee agreed that no amendments should be made to Canon B 43 by **paragraph 1** of the draft Amending Canon to deal with overseas clergy; the issue could in any event be covered in guidance from the House of Bishops if required.

Paragraph 2 – Canon C 8 (Of ministers exercising their ministry)

Paragraph 2(3) – authority to officiate

133. The Reverend Simon Cawdell proposed that, because a minister may have difficulty in practice in ensuring that a visiting minister without authority from a bishop did not vest

during certain services (such as the funeral of a friend), such visiting clergy should themselves be liable to disciplinary proceedings if they did vest.

134. The Committee agreed that it would be logical for visiting clergy to be liable to disciplinary proceedings if they vested when they had no authority to minister from a bishop. The Committee therefore agreed to duly amend the proposed new paragraph 6 – to be inserted in Canon C 8 by **paragraph 2(3)** of the draft Amending Canon – so that it covered not just clergy who were prohibited or suspended but also clergy who had no authority to officiate in accordance with Canon C 8.
135. The Reverend Canon Steven Saxby questioned how the new paragraph 6 – to be inserted in Canon C 8 by **paragraph 2(3)** – would be put into practice. He contended that a minister was not going to know whether a visiting cleric was or was not suspended because such information was not public knowledge – accordingly the minister would not know whether (s)he was in breach if a visiting cleric vested or officiated. He sought clarity as to how incumbents could be assured that they were not in breach.
136. The Committee considered whether the new paragraph 6 – to be inserted in Canon C 8 by **paragraph 2(3)** – needed clarification as to the meaning of ‘a church or chapel which is being used for divine service’. The Committee agreed there was possibly a degree of ambiguity, in that the phrase could refer to a church or chapel that was used from time to time, as well as meaning a church or chapel whilst it was so being used. The Steering Committee advised that its preference was for the provision to refer to ‘during’ divine service. The Committee agreed to make the relevant amendment.
137. The Committee noted that under the new paragraph 7 – to be inserted in Canon C 8 by **paragraph 2(3)** – a canonical breach would be committed only if the minister knew that the visiting cleric was suspended, or did not have authority to officiate from a bishop. It agreed that no amendment was required, and that the matter was more suited for guidance than for inclusion in legislation.
138. The Reverend Mark Steadman argued that, since the new provisions to be inserted by **paragraph 2(3)** did not place the incumbent concerned under a duty to verify that a visiting minister had the requisite authority from a bishop, there was therefore a lacuna which could be particularly significant where a visiting minister was from outside the diocese.
139. The Committee considered that the new provision went far enough. It would be impractical to place a positive duty on the incumbent to make enquiries in respect of all visiting clergy who wished to robe – for example, at a cleric’s funeral there could be many visiting clergy who wished to robe, but the local incumbent would have no opportunity to make appropriate enquiries about them. Following discussion by the Committee Mr Steadman withdrew his submission.
140. The Venerable Clive Mansell asked the Committee to consider the position of retired clerics who had no permission to officiate (‘PTO’), but who wished to robe on a unique occasion such as a grandchild’s wedding when (s)he might wish to take part in the service with the agreement of the local minister. He urged the Committee to endorse a mechanism whereby the bishop could give a ‘one-off’ permission.

141. The Committee agreed that no amendment was necessary to provide for this. It was already possible for a bishop to grant a limited PTO to cover particular occasions.

Paragraph 2(3) – clerical attire

142. The Reverend Mark Steadman and the Reverend Hugh Lee both proposed that the new paragraph 7 – to be inserted in Canon C 8 by **paragraph 2(3)** – be extended so that a cleric who was prohibited or suspended under the CDM would be prevented during divine service from wearing any attire that would identify the cleric as a minister, including the wearing of clerical collars.

143. The Committee recognised that clergy wore clerical collars because they had been ordained; they did not wear clerical attire to signify they held authority to minister from the bishop. The wearing of such attire was in any event a matter of convention. Continuing to wear clerical dress following prohibition or suspension did not therefore involve any impropriety or imply that the cleric concerned continued to have authority to minister. Furthermore, there was no distinctive identifiable clerical dress for Church of England clergy. A cleric in a black shirt and clerical collar could be Anglican, Roman Catholic or Methodist, or belong to any number of small catholic or protestant sects that had no connection with the Church of England. The Committee acknowledged that there was nothing to stop any member of the public from wearing a cleric’s shirt and collar.

