

GENERAL SYNOD
AMENDING CODE OF PRACTICE
UNDER THE CLERGY DISCIPLINE MEASURE 2003

This Amending Code of Practice is issued by the Clergy Discipline Commission under section 39 of the Clergy Discipline Measure 2003.

The Code of Practice previously issued by the Clergy Discipline Commission which was approved by the General Synod on 9th July 2005, and amended by an Amending Code of Practice as approved by the General Synod on 8th February 2011, shall be amended as follows:

1. Paragraph 7

The last sentence in paragraph 7 is omitted.

2. Paragraph 23

In the last bullet point of paragraph 23, after the words “but no complaint may” there is inserted the word “normally”.

3. Paragraph 41

There are added to the end of paragraph 41 the following sentences:

“A complainant may, however, request in the written complaint form that the complainant’s contact details should not be disclosed to the respondent, giving reasons for the request. Where such a request is made the complainant’s contact details will be withheld from the respondent and deleted from all documents sent to the respondent, unless the registrar directs otherwise. If the registrar directs that the complainant’s contact details should be disclosed to the respondent the registrar will forthwith notify the complainant of this in writing, explaining why; the complaint will then lapse, unless the complainant informs the registrar within 14 days that the complainant wishes the complaint to proceed, even though the complainant’s contact details will not be withheld.”.

4. Paragraph 44

There are added to the end of paragraph 44 the following sentences:

“A witness who provides a statement in support may request that his or her contact details should not be disclosed to the respondent, giving reasons for the request. Where such a request is made the witness’s contact details will be withheld from the respondent and deleted from the copy of the witness statement sent to the respondent, unless the registrar directs otherwise. If the registrar directs that the witness’s contact details should be disclosed to the respondent the registrar will forthwith notify both the witness and the

complainant of this in writing, explaining why; the statement will not then be used in the proceedings, unless the complainant informs the registrar within 14 days that the complainant wishes the statement to be used in support of the complaint, even though the witness's contact details will not be withheld.”.

5. **Paragraph 53**

For the last sentence in paragraph 53 there are substituted the following sentences:

“A complainant may request in the form that the complainant's contact details should not be disclosed to the respondent, giving reasons for the request. Where such a request is made the complainant's contact details will be withheld from the respondent and deleted from documents sent to the respondent in the course of the application, unless the President directs otherwise. If the President directs that the complainant's contact details should be disclosed to the respondent the President will forthwith notify the complainant of this in writing, explaining why; the application will then lapse, unless the complainant informs the President within 14 days that the complainant wishes the application to proceed, even though the complainant's contact details will not be withheld.”.

6. **Paragraph 54**

There is inserted at the beginning of paragraph 54 the following sentence:

“Before deciding whether to allow a complaint to be pursued out of time the President will consult both the complainant and the respondent.”.

The last bullet point of paragraph 54 is amended by substituting the word “was” for the word “is”, and inserting the words “at the time of the alleged misconduct” immediately after the words “a child”.

7. **Paragraph 66**

After the words “will be informed of the complaint” all the remaining words in the fifth bullet point of paragraph 66 are omitted.

The sixth bullet point of paragraph 66 is amended by omitting the words “where the identity of the complainant is disclosed to the respondent,”.

8. **Paragraph 71**

In paragraph 71 for the words “(subject to editing if the circumstances in *paragraph 72* apply)” there are substituted the words “(with contact details of the complainant or witness deleted where appropriate – see *paragraphs 41 and 44 above*)”.

There is added to the end of paragraph 71 the following sentence:

“In exceptional circumstances the registrar may for no longer than is necessary delay notifying the respondent that a complaint has been made.”.

9. Paragraph 72

For the whole of paragraph 72 there is substituted the following paragraph:

“A respondent is entitled to know the identity of anyone who makes a complaint, but should be told not to discuss the complaint with the complainant.”.

