

The Clergy Discipline Appeal Rules 2005

as they would be if amended by the draft

Clergy Discipline Appeal (Amendment) Rules

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SCHEDULE — FORMS

In pursuance of sections 26(1) and (2) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991(a) as amended by sections 45(1) and (2) of the Clergy Discipline Measure 2003(b), the Rule Committee constituted in accordance with section 25 of the said 1991 Measure as amended by section 45(3) of the said 2003 Measure makes the following Rules—

Overriding objective

1. The overriding objective of these appeal rules is to enable appeals in disciplinary proceedings under the Measure to be dealt with justly, in a way that is both fair to all relevant interested persons and proportionate to the nature and seriousness of the issues raised. These appeal rules are, so far as is reasonably practicable, to be applied in accordance with the principle that undue delay and undue expense are to be avoided.

Duty to co-operate

2.—(1) In order to further the overriding objective the parties shall co-operate with any person or court exercising any function in connection with an appeal under the Measure.

(2) Any failure to co-operate by an appellant may result in that party's appeal being struck out.

Right of appeal under section 20 of the Measure

3. In disciplinary proceedings under the Measure, subject to rules 5 to 8—

- (a) the respondent may appeal with leave of the tribunal or appellate court—
 - (i) on a question of law or fact against any finding of the tribunal, and
 - (ii) against any penalty imposed by the tribunal,
- (b) the Designated Officer may appeal with leave of the tribunal or appellate court on a question of law against any finding of the tribunal.

The appellate court

4. Any appeal under rule 3 shall be heard by the Arches Court of Canterbury for disciplinary proceedings in the province of Canterbury, and by the Chancery Court of York for disciplinary proceedings in the province of York.

Application for leave to appeal

4A.—(1) An application for leave to appeal may be made—

- (a) orally to the tribunal upon the pronouncement in public of the tribunal's decision or imposition of a penalty, or
 - (b) in writing to the appellate court within 28 days of the pronouncement in public of the tribunal's decision or, if later, imposition of a penalty.
- (2) An application by a respondent under sub-rule (1)(b) above shall be in form A1A in the Schedule or a document which is substantially to the like effect containing the information required by sub-rule (3).
- (3) An application by a respondent under sub-rule (1)(b) above shall—
- (a) state the full name, contact address including postcode, and telephone number of the respondent.

(a) 1991 No.1.
(b) 2003 No.3.

(b) where the respondent is legally represented, state the name, contact address and telephone number of the solicitor acting for the respondent,

(c) identify the tribunal which heard the complaint, and state the complaint reference number and the date or dates of the pronouncement in public of the tribunal's decision and imposition of any penalty,

(d) state whether the application for leave to appeal is in respect of—

(i) findings of law or fact or both, or

(ii) findings of law or fact or both, and also the penalty, or

(iii) the penalty only,

(e) be signed and dated by the respondent or the representative of the respondent.

(4) An application by the Designated Officer under sub-rule (1)(b) shall be in form A2A in the Schedule or a document which is substantially to the like effect containing the information required by sub-rule (5).

(5) An application by the Designated Officer under sub-rule (1)(b) above shall—

(a) state the full name and contact details of the Designated Officer,

(b) identify the tribunal which heard the complaint, and state the complaint reference number and the date or dates of the pronouncement in public of the tribunal's decision and imposition of any penalty,

(c) be signed and dated by the Designated Officer or a person duly authorised by the Designated Officer.

Documents to be attached to a written application for leave to appeal

4B. The following documents shall be attached to an application under rule 4A(1)(b) by the party making the application—

(a) a completed draft notice of appeal in form A1 or A2, as the case may be, setting out the reasons for appealing,

(b) a copy of the tribunal's decision,

(c) if a penalty was imposed by the tribunal, a copy of the written decision imposing the penalty.

Sending or delivering a written application for leave to appeal

4C. An application under rule 4A(1)(b) above with the attached documents shall be sent or delivered to the Provincial Registrar together with two additional copies, and at the same time a copy of the application with attached documents shall be sent or delivered by the party making the application to the Designated Officer or the respondent as the case may be.

Determination of an application for leave to appeal

4D.—(1) An application under rule 4A(1)(b) shall be determined jointly by the Dean and one judge appointed in accordance with section 20(1B) of the Measure, and may, if the Dean so directs, be determined without a hearing.

(2) Before determining an application without a hearing the appellate court shall give the other party 14 days within which to make written representations in response to the application, and the other party shall send or deliver to the party making the application a copy of any such representations.

(3) The appellate court shall give permission to appeal if at least one of the judges is satisfied that there would be a real prospect of success on appeal or that there is some other compelling reason why the appeal should be heard.

(4) The determination of an application for leave to appeal shall be put into writing by the tribunal or appellate court as the case may be, and the determination may direct that the issues to be heard on the appeal be limited in such way as the tribunal or appellate court may specify.