144. The Committee agreed that even if it were possible satisfactorily to define clerical dress for Church of England clergy, there would be practical difficulties for any minister with the cure of souls in implementing the canon if the proposed amendment were accepted. The minister would not know whether a visiting collared cleric was retired and in good standing, or subject to prohibition or suspension, or was a minister of some other Church. Divine service could be under way before the minister even observed that a member of the congregation was in clerical attire – at that point it would be too late to take any steps to check or verify the position.

145. In light of the Committee’s discussion, Mr Steadman withdrew his amendment. The Committee rejected the proposed amendment from Mr Lee.

Paragraph 2(3) – identity cards

146. The Reverend Mark Steadman proposed that there needed to be a system whereby a minister could easily identify if a visiting minister was in good standing. He proposed that identity cards should be introduced, such as those which were issued to social workers or police officers, and argued that they would offer some protection to members of the public.

147. In oral submissions Mr Steadman informed the Committee that on reflection he considered the question of identity cards was not a matter for the Canons, and that the issue should be considered by individual dioceses. He therefore withdrew his proposal.

Paragraph 3 – C 18 (Of diocesan bishops)

148. Whilst welcoming the proposed new duty, to be imposed by **paragraph 3**, which will require bishops to appoint a diocesan safeguarding advisor, the Reverend Mark Steadman

proposed that the duty should be mirrored by a requirement on diocesan authorities to fund the appointment.

149. The Committee rejected his proposal. It agreed that when a bishop made an appointment in accordance with the new duty to do so, funding would in practice be made available – there was therefore no need to introduce a separate duty to fund the post. Furthermore, the Committee was of the view that imposing a duty specifically on the DBF to provide funds would be restrictive – there might be other funding options which a bishop might wish to pursue.

Paragraph 4 – C 30 (Of risk assessment)

150. The Committee noted the concerns expressed by the representatives from MACSAS that in the proposed new Canon C 30.3 a risk assessment was an assessment of whether there was a significant risk that a cleric *will* harm a child or vulnerable adult, rather than whether the cleric *may* do so. The Committee was advised by the Legal Office that since the assessment was about *risk*, necessarily it could predict only what *may* occur rather than what *will* occur; consequently it was not necessary to amend **paragraph 4** to achieve the result desired by MACSAS. Nonetheless, substituting the word ‘may’ for ‘will’ would help to clarify the provision. The Committee agreed to make the amendment.
151. The Reverend Prebendary Douglas Dettmer proposed that the new Canon C 30.1 and C 30.2 to be introduced by **paragraph 4** should be amended so that the bishop or archbishop should be able to direct any cleric to undergo a risk assessment if authorised to officiate. As drafted, only bishops holding office and priests or deacons holding preferment could be so directed, which meant that retired bishops with a commission and priests with PTOs would be excluded.
152. The Committee agreed to amend **paragraph 4** so that the new Canon C 30.1 would include all bishops who held office or were otherwise authorised to officiate in the province, and so that the new Canon C 30.2 would include all priests and deacons who were authorised to officiate under Canon C 8.
153. Prebendary Dettmer further submitted that the proposed new Canon C 30.1 and C 30.2 be amended so that a cleric undergoing a risk assessment could be required to comply with any directions issued by the bishop if a safeguarding risk were identified. Since refusal to comply with the direction would constitute misconduct under section 8(1) of the CDM by virtue of paragraph 8 of the new Canon C 30 to be introduced by **paragraph 4**, clerics would be encouraged to comply with the direction. In default, a complaint could be presented enabling the bishop to impose a suspension.
154. The Committee agreed that, in so far as Prebendary Dettmer’s amendment might be aimed at ensuring a cleric underwent appropriate safeguarding training identified in the risk assessment, the amendment was unnecessary because the new paragraph 8 to be introduced into Canon C 8 by **paragraph 2(3)** of the Amending Canon already made suitable provision for compulsory safeguarding training.
155. The Committee noted that if the amendment was aimed at enabling a bishop to issue directions preventing a cleric from exercising any or all of the functions of his or her office,

such a direction would have the same effect as an injunction under section 24(1)(e) of the CDM. Injunctions under the CDM were penalties imposed where misconduct had been proved or admitted. Risk assessments, however, considered present and future risk to enable the diocese to manage any problems that might be identified. They were not, and could never be, determinative of disputed past acts of misconduct, otherwise they would usurp the functions of a disciplinary tribunal. The Committee therefore rejected Prebendary Dettmer's proposed amendment.