10. Paragraph 110

There are added to the end of paragraph 110 the following sentences:

“A witness who provides a statement in support may request that his or her contact details should not be disclosed to the complainant, giving reasons for the request. Where such a request is made the witness’s contact details will be withheld from the complainant and deleted from the copy of the witness statement sent to the complainant, unless the registrar directs otherwise. If the registrar directs that the witness’s contact details should be disclosed to the complainant the registrar will forthwith notify both the witness and the respondent of this in writing, explaining why.”.

11. Paragraph 113

In paragraph 113 the sentence beginning “The bishop may also suspend” is omitted.

12. Paragraph 154

There are added to the end of paragraph 154 the following sentences:

“Where a complaint is referred to the Designated Officer, it is still open to the bishop and respondent to agree a penalty by consent if the respondent at any stage in writing admits misconduct. Where a penalty by consent is agreed no other steps will be taken in the complaint proceedings.”.

13. Paragraph 163

In paragraph 163 for the words “criminal charge results in a conviction and” there are substituted the words “priest or deacon is convicted in England and Wales of any criminal offence which is not a summary offence, or receives”.

There is added to the end of paragraph 163 the following sentence:

“Where the bishop does not at any relevant time know of the conviction the President may extend the two-year period.”.

14. Paragraph 164

For the sentence beginning with the words “The bishop must then inform the respondent” there is substituted the following sentence:

“The bishop must then inform the respondent in writing of details of the proposed penalty, send him or her a copy of the bishop’s letter to the President and the President’s response, and invite the respondent to send written representations within 28 days.”.

15. Paragraph 165

After the first word “Where” there are inserted the words “a respondent has been convicted of a serious offence or”.

For the words “sentence of imprisonment is imposed by” there are substituted the words “criminal proceedings took place in”.

For the words “whether a conviction and sentence” there are substituted the words “whether a similar conviction or sentence”.

16. Paragraph 167

The whole of paragraph 167 is omitted.

17. Paragraph 168

For the whole of paragraph 168 there is substituted the following paragraph:

“What happens if there is an acquittal at a criminal trial?”

Where a criminal charge against a priest or deacon alleges facts which would amount to misconduct if proved, and he or she is acquitted following a criminal trial, any complaint under the Measure alleging exactly the same matters as the criminal charge can be proceeded with in disciplinary proceedings if a review of all the evidence in support of the complaint indicates that, notwithstanding the acquittal, there are good prospects of successfully proving the alleged misconduct. Although the standard of proof in disciplinary proceedings is easier to satisfy than in criminal courts, a tribunal will, nonetheless, look for persuasive, reliable and cogent evidence before it can be satisfied that a serious act of misconduct has been committed.

There may, alternatively, be other matters of misconduct arising out of or in connection with the circumstances of the criminal charge, which can, and should, be dealt with in disciplinary proceedings.

Example: In a criminal trial for theft of money from the church collection plate, a priest or deacon could admit taking the money, but contend that it was to meet an urgent personal debt and that the money was going to be paid back when he or she was able to do so. If the prosecution results in an acquittal, a complaint under the Measure alleging theft by the respondent may well not succeed. However, a complaint made by a churchwarden that, in breach of trust, the priest or deacon had used the church’s money for private purposes, would succeed under the Measure.

Example: A married priest could be acquitted of sexually assaulting a female member of his congregation, where his defence is that the woman consented to

the sexual activity so no crime was committed. Nevertheless, his conduct would clearly have been unbecoming and inappropriate to the office and work of a clerk in Holy Orders, and disciplinary proceedings under section 8(1)(d) of the Measure would succeed.”.

18. Paragraph 169

For the words “a decree of judicial separation” there are substituted the words “an order of judicial separation”.

After the words “date of the decree absolute” there are inserted the words “or order”.

There is added to the end of paragraph 169 the following sentence:

“Where the bishop does not at any relevant time know of the decree or order the President may extend the two-year period.”.

19. Paragraph 170

For the sentence beginning with the words “The bishop must inform the respondent” there is substituted the following sentence:

“The bishop must inform the respondent in writing of the details of the proposed penalty, send him or her a copy of the bishop’s letter to the President and the President’s response, and invite the respondent to send written representations within 28 days.”.