Notice of appeal from respondent

5.—(1) An appeal by a respondent shall be made by sending or delivering to the Provincial Registrar a written notice of appeal in form A1 in the Schedule or a document which is substantially to the like effect containing the information required by sub-rule (2).

(2) A notice of appeal under sub-rule (1) shall—

- (a) state the full name, contact address including postcode, and telephone number of the respondent,
- (b) where the respondent is legally represented, state the name, contact address and telephone number of the solicitor acting for the respondent,
- (c) identify the tribunal which heard the complaint, and state the complaint reference number and the date of the pronouncement of the decision in public,
- (d) state whether the appeal is against—
 - (i) findings of law or fact, or both, or
 - (ii) findings of law or fact or both, and also the penalty, or
 - (iii) the penalty only,

(dd) if applicable, state the date when the tribunal granted leave to appeal, and shall have attached a copy of the tribunal's order granting such leave.

- (e) set out briefly any findings of the tribunal on matters of law or fact against which the respondent wishes to appeal, and in respect of those findings set out briefly the reasons for appealing,
- (f) if the respondent is appealing against a penalty, state what the penalty is, and set out the reasons for contending that a different penalty should be imposed,
- (g) be signed and dated by the respondent or the representative of the respondent.

(3) Without prejudice to rule 19 below, where a direction has been given in accordance with section 20(1C) of the Measure the issues raised in the notice of appeal shall be limited to the issues specified in the direction.

Notice of appeal from the Designated Officer

6.—(1) An appeal by the Designated Officer shall be made by sending or delivering to the Provincial Registrar a written notice of appeal in form A2 in the Schedule or a document which is substantially to the like effect containing the information required by sub-rule (2) below.

(2) A notice of appeal under sub-rule (1) shall—

- (a) state the full name and contact details of the Designated Officer,
- (b) state the full name and contact address including postcode of the respondent,
- (c) if the Designated Officer believes the respondent to be legally represented, state the name, contact address and telephone number of the solicitor acting for the respondent,
- (d) identify the tribunal which heard the complaint, and state the complaint reference number and the date of the pronouncement of the decision in public,

(dd) if applicable, state the date when the tribunal granted leave to appeal, and shall have attached a copy of the tribunal's order granting such leave.

- (e) set out briefly the matters of law arising from the tribunal's decision in respect of which the Designated Officer wishes to appeal, and briefly the reasons for appealing,
- (f) be signed and dated by the Designated Officer or a person duly authorised by the Designated Officer.

(3) Without prejudice to rule 19 below, where a direction has been given in accordance with section 20(1C) of the Measure the issues raised in the notice of appeal shall be limited to the issues specified in the direction.

Documents to be attached to the notice of appeal

7. The following documents shall be attached by an appellant to the notice of appeal—
- (a) a copy of the tribunal's decision,
 - (b) if a penalty was imposed by the tribunal, a copy of the written decision imposing the penalty.

Time for appealing and for sending or delivering the notice of appeal

8.—(1) Subject to rule 9 no appeal may be made unless the appropriate notice of appeal with the attached documents referred to in rule 7 are sent or delivered to the Provincial Registrar together with five additional copies, so as to be received within 28 days of the date when the tribunal granted leave to appeal or within 21 days of the date when the appellate court granted leave to appeal, as the case may be.

(2) A copy of the notice of appeal and attached documents shall at the same time be sent or delivered by the appellant to the Designated Officer or the respondent as the case may be.

Application for permission to appeal out of time

9.—(1) The respondent and the Designated Officer may apply for permission to appeal out of time. An application by the respondent shall be made in writing in form A3 in the Schedule or in a document which is substantially to the like effect containing the information required by sub-rule (2) below. The Designated Officer shall adapt form A3 as appropriate when making such an application.

- (2) An application for permission to appeal out of time shall—
- (a) set out the reasons why the appeal was not made within time,
 - (b) contain a declaration that the party making the application believes the facts of the application to be true, and
 - (c) be signed and dated.

(3) The party making the application shall attach the following documents to an application for permission to appeal out of time—

- (a) a completed draft notice of appeal in form A1 or A2, as the case may be,
- (b) a copy of the tribunal's decision,
- (c) if a penalty was imposed by the tribunal, a copy of the written decision imposing the penalty.

(4) The party making the application shall send or deliver the application and attached documents to the Provincial Registrar, and shall at the same time send or deliver a copy to the Designated Officer or respondent, as the case may be.

(5) The application shall be determined jointly by the Dean and one judge appointed in accordance with section 20(1B) of the Measure, and may, if the Dean so directs, be determined without a hearing.

(6) Before determining the application the appellate court shall give the other party 14 days within which to make written representations in response to the application, and the other party shall send or deliver to the party making the application a copy of any such representations.