156. Submissions were received from the Reverend Mark Steadman and the Reverend Paul Benfield in respect of suspensions. Mr Steadman proposed that the bishop should have a power to suspend a cleric who was undergoing a risk assessment, and Mr Benfield raised the issue as to whether there should be power for the bishop to suspend if the assessment concluded there was a serious safeguarding risk.
157. The Committee, having already resolved to increase the bishop's powers of suspension under section 36 of the CDM (see paragraphs 80 to 82 above), agreed that these submissions on **paragraph 3** in respect of the new Canon C 30 had been superseded; they were duly withdrawn.
158. The Reverend Paul Benfield invited the Committee to consider the position of licensed readers and lay workers who would not be subject to compulsory risk assessments at the bishop's direction under the draft Amending Canon. He asked whether the omission was deliberate or an oversight.
159. The Legal Office advised the Committee that the position of licensed readers and lay workers was different from that of ordained clergy. They had far less security of tenure (save for a few stipendiary licensed readers who served under common tenure). Under Canon E 6 or E 8, as the case may be, the bishop could by notice in writing summarily terminate a reader's licence or lay worker's licence for any cause which appeared to the bishop to be good and reasonable, having given the reader or lay worker in question an opportunity to show reason to the contrary. Consequently, if a bishop had concerns about a reader or lay worker, and invited him or her to undergo a risk assessment, the bishop could summarily terminate the licence if there were a refusal or lack of co-operation, and the bishop would be justified in doing so. Consequently, it was unnecessary to provide in the Amending Canon for the bishop to be able to direct licensed readers and lay workers to undergo risk assessments. Mr Benfield accordingly orally withdrew his submission.
160. Mr Benfield in his written submission drew attention to the proposed new Canon C 30.10 to be introduced by **paragraph 4** and noted that it provided that the House of Bishops *may* by Regulations make provision about the carrying out of a risk assessment. He proposed that the new Canon should provide that the House *shall* make provision.
161. The Steering Committee advised the Committee that it wished to accept this proposed amendment, so that a duty was placed upon the House of Bishops to make the regulations. The Committee agreed.
162. Mr Benfield further submitted in writing that the General Synod should have the opportunity to debate any Regulations made by the House, with the power to reject, amend or approve them. The Steering Committee was in favour of the amendment. The

Committee agreed to make the amendment, subject to there being a deeming provision so that the Business Committee of the General Synod could determine that the Regulations did not need to be debated unless notice calling for a debate was given by a member of the Synod in accordance with Standing Orders.

Paragraph 5 – Canon E6 (Of the licensing of readers)

163. The Reverend Prebendary Douglas Dettmer proposed that **paragraph 5** be amended so that Canon E 6 would include provisions that were similar to the proposed new paragraphs 6 and 7 to be introduced into Canon C 8 by **paragraph 2(3)** of the draft Amending Canon in relation to ordained clergy. Under his proposal, licensed readers would be prevented from vesting in a church or chapel if their licences were terminated or suspended, and the local minister would not be able to permit a reader to officiate or vest if (s)he knew that that person was not licensed or was suspended. He made similar proposals in respect of licensed lay workers under Canon E 8.
164. The Committee was advised by the Legal Office that, in so far as these amendments sought to prevent a minister with the cure of souls from allowing any reader to officiate when the reader's licence had been terminated or suspended, they served no useful purpose. That was because there was no provision equivalent to Canon C 8.2 in relation to readers, so once a reader's licence was terminated or suspended a minister could not lawfully give a reader permission to officiate.
165. So far as vesture was concerned the Steering Committee was in favour of Prebendary Dettmer's amendment. It was consistent with the policy of the draft safeguarding legislation to include licensed readers in the bar on vesting if they were not authorised to officiate. The Committee agreed and resolved to amend **paragraph 5** in relation to vesture.
166. The Reverend Mark Steadman proposed that the provisions as to the suspension and licensing of readers, and waiver of disqualifications should mirror the new provisions for churchwardens and PCC members.
167. The Steering Committee was in favour of the proposal, and the Committee agreed.
168. The Committee therefore agreed to amend **paragraph 5(3)** of the draft Amending Canon so that:
- (i) the bishop had power to suspend licensed readers if satisfied on information from the police or the local authority that the reader concerned presented a significant risk of harm to children or vulnerable adults. The bishop would be required to consult the diocesan safeguarding advisor and such other person(s) as the bishop considered appropriate. The suspension would be for a period of 3 months but with a right of appeal against suspension to the President of Tribunals. A suspension would be revocable and renewable, subject on each renewal to a fresh right of appeal to the President of Tribunals;
 - (ii) a reader could be suspended if charged with an offence in Schedule 1 to the 1933 Act without having been arrested; and
 - (iii) the provisions on waiver of disqualification were clarified so that a waiver was to be of unlimited duration and was to have effect in every diocese.