20. New paragraph after paragraph 172

There is inserted after paragraph 172 the following new sub-heading and paragraph:

“Barred clergy under the Safeguarding Vulnerable Groups Act

Clergy whose names are entered on the children’s barred list or the adults’ barred list established under the Safeguarding Vulnerable Groups Act are liable to be removed from office by the bishop and prohibited. Before imposing such a penalty the bishop must consult the President of Tribunals. The procedure thereafter is similar to that set out in *paragraphs 169 and 171 above* in relation to matrimonial breakdowns, including the respondent’s right to ask the archbishop of the relevant province to review the bishop’s decision.”.

21. Paragraph 173

There is added to the end of paragraph 173 the following sentence:

“There is also a duty upon a priest or deacon to report to the bishop within 28 days if a decree absolute has been made dissolving his or her marriage or if an order of judicial separation is made. The bishop must be informed by the priest or deacon as to whether he or she was respondent in the proceedings,

and if so, whether any finding of adultery, unreasonable behaviour or desertion was made.”.

22. Paragraph 174

For paragraph 174 there is substituted the following paragraph:

“A priest or deacon is under a duty to notify the bishop if included in a barred list under the Safeguarding Vulnerable Groups Act, and to inform the bishop of the reasons for inclusion.”.

23. Paragraph 201

The words “and be signed by each member” are omitted.

24. Paragraph 202

The words “, and be signed by each member” are omitted.

25. Paragraph 219

There is added to the end of paragraph 219 the sentence:

“During a period of suspension a respondent’s right to a stipend and housing is to continue unaffected.”.

26. Paragraph 220

Paragraph 220 is omitted.

27. New paragraph after paragraph 221

There is inserted after paragraph 221 the following new paragraph:

“If a priest or deacon is convicted of certain criminal offences or included on a barred list under the Safeguarding Vulnerable Groups Act, the bishop may impose a suspension pending consideration of whether a penalty of removal from office or prohibition should be imposed.”.

28. Paragraph 222

After the words “disciplinary or criminal proceedings end” there are inserted the words “, or if a penalty is imposed, as the case may be”.

After the words “proceedings have not meanwhile finished” there are inserted the words “or a penalty imposed”.

29. Paragraph 223

For the words “must notify the other persons” there are substituted the words “in all cases of suspension must give a copy of the notice of suspension to certain persons”.

There is added to the end of paragraph 223 the following sentence:

“The bishop may also serve a copy of the notice of suspension on any other person whom the bishop considers should be notified of the suspension.”.

30. Paragraph 228

For the words “to return” there are substituted the words “if returning”.

31. Paragraph 231

For the words “has the right of” there are substituted the words “may seek leave to”.

After the words “respondent may also” there are inserted the words “seek leave to”.

There is added to the end of paragraph 231 the sentence:

“Leave to appeal may be granted either by the tribunal which dealt with the complaint or by the appropriate appellate court.”.

32. Paragraph 232

For the words “There is a right of appeal for the” there is substituted the word “The”.

After the words “Designated Officer” there are inserted the words “may seek leave to appeal”.

33. Paragraph 235

For the word “five” there is substituted the word “six”.

After the words “following the making of a formal complaint;” there are inserted the words “(dd) anyone whose name is included in a barred list under the Safeguarding Vulnerable Groups Act;”.

34. Paragraph 236

For the letter “(d)” there is substituted the letter “(dd)”.

35. Appendix A

Contact details for diocesan bishops and legal officeholders are updated as appropriate.

36. Appendix B1

Form 1a is modified in accordance with rule 30 of the Clergy Discipline (Amendment) Rules 2013.

37. Appendix B4

Before the words “While the complaint proceeds” the word “[*Either*]” is deleted.

All the words after “you should not discuss it with [*name of complainant*].” are omitted.

38. Consequential changes

The Contents page, marginal notes and paragraph numbers are amended consequentially upon the amendments identified above.

39. Commencement

This Amending Code of Practice shall come into force on a date for issue appointed by the Clergy Discipline Commission.

**On behalf of the Clergy Discipline Commission
Sir John Mummery (Chair)**

May 2013