(7) The appellate court may give permission to appeal out of time if at least one of the judges is satisfied that—

- (a) there was good reason why the party making the application did not appeal within the time allowed,

- (b) there would be a real prospect of success on appeal or that there is some other compelling reason why the appeal should be heard, and
 - (c) the other party would not suffer significant prejudice as a result of the delay.
- (8) The appellate court's determination of the application shall be put into writing.
- (9) If permission to appeal out of time is granted a direction may be given under section 20(1C) limiting the issues to be heard on appeal.

Postponement of penalty

10.—(1) The implementation of a penalty under section 24 which has been imposed by the tribunal shall be postponed pending the disposal of an application under rule 4A above and, if applicable, an appeal made under rules 5 or 6 above.

(2) Until proceedings on an appeal have been disposed of, a respondent may be suspended under sections 36 or 37 of the Measure, as the case may be.

(3) Until proceedings on an appeal have been disposed of, no further steps shall be taken under section 38 of the Measure to record the penalty in the archbishops' list.

Interim directions

11.—(1) Upon receipt of a notice of appeal the Provincial Registrar shall give directions for the just disposal of the proceedings in accordance with the overriding objective in rule 1.

(1A) Upon receipt of an application for leave to appeal, or permission to appeal out of time, the Provincial Registrar may give directions for the just disposal of the application in accordance with the overriding objective in rule 1.

(2) The Provincial Registrar may at any stage refer any matter of difficulty or dispute to the Dean.

(3) Directions may be given or varied at any stage—

- (a) at a hearing,
- (b) where sub-rule (5) applies, during a telephone hearing, or
- (c) in writing.

(4) At any hearing or telephone hearing the respondent may be represented by another person, and the Designated Officer may appear in person or authorise another person to act on his or her behalf.

(5) Where a hearing for directions is likely to last no longer than 30 minutes the Dean or Provincial Registrar, as the case may be, may direct that—

- (a) it be conducted by telephone, and
- (b) that the parties send in advance of the hearing for directions a written summary of their respective submissions, and send or deliver copies of their submissions to each other.

(6) Where the respondent appeals solely against the penalty imposed, the Dean or Provincial Registrar may at any stage direct that the Designated Officer need not appear.

Matters on which directions may be given

12.—(1) Directions may be given in respect of all procedural matters and in particular may—

- (a) identify the written and oral witness evidence, exhibits and other documents put before the tribunal which are relevant to the issues to be considered at the hearing of the appeal,
- (b) provide for the preparation by one or more of the parties, in sufficient numbers for the appellate court, of bundles of documents containing—
 - (i) material identified in (a), including if available a transcript of the relevant oral evidence,
 - (ii) the notice of appeal, together with the attached documents referred to in rule 7,

- (c) give directions about the attendance of any witness who gave evidence to the tribunal, when permission to re-call that witness before the appellate court is given under rule 16 below,
- (d) require any party to prepare a written outline argument, and to send or deliver such number of copies of it as may be directed, together with photocopies of any authorities to be relied upon.

(2) Where an order has been made giving or varying directions without a hearing, a party may apply within 14 days to have it set aside or varied, and the order shall notify the parties that they may make such an application.

(3) Any directions given by the Dean or the Provincial Registrar shall be given or confirmed in writing, and a copy sent or delivered to the parties.

Appointment of members of the appellate court

12A.—(1) Within 14 days of being notified under section 20(4) of the Measure of their identity, or within such shorter time as the President may allow, the respondent may make written representations to the President about the suitability of any proposed member of the appellate court which will hear the complaint or application, and the President shall not appoint any of the members until such representations, if any, have been received and considered.

(2) If the President is not satisfied that a proposed appointee is impartial, the President shall propose an alternative person, and shall afford an opportunity to the respondent to make representations about that person within 14 days of being notified of that person's identity, or within such shorter time as the President may allow.

Striking out an appeal

13. The Dean or the appellate court may on application or on their own initiative strike out an appeal if satisfied that the appeal is not being pursued with due expedition.

Absence of a party

14. The Provincial Registrar, Dean or the appellate court may proceed with a hearing notwithstanding the absence of a party, provided they are satisfied that the absent party has had notice of the hearing.

Fixing the date and place of a hearing

15.—(1) The Provincial Registrar may direct the parties to provide time estimates of the likely length of the hearing of the appeal or of an application.

(2) Thereafter, as soon as may be expedient, in consultation with the Dean, and with due regard being paid to the convenience of the parties and any witnesses, the Provincial Registrar shall fix the date, time and place for the hearing of the appeal or of an application, and shall give at least 14 days written notice of it to the parties.

(3) On an application by a party or at the request of the Dean, the Provincial Registrar may vary the date, time or place of any hearing, and written notice of the variation shall be given to the parties by the Provincial Registrar.