(iv) before granting a waiver the bishop would have to consult the diocesan safeguarding advisor and such other person(s) as the bishop considered appropriate.

169. Mr Adrian Vincent proposed that before a bishop suspended a licensed reader the bishop should be required to obtain legal advice from the diocesan registrar so as to mirror the new section 36A of the CDM which would be inserted by clause 6 of the draft Measure. He also argued that before a reader's license was revoked the bishop should be required to obtain legal advice from the diocesan registrar as to whether there was good and reasonable cause to revoke the licence within the meaning of Canon E 6.3.

170. The Committee was advised by the Legal Office that the requirement in the new section 36A for the bishop to obtain advice from the registrar applied solely where an application was made to the President of Tribunals for permission to bring a complaint under the CDM out of time. It was not therefore relevant to the suspension of a licensed reader. In light of this advice to the Committee, Mr Vincent withdrew his first proposal.

171. As to his second proposal, Mr Vincent argued that the amendment was necessary to protect a reader against a rash or wrong decision. The Committee rejected Mr Vincent's second submission. It noted that if the bishop considered legal advice was desirable the bishop would seek it in any event. As for guarding against the risk of a wrong decision, the reader was already protected because there was a right of appeal to the archbishop under Canon E 6.3 against the revocation.

Paragraph 6 – Canon E8 (Of the admission and licensing of lay workers)

172. Each of the submissions on licensed readers made by the Reverend Prebendary Douglas Dettmer, the Reverend Mark Steadman and Mr Adrian Vincent set out in paragraphs 163 to 171 were repeated in respect of licensed lay workers.

173. The Committee's decision in respect of each of those submissions was the same as for the corresponding submission on licensed readers.

Proviso to Canon 113 of the Code of 1603

174. The Reverend Simon Cawdell proposed that the issue of absolute confidentiality in the proviso to Canon 113 of the Code of 1603 ('the proviso') should be reviewed in relation to safeguarding issues.

175. The Steering Committee recommended that the proposal for the Committee to review the proviso be rejected. It noted that the Archbishops' Council was proposing to commission a report on the issue and that it would be brought before the General Synod in due course. It was not appropriate for the Committee to pre-empt that report. The Committee agreed with the Steering Committee.

Technical amendment – commencement provision

176. The Steering Committee proposed that the draft Amending Canon be amended by adding a commencement provision to enable different parts to come into force on different dates. This would allow provisions to come into force whilst the commencement of other provisions was postponed (for example to enable regulations under **paragraph 4** to be

made by the House of Bishops and subsequently approved by the Synod before other provisions in **paragraph 4** came into force).

On behalf of the Committee
Geoffrey Tattersall QC

December 2014

APPENDIX I

SUMMARY OF PROPOSED AMENDMENTS AND THE COMMITTEE'S DECISIONS IN RESPECT OF THE DRAFT MEASURE

– proposed in Committee by a member of the Committee.

° – proposed under Standing Order 53(a) by a member of the Committee.

* – attended a meeting of the Committee to speak to the submission under Standing Order 53(b).

^ – authorised another member of Synod to attend a meeting of the Committee to speak to the submission under Standing Order 53(b).