Re-calling witnesses to give evidence before the appellate court

16.—(1) No witness who gave evidence before the tribunal may be called to give oral evidence to the appellate court without permission from the Provincial Registrar, the Dean or the appellate court.

(2) Where a respondent is appealing against a finding of fact and proposes that any witness who gave evidence to the tribunal should give oral evidence to the appellate court, at least 14 days before the directions hearing he or she shall give to the Designated Officer and to the Provincial

Registrar (or the Dean where the matter has been referred to the Dean under rule 11(2)) notice in writing of the intention to ask for permission.

(3) The notice in sub-rule (2) shall set out—

- (a) the name of any witness the respondent proposes should give evidence to the appellate court,
- (b) the reasons why it is considered necessary for the witness to give evidence to the appellate court.

(4) The appellate court may at any stage give permission under sub-rule (1).

(5) Permission under sub-rule (1) shall not be granted unless the Provincial Registrar, the Dean or the appellate court, as the case may be, is satisfied that the evidence is necessary for the just disposal of the appeal.

New evidence

17. Without the permission of the Dean or the appellate court, no evidence may be put before the appellate court which was not before the tribunal.

Application for new evidence to be admitted

18.—(1) An application by the respondent to the Dean for permission to put evidence before the appellate court which was not before the tribunal shall be made in writing in form A4 in the Schedule, or in a document which is substantially to the like effect, and shall—

- (a) identify the new evidence,
- (b) explain why the evidence was not before the tribunal,
- (c) explain the relevance and importance of the new evidence in relation to the matters determined by the tribunal and the issues raised in the appeal, and
- (d) contain a declaration that the party making the application believes the facts of the application to be true.

(2) The Designated Officer shall adapt form A4 as appropriate when making such an application.

(3) Where the application relates to evidence from a new witness, the party making the application shall attach to the application a copy of a statement from the witness setting out the proposed evidence, and the witness statement shall—

- (a) indicate which matters in it come from the witness's own knowledge, and which are matters of information or belief,
- (b) indicate the source of any matters of information or belief,
- (c) contain a declaration of truth in the following form—
“I believe that the contents of this witness statement are true”, and
- (d) be signed and dated by the author.

(4) The party making the application shall send or deliver to the other party a copy of the application and any attached witness statement.

(5) Before determining the application the Dean shall give the other party at least 14 days within which to make written representations in response to the application, and the other party shall send or deliver to the party making the application a copy of any such representations.

(6) The Dean may determine the application with or without a hearing. Subject to sub-rule (7) the Dean may grant or refuse the application or in exceptional circumstances may refer it to the appellate court for determination.

(7) The Dean or the appellate court may permit evidence that was not before the tribunal to be put before the appellate court, provided the Dean or the appellate court, as the case may be, is satisfied that—

- (a) the evidence was not available and could not reasonably have been obtained for the tribunal hearing,
- (b) the evidence, if it had been before the tribunal, could have had an important bearing on the determination of the matters before it, and
- (c) the evidence appears to be credible.

Amendment or withdrawal of the appeal

19. The appellate court may at the hearing, or the Dean may at any time before the hearing, on an application by the appellant after giving the other party an opportunity to respond to the application—

- (a) allow the appeal to be withdrawn, or
- (b) allow the notice of appeal to be amended,

on such terms as may be just, which in the case of amendment may include adjourning or postponing the hearing.

Hearing of the appeal

20. The appellant shall not, without permission from the Dean or the appellate court, be entitled on the hearing of the appeal to challenge any findings of the tribunal not set out in the notice of appeal under rules 5(2) or 6(2), as the case may be (whether as originally submitted to the Provincial Registrar or as amended under rule 19).

Power to adjourn

21. **A** hearing may be adjourned from time to time if necessary.

Oral evidence

22. If oral evidence is permitted by the appellate court, it shall be given on oath or solemn affirmation.

Appellate court may require personal attendance of witness

23. The appellate court may, if satisfied that special circumstances exist, require the personal attendance at **a** hearing of the author of a witness statement or an expert who has produced a report.

Power to exclude from hearing

24. The appellate court may exclude from **a** hearing any person who threatens to disrupt or has disrupted the hearing or has otherwise interfered with the administration of justice.

Hearing normally to be heard in public

25. **A** hearing shall be in public, but at any stage the appellate court may sit in private and may exclude any person or persons if satisfied that to do so—

- (a) is desirable to protect the private life of any person, or
- (b) is desirable to protect the interests of any child, or
- (c) is otherwise in the interests of the administration of justice.

Court may order identity not to be published

26. The appellate court may order that the name and any other identifying details of any person involved or referred to in the proceedings must not be published or otherwise made public, if satisfied that such an order—

- (a) is desirable to protect the private life of any person, or
- (b) is desirable to protect the interests of any child, or
- (c) is otherwise in the interests of the administration of justice.

The powers of the appellate court

27. On any appeal the appellate court may—

- (a) confirm, reverse or vary any finding of the tribunal,
- (b) refer a particular issue back to the tribunal for hearing and determination in accordance with any direction that may be given by the appellate court,
- (c) order the complaint to be reheard by the same or a differently constituted tribunal,
- (d) confirm or set aside a penalty imposed by the tribunal, or substitute a greater or lesser penalty,
- (e) impose one or more of the penalties under section 24 of the Measure where the tribunal has not imposed any penalty or when upholding an appeal on a question of law by the Designated Officer.

Court may invite bishop to express a view on penalty

28.—(1) Where the appellate court proposes to exercise its powers under rule 27(d) or (e), subject to sub-rule (3), the court may invite—

- (a) in the case of an appeal from the decision of a bishop's disciplinary tribunal, the bishop of the diocese concerned, or
- (b) in the case of an appeal from the decision of a Vicar-General's court, the archbishop concerned, or if the respondent is an archbishop, the other archbishop,

to express in writing within 14 days views as to the appropriate penalty, and the appellate court shall have regard to any such views.

(2) A copy of the bishop's or archbishop's views shall be provided by the Provincial Registrar forthwith to the respondent and to the Designated Officer.

(3) The bishop or archbishop shall not be invited to express any such views if the bishop or archbishop has given evidence in the proceedings at any stage.

(4) The Dean shall pronounce in public any penalty imposed by the appellate court, and may sit alone for that purpose.

Determination of the appeal to be by a majority

29. The determination of the appeal shall be according to the opinion of the majority of the members of the appellate court and shall be recorded in writing.

Pronouncement of the determination

30. The Dean shall pronounce the appellate court's determination of the appeal in public—

- (a) at the end of the hearing, or
- (b) at a later date when the Dean may sit alone for that purpose.

Determination may omit identifying details

31. The appellate court may omit from the written determination the name and any other identifying details of any person, if satisfied that such an order—

- (a) is desirable to protect the private life of that person, or
- (b) is desirable to protect the interests of any child, or
- (c) is otherwise in the interests of the administration of justice.

Provincial Registrar to distribute the written determination

32. A copy of the appellate court's written determination shall be sent by the Provincial Registrar to the complainant, the respondent, the Designated Officer, the bishop, and the diocesan registrar.

Applications

33.—(1) Unless otherwise provided for in these appeal rules, applications by a respondent shall be made in writing to the Provincial Registrar in form A5 in the Schedule, and the respondent shall send or deliver a copy at the same time to the Designated Officer.

(2) The Designated Officer shall adapt form A5 as appropriate when making an application, and shall send or deliver a copy to the respondent.

(3) Any response by a respondent to an application made by the Designated Officer shall be in writing using form A6 in the Schedule, and shall be sent or delivered to the Provincial Registrar within 14 days of the date when the notice of application was sent or delivered by the Designated Officer. The respondent shall at the same time send or deliver a copy of the response to the Designated Officer.

(4) The Designated Officer shall adapt form A6 as appropriate when responding to an application, and shall send or deliver a copy of the response at the same time to the respondent.

Costs

34.—(1) Where a respondent's conduct in the course of appeal proceedings has been unreasonable, the Provincial Registrar, the Dean or the appellate court may make at any stage an order for the payment of costs by the respondent to the Central Board of Finance of the Church of England.

(2) Any such order for the payment of costs may be in respect of—

- (a) costs paid, or authorised by the Legal Aid Commission to be paid, out of the Legal Aid Fund in respect of the respondent's legal costs incurred in the appeal proceedings,
- (b) costs incurred by the Central Board of Finance of the Church of England arising out of or in connection with the appeal proceedings,

and shall require the respondent to pay such gross sum as is deemed appropriate in all the circumstances.

Designated Officer

35. For the purposes of these appeal rules the Designated Officer may act through another person duly authorised by the Designated Officer.

Death of complainant

36.—(1) An appeal, whether made by the respondent or the Designated Officer, shall continue despite the death of a complainant.

(2) The parties may apply for further directions, where necessary, following the death of the complainant.

Death of respondent

37.—(1) Following the death of a respondent the Dean may give permission for an appeal to be heard, whether the appeal is made by the respondent or the Designated Officer, provided the Dean is satisfied that—

- (a) a point of law of general importance is in issue, or
- (b) it is in the interests of justice.

(2) The Dean shall appoint a representative to stand in the place of the deceased respondent for the purposes of the appeal.