Name	Summary of proposal	Committee's decision
Rev'd Paul Benfield* Mrs Rosemary Lyon^	Remove clauses 1(1) and 2(1).	Rejected
Rev'd Mark Steadman°	Amend clauses 1(2) and 2(3) to clarify if waiver is permanent and whether it applies in other dioceses.	Accepted
Rev'd Mark Steadman°	Impose a duty on the House of Bishops to issue guidance on waiver.	Rejected
Rev'd Mark Steadman°	Amend clauses 1(2) and 2(3) to require the bishop to consult diocesan safeguarding advisor.	Accepted
Revision Committee#	Amend clauses 1(2) and 2(3) so that bishop is required to state reasons for granting a waiver.	Accepted
Rev'd Mark Steadman°	Amend clauses 1(2) and 2(3) to clarify whether disqualification can be waived if person is on an SVGA barred list.	Withdrawn
Mr Justin Brett	Amend clauses 1(2) and 2(3) to clarify whether disqualification can be waived if churchwarden or PCC member etc is on an SVGA barred list.	Rejected
Mr Justin Brett	Amend clauses 1(2) and 2(3) generally.	Rejected
Rev'd Mark Steadman°	Widen clauses 1(3) and 2(4) to enable suspension to be imposed on arrest for any offence that could lead to disqualification as charity trustee.	Withdrawn
Rev'd Mark Steadman°	Widen clauses 1(3) and 2(4) to enable suspension to be imposed if churchwarden or PCC member etc is being investigated by police or statutory agency.	Accepted in part
Revision Committee#	Amend clauses 1 and 2 to provide an appeal to the President of Tribunals if churchwarden or PCC member etc is suspended after information received from police or local authority.	Accepted

Revision Committee#	Amend clauses 1(3) and 2(4) so that suspension can be imposed if churchwarden or PCC member etc is charged with a Schedule 1 CYPA 1933 offence.	Accepted
Rev'd Paul Benfield*	Make consequential amendment to s4(3) Churchwardens Measure 2001 to refer to clause 2(1A).	Accepted
Revision Committee#	Make consequential amendment to s6(1) Churchwardens Measure 2001 to refer to clause 2(1A).	Accepted
Rev'd Paul Benfield*	Amend clause 2(4) to include secretary and treasurer of the PCC.	Accepted
Rev'd Paul Benfield*	Remove obligation in clause 3(1) to have due regard to House of Bishops' safeguarding guidance.	Withdrawn
Mrs Rosemary Lyon^	Remove obligation in clause 3(1) to have due regard to House of Bishops' safeguarding guidance.	Rejected
Rev'd Mark Steadman°	Amend clause 3(1) to set out general safeguarding principles.	Withdrawn
Rev'd Mark Steadman°	Amend clause 3(1) to provide that relevant persons must have due regard to practice guidance issued by the national safeguarding team.	Withdrawn
Revision Committee#	Amend Part II of Church Representation Rules to require PCC to declare whether PCC has had due regard to House of Bishops safeguarding guidance.	Accepted
Rev'd Hugh Lee*	Widen clause 3(2) so that everyone in the Church has duty to have due regard to the guidance.	Rejected
Rev'd Mark Steadman°	Widen clause 3(2) so that all employees of NCIs, DBFs and dioceses are under a duty to have due regard to the guidance.	Withdrawn
Rev'd Paul Benfield*	Amend clause 4(2) so that definition of 'vulnerable adult' is the same as in <i>Promoting a Safe Church</i> .	Rejected
Rev'd Paul Benfield*	Amend clause 4(2) so that definition of 'vulnerable adult' takes account of temporary vulnerability.	Accepted
Rev'd Mark Steadman°	Amend clause 4(2) so that definition of 'vulnerable adult' takes account of a person's situation.	Withdrawn
Rev'd Paul Benfield*	Amend clause 5(1) to remove limitation period in all sexual misconduct complaints.	Withdrawn
Rev'd Paul Benfield*	Amend clause 5(1) to give respondent right to seek a review by President of Tribunals of the bishop's determination on vulnerability.	Accepted in part – President to decide issue of vulnerability
Rev'd Mark Steadman°	Amend clause 5(1) to remove limitation period for all complaints of abuse against children and vulnerable adults.	Withdrawn
Rev'd Hugh Lee*	Amend clause 5(1) to remove limitation period for all complaints of abuse.	Rejected
Rev'd Mark Steadman°	Amend CDM to enable suspension of cleric when investigated by police or statutory agencies for crimes against children and vulnerable adults.	Accepted in part