Sending or delivering documents

38.—(1) Any document required by these appeal rules to be sent or delivered to any person shall be sent or delivered by any of the following means—

- (a) by first class post to the proper address of that person,
- (b) by leaving it at the proper address of that person,
- (c) by document exchange by leaving it addressed to that person's numbered box—
 - (i) at the DX of that person, or
 - (ii) at a DX which sends documents to that person's DX every business day,
- (d) in such other manner (including electronic means) as the Dean or the Provincial Registrar may direct.

(2) The proper address shall be the usual or last known address of a person, except as follows —

- (a) the proper address for the respondent, if legally represented, shall be the business address of the solicitor acting for the respondent,
- (b) the proper address for the Provincial Registrar shall be the address of the Provincial Registry of the province concerned,
- (c) the proper address for the Dean shall be care of the Provincial Registrar at the Provincial Registry of the province concerned,
- (d) the proper address for the Designated Officer shall be The Legal Office of the National Institutions of the Church of England.

Extension of time

39. Except where rule 9(1) applies, the Dean or the Provincial Registrar may extend any time limit specified under these appeal rules for doing an act even if the time so specified has expired.

Date for compliance

40. Where an order or direction imposes a time limit for doing an act the last date for compliance shall wherever practicable be expressed as a calendar date and include the time of day by which the act must be done.

Irregularities

41. Where there has been an irregularity or error of procedure—

- (a) such irregularity or error does not invalidate any step taken in the appeal proceedings unless the appellate court, Dean or Provincial Registrar so holds, and
- (b) the appellate court, Dean or Provincial Registrar may give directions to cure or waive the irregularity.

Revision of forms

42. Any form in the Schedule may from time to time be revised or amended by direction of the Dean if deemed appropriate.

Interpretation

43. In these appeal rules, unless the context otherwise requires—

“appellant” means the respondent or the Designated Officer, as the case may be, who appeals under rule 3, and, for the avoidance of doubt, does not include a complainant;

“appellate court” means the Arches Court of Canterbury when the proceedings take place in the province of Canterbury, and the Chancery Court of York when the proceedings take place in the province of York, as constituted in accordance with section 20(1B), (2) or (3) of the Measure as the case may be;

“complainant” means the person who made the complaint under section 10 of the Measure, or the person duly nominated to do so whether under section 10 or section 42 of the Measure, or rule 55 of the Clergy Discipline Rules 2005(a), or the person authorised or determined to have had a proper interest under section 42 of the Measure in making the complaint, or the person substituted as complainant under rules 55, 56 or 59 of the Clergy Discipline Rules 2005, as the case may be;

“Dean” means the Dean of the Arches and Auditor;

“decision” means a determination by a tribunal or Vicar-General’s court within the meaning of section 18(3)(b) of the Measure;

“Designated Officer” means the officer of the Legal Office of the National Institutions of the Church of England designated by the Archbishops’ Council for the purposes of the Measure, and who acts independently from the complainant, the respondent, the bishop, the archbishop or any other person or body;

“Legal Aid Fund” and “Legal Aid Commission” shall mean the fund and the commission referred to in section 1 of the Church of England (Legal Aid) Measure 1994(b);

“parties” means the respondent and the Designated Officer, and “other party” shall mean either the respondent or the Designated Officer, as the case may be according to the context;

“Provincial Registrar” in the case of an appeal from a bishop’s disciplinary tribunal means the provincial registrar for the relevant province, and in the case of an appeal from the Vicar-General’s court means the provincial registrar for the other province;

“respondent” means the person against whom disciplinary proceedings were instituted;

“Schedule” means the Schedule to these appeal rules;

“the Measure” means the Clergy Discipline Measure 2003;

“tribunal” means a bishop’s disciplinary tribunal or a Vicar-General’s court exercising its jurisdiction in disciplinary proceedings, as the case may be.

Citation and commencement

44.—(1) These appeal rules shall be known as the Clergy Discipline Appeal Rules 2005.

(2) These appeal rules shall come into operation on the day appointed under section 48(2) of the Measure for the coming into operation of section 8 of the Measure.

Church House, London

(a) S.I. 2005/2022.
(b) 1994 No.3.

SCHEDULE

FORMS

FORM A1 (Rule 5)

Clergy Discipline Measure 2003

Notice of appeal from a respondent to a complaint

IMPORTANT NOTE: YOUR ATTENTION IS DRAWN TO RULE 27 OF THE CLERGY DISCIPLINE APPEAL RULES WHICH ENABLES THE APPELLATE COURT TO SUBSTITUTE A GREATER PENALTY IF YOUR APPEAL IS UNSUCCESSFUL

*Delete as appropriate. NOTE: in the case of an appeal from the Vicar-General's court for a province, it is the Provincial Registrar of the OTHER PROVINCE to whom the notice of appeal must be sent.