Revision Committee#	Amend CDM to provide an appeal to the President of Tribunals if cleric is suspended after information received from police or local authority.	Accepted
Revision Committee#	Amend CDM so that suspension can be imposed if cleric is charged with a serious criminal offence.	Accepted
Revision Committee#	Amend CDM so that suspension provisions for bishops mirror those for priests and deacons.	Accepted
Rev'd Hugh Lee*	Amend clause 8 to include the Diocese in Europe.	Rejected
Mr Justin Brett	Introduce compulsory safeguarding training for churchwardens.	Rejected
Rev'd Mark Steadman ^o	Make ecclesiastical legal aid available for clergy undergoing risk assessments or in employment disputes.	Rejected
Revision Committee#	Ecclesiastical legal aid to be available for clergy seeking to appeal to the President of Tribunals against a suspension imposed after information received by the bishop from the police or local authority.	Accepted
Rev'd Hugh Lee*	Criminalise sexual relations between a cleric and a person aged 16 or 17.	Rejected
Rev'd Hugh Lee*	Remove the concept of consenting adults.	Rejected
Rev'd Hugh Lee*	Amend draft Measure to ensure information about abuse overseas is disclosed.	Rejected
Revision Committee#	Amend definition of misconduct in s8(1) CDM to include failure to have due regard to safeguarding guidance from the House of Bishops.	Accepted
Steering Committee#	Amend s11(4) and 13(3) CDM to enable the President of Tribunals to remit a complaint to the bishop.	Accepted
Steering Committee#	Amend s21(5) CDM to enable tribunal Chairs to be reappointed after their second term of office.	Accepted

APPENDIX II

SUMMARY OF PROPOSED AMENDMENTS AND THE COMMITTEE'S DECISIONS IN RESPECT OF THE DRAFT AMENDING CANON

– proposed in Committee by a member of the Committee.

° – proposed under Standing Order 53(a) by a member of the Committee.

* – attended a meeting of the Committee to speak to the submission under Standing Order 53(b).

Name	Summary of proposal	Committee's decision
Rev'd Prebendary Douglas Dettmer	Amend the preamble to refer to lay workers.	Accepted (by way of editing)
Rev'd Mark Steadman°	Amend paragraph 1 so that clergy are under a duty to make written enquiry.	Rejected
Rev'd Simon Cawdell	Amend paragraph 1 to provide guidance for clergy.	Rejected
Rev'd Simon Cawdell	Amend paragraph 1(3) to provide expressly for team vicars as well as team rectors.	Rejected
Ven Clive Mansell	Amend paragraph 1 to clarify position relating to overseas clergy.	Rejected
Rev'd Simon Cawdell	Amend paragraph 2(3) to include clergy with no authority to officiate	Accepted
Rev'd Canon Steven Saxby	Amend paragraph 2(3) to clarify how a minister can avoid being in breach	Rejected
Revision Committee#	Amend paragraph 2(3) by substituting 'during' for 'which is being used for'.	Accepted
Rev'd Mark Steadman°	Amend paragraph 2(3) to impose a duty on minister to verify visiting minister's authority.	Withdrawn
Ven Clive Mansell	Amend paragraph 2(3) to enable bishop to grant limited authority to vest.	Rejected
Rev'd Mark Steadman°	Amend paragraph 2(3) to prevent a cleric who has been prohibited or suspended under the CDM from wearing any clerical dress during divine service.	Withdrawn
Rev'd Hugh Lee*	Amend paragraph 2(3) to prevent a cleric who has been prohibited or suspended under the CDM from wearing any clerical dress during divine service.	Rejected
Rev'd Mark Steadman°	Amend paragraph 2(3) to introduce a system of identity cards for clergy.	Withdrawn
Rev'd Mark Steadman°	Introduce a duty on the DBF to provide funding for the appointment under paragraph 3 of a diocesan safeguarding advisor.	Rejected