In the *Arches Court of Canterbury / *Chancery Court of York To the Provincial Registrar for the province of *Canterbury / *York

My details

My full name is :

My contact address, including postal code, is:

My contact telephone number is:

**E--mail details are optional, but it could be helpful to the Provincial Registrar to have them.

**My e-mail address is:

Complete if you have instructed a solicitor to represent you.

My solicitor's details

My solicitor's name is:

and the contact address is

DX number:..... Telephone

number:.....

My reasons for appealing against these findings are as follows:

Explain in brief points for each finding of fact or law that you appeal against why you believe the tribunal or Vicar-General's court was wrong to make the finding.

Leave blank if you are appealing only against the penalty.

If you are appealing against the penalty, state what it is.

Leave blank if you are not appealing against the penalty.

The penalty I am appealing against is:

My reasons for saying that a different penalty should be imposed in respect of the finding of misconduct, are as follows:

I attach the following documents:

These documents must be attached for all appeals.

1. A copy of the decision of the tribunal/Vicar-General's court
2. A copy of the record of the penalty imposed by the tribunal/Vicar-General's court

You must send a copy to the Designated Officer.

I am sending a copy of this notice of appeal and attached documents to the Designated Officer

The respondent or the representative of the respondent must sign the notice of appeal.

Signed:

Dated:

State whether you are the respondent, or the representative of the respondent.

Capacity:

FORM A2 (Rule 6)

Clergy Discipline Measure 2003

Notice of appeal from the Designated Officer

**Delete as appropriate.
NOTE: in the case of
an appeal from the
Vicar-General's court
for a province, it is the
Provincial Registrar of
the OTHER
PROVINCE to whom
the notice of appeal
must be sent.*

In the *Arches Court of Canterbury / *Chancery Court of York

To the Provincial Registrar for the province of *Canterbury / *York

My contact details:

Full name

Contact address, including postal code:

DX number: Telephone
number:

E-mail address is:

Respondent's details

Full name:

Contact address, including post code, is:

I believe the respondent is represented by:

Name of solicitor:

and the contact address is:

DX number: Telephone
number:

Details of the decision against which I wish to appeal

I wish to appeal against the decision of:

Delete as appropriate.* *the bishop's disciplinary tribunal for the diocese of**

or

***the court of the Vicar-General for the province of
*Canterbury/ *York**

*Insert the reference
number given to the
complaint.*

complaint reference number

*Put the date of the
pronouncement*

pronounced in public on

FORM A1A (Rule 4A)

Clergy Discipline Measure 2003

Application by a respondent to a complaint for leave to appeal

**Delete as appropriate.
NOTE: in the case of
an appeal from the
Vicar-General's court
for a province, it is the
provincial registrar of
the OTHER
PROVINCE to whom
the notice of
application must be
sent*

In the *Arches Court of Canterbury / *Chancery Court of York

To the Provincial Registrar for the province of *Canterbury / *York

My details

My full name is:

My contact address, including postal code, is:.....

.....

.....

My contact telephone number is:.....

***E-mail details are
optional, but it could be
helpful to the Provincial
Registrar to have them.*

**My e-mail address is:.....

*Complete if you have
instructed a solicitor to
represent you.*

My solicitor's details

My solicitor's name is:.....

and the contact address is:.....

.....

.....

DX number:.....

Telephone number:.....

Details of the decision against which I wish to appeal

I wish to apply for leave to appeal against the decision of:

**Delete as appropriate.*

***the bishop's disciplinary tribunal for the diocese of.....**

or

***the court of the Vicar-General for the province of
*Canterbury/*York**

Put the date(s) when the tribunal's decision was pronounced and any penalty imposed.

pronounced in public on.....

Tick one box only

I wish to apply for leave to appeal in respect of findings of law or fact, or both

I wish to apply for leave to appeal in respect of findings of law or fact, or both, and the penalty

I wish to apply for leave to appeal only in respect of the penalty

You must send a completed draft notice of appeal.

I attach a completed draft notice of appeal in form A1 setting out my reasons for appealing, and the documents required by that form

I am sending a copy of this application and attached documents to the Designated Officer

I believe that the facts of this application are true

The application must be signed by the respondent or the representative of the respondent

Signed:

Dated:

State whether you are the respondent, or the representative of the respondent.

Capacity:

FORM A2A (Rule 4A)

Clergy Discipline Measure 2003

Application by the Designated Officer for leave to appeal

**Delete as appropriate.
NOTE: in the case of
an appeal from the
Vicar-General's court
for a province, it is the
provincial registrar of
the OTHER
PROVINCE to whom
the notice of
application must be
sent*

In the *Arches Court of Canterbury / *Chancery Court of York

To the Provincial Registrar for the province of *Canterbury / *York

My details

My full name is :

My contact address, including postal code, is:.....

.....

.....

DX number: Telephone
number:.....

My e-mail address is:.....