Rev'd Prebendary Douglas Dettmer	Under paragraph 4, amend the new Canon C 30.1 to include all bishops authorised to officiate.	Accepted
Rev'd Prebendary Douglas Dettmer	Under paragraph 4, amend the new Canon C 30.2 to include all priests and deacons authorised to officiate.	Accepted
Rev'd Prebendary Douglas Dettmer	Under paragraph 4, amend the new Canon C 30.1 and 30.2 to require a cleric to comply with directions issued arising from a risk assessment.	Rejected
Revision Committee#	Under paragraph 4, in the new Canon C 30.3 substitute 'may' for 'will'.	Accepted
Rev'd Mark Steadman ^o	Amend paragraph 4 to enable cleric to be suspended when undergoing risk assessment.	Withdrawn
Rev'd Paul Benfield*	Amend paragraph 4 to enable cleric to be suspended if assessment reveals safeguarding risk.	Withdrawn
Rev'd Paul Benfield*	Consider applying risk assessment provisions to licensed readers and lay workers.	Withdrawn
Rev'd Paul Benfield*	Under paragraph 4, in the new Canon C 30.10 substitute 'shall' for the first 'may'.	Accepted
Rev'd Paul Benfield*	Under paragraph 4, amend the new Canon C 30.12 to enable Synod to reject or amend the regulations.	Accepted
Revision Committee#	Business Committee to have power to determine that Synodical approval of regulations may be deemed under Standing Orders.	Accepted
Rev'd Prebendary Douglas Dettmer	Amend paragraph 5 to prevent licensed readers from vesting if licence is terminated or suspended.	Accepted
Rev'd Prebendary Douglas Dettmer	Amend paragraph 5 to prevent ministers from authorising unlicensed readers to officiate.	Rejected
Rev'd Mark Steadman ^o	Amend paragraph 5(3) to mirror the provisions on suspension and waiver of disqualification relating to churchwardens and PCC members.	Accepted
Mr Adrian Vincent*	Amend paragraph 5 so that bishop must obtain legal advice from diocesan registrar before imposing a suspension on a reader.	Withdrawn
Mr Adrian Vincent*	Amend paragraph 5 so that bishop must obtain legal advice from diocesan registrar before revoking a reader's licence.	Rejected
Rev'd Prebendary Douglas Dettmer	Amend paragraph 6 to prevent licensed lay workers from vesting if licence is terminated or suspended.	Accepted
Rev'd Prebendary Douglas Dettmer	Amend paragraph 6 to prevent ministers from authorising unlicensed lay workers to officiate.	Rejected
Rev'd Mark Steadman ^o	Amend paragraph 6(3) to mirror the provisions on suspension and waiver of disqualification relating to churchwardens and PCC members.	Accepted
Mr Adrian Vincent*	Amend paragraph 6 so that bishop must obtain legal advice from diocesan registrar before imposing a suspension on a reader.	Withdrawn

Mr Adrian Vincent*	Amend paragraph 6 so that bishop must obtain legal advice from diocesan registrar before revoking a reader's licence.	Rejected
Rev'd Simon Cawdell	Review the proviso to Canon 113 of the Code of 1603.	Rejected
Steering Committee#	Add commencement provision.	Accepted

APPENDIX III

DESTINATION TABLE IN RESPECT OF THE DRAFT MEASURE

GS 1952 (as at First Consideration)	GS 1952A (as amended by the Revision Committee)
	1
1(1)	2(1)
1(2)	2(2)
	2(3) & 2(4)
1(3)	2(5)
1(4)	2(6)
1(5)	2(7)
	2(8)
1(6)	2(9)
2(1) – 2(4)	3(1) – 3(4)
	3(5)
2(5) – 2(7)	3(6) – 3(8)
	4
3(1) & 3(2)	5(1) & 5(2)
	5(3) & 5(4)
4	6
5	7
6	8
7	9
	10
	11
8	12

APPENDIX IV

DESTINATION TABLE IN RESPECT OF THE DRAFT AMENDING CANON

GS 1953 (as at First Consideration)	GS 1953A (as amended by the Revision Committee)
1	1
2	2
3	3. 1
4.1 – 4.9	3.2(1) – 3.2(9)
4.10 & 4.11	3.3(1) & 3.3(2)
4.12	3.3(3)
	3.3(4)
4.13 & 4.14	3.4 & 3.5
4.15	3.6
5.(1) & 5.(2)	4.(1) & 4.(2)
5.(3)5 – 5.(3)6(3)	4.(3)5 – 4.(3)6(3)
	4.(3)6(4) – 4.(3)6(6)
5.(3)6(4)	4.(3)6(7)
5.(3)7(1)	4.(3)7(1)(a) & 4.(3)7(2)
	4.(3)7(1)(b)
5.(3)7(2)	4.(3)7(12)
5. (3)7(3)	4.(3)7(3)
	4.(3)7(4) – 4.(3)7(11)
	4.(3)8 – 4.(3)10
6.(1) & 6.(2)	5.(1) & 5.(2)
6.(3)7 – 6.(3)8(3)	5.(3)7 – 5.(3)8(3)
	5.(3)8(4) – 5.(3)8(6)
6.(3)8(4)	5.(3)8(7)
6.(3)9(1)	5.(3)9(1)(a) & 5.(3)9(2)
	5.(3)9(1)(b)
6.(3)9(2)	5.(3)9(12)
6.(3)9(3)	5.(3)9(3)
	5.(3)9(4) – 5.(3)9(11)
	5.(3)10 – 5.(3)12
	6.