I believe the respondent is represented by:

Name of solicitor:.....

and the contact address is:.....

.....

.....

DX number:.....

Telephone number:.....

Details of the decision against which I wish to appeal

I wish to apply for leave to appeal in respect of the decision of:

**Delete as appropriate.*

***the bishop's disciplinary tribunal for the diocese of.....**

or

***the court of the Vicar-General for the province of
*Canterbury/*York**

Put the date(s) when the tribunal's decision was pronounced and any penalty imposed.

pronounced in public on.....

You must send a completed draft notice of appeal.

I attach a completed draft notice of appeal in form A2 setting out my reasons for appealing, and the documents required by that form

I am sending a copy of this application and attached documents to the respondent

I believe that the facts of this application are true

A person duly authorised by the Designated Officer may sign

Signed:

Dated:

Capacity:

FORM A3 (Rule 9)

Clergy Discipline Measure 2003

Application for permission to appeal out of time

*Delete as appropriate.
NOTE: in the case of an appeal from the Vicar-General's court for a province, it is the Provincial Registrar of the OTHER PROVINCE to whom the application must be sent.

In the *Arches Court of Canterbury / *Chancery Court of York

To the Provincial Registrar for the province of *Canterbury / *York

My details

My full name is :

My contact address, including postal code, is:

My contact telephone number is:

**E-mail details are optional, but it could be helpful to the Provincial Registrar to have them.

**My e-mail address is:

Complete if you have instructed a solicitor to represent you.

My solicitor's details

My solicitor's name is:

and the contact address is:

DX number: Telephone number:

Details of the decision against which I wish to appeal

I wish to appeal out of time against the decision of:

*Delete as appropriate.

*the bishop's disciplinary tribunal for the diocese of

or

*the court of the Vicar-General for the province of *Canterbury/ *York

Insert the reference number given to the complaint. Put the date when the penalty was pronounced.

complaint reference number

pronounced in public on

I attach a copy of a witness statement for each new witness I propose to call, setting out the proposed new evidence, namely:

*State the name of each new witness you propose to call. You **must** attach a copy of a statement from each witness.*

- 1
- 2
- 3
- 4

You must send a copy to the Designated Officer.

I am sending a copy of this application and attached documents to the Designated Officer

Enter your own address and postcode.

My contact address including postcode is:

***Respondent's e-mail details are optional, but it could be helpful to the Provincial Registrar to have them.*

My telephone number is:

Put DX no. if applicable.

**My e-mail address is:

My DX number is:

I believe that the facts of this application are true

The application must be signed by the respondent or the representative of the respondent.

Signed:

Dated:

State whether you are the respondent, or the representative for the respondent.

Capacity:

FORM A5 (Rule 33)

Clergy Discipline Measure 2003

Notice of application in the course of appeal proceedings

Complaint reference No.
Appeal No.

**Delete as appropriate.*

NOTE: in the case of an appeal from the Vicar-General's court for a province, it is the Provincial Registrar of the OTHER

PROVINCE to whom the application must be sent.

**Complete and delete as appropriate.*

In the *Arches Court of Canterbury / *Chancery Court of York

To the Provincial Registrar for the province of *Canterbury / *York

In the matter of an appeal against the decision of:

***the bishop's disciplinary tribunal for the diocese of**

or

***the court of the Vicar-General for the province of
*Canterbury/ *York**

concerning a complaint against

Insert the name of the respondent to the complaint.

I, *[on behalf of] the respondent, wish to apply for an order that:

State the order or directions that you seek; you may attach a draft of the order or directions.

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My reasons are as follows:

State in brief your reasons for applying.

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FORM A6 (Rule 33)

Clergy Discipline Measure 2003

Response to an application in the course of appeal proceedings

Complaint reference No.
Appeal No.

**Delete as appropriate.*

NOTE: in the case of an appeal from the Vicar-General's court for a province, it is the Provincial Registrar of the OTHER

PROVINCE to whom the response must be sent.

**Complete and delete as appropriate.*

In the *Arches Court of Canterbury / *Chancery Court of York

To the Provincial Registrar for the province of *Canterbury / *York

In the matter of an appeal against the decision of:

***the bishop's disciplinary tribunal for the diocese of**

or

***the court of the Vicar-General for the province of
*Canterbury/ *York**

concerning a complaint against

Insert the name of the respondent to the complaint.

**In response to an application dated made
by I, *[on behalf of] the respondent**

Tick one box only.

consent to the application

wish to oppose all of the application

wish to oppose part of the application

for the following reasons:

Give your reasons in brief for your response above, and if you oppose only part of the application, state which part.

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EXPLANATORY NOTE

(This note is not part of the Order)

These rules are made pursuant to section 45 of the Clergy Discipline Measure 2003 for the purposes of carrying into effect the provisions of the Measure in relation to appeals under section 20.