

GENERAL SYNOD
CLERGY DISCIPLINE COMMISSION
ANNUAL REPORT FOR 2012

This report is made in fulfilment of the duty placed upon the Clergy Discipline Commission by section 3(3)(c) of the Clergy Discipline Measure 2003 to make an annual report to the General Synod, through the House of Bishops, on the exercise of its functions during the previous year. This is the ninth annual report made by the Commission and covers its work in the year to 31st December 2012.

The House of Bishops received this report in May 2013.

MEMBERSHIP

1. The Clergy Discipline Commission (“the Commission”) is constituted under section 3 of the Clergy Discipline Measure 2003 (“the Measure”), which provides for the appointment by the Appointments Committee of a Commission of not more than twelve persons, to include at least two from each House of the General Synod and at least two with legal qualifications specified in the Measure.¹ The Chair and Deputy Chair of the Commission are appointed by the Appointments Committee from amongst the legally qualified members after consultation with the Dean of the Arches and Auditor.
2. One change was made to the Commission’s membership (set out in Appendix 1) in 2012: the Revd Alastair Cutting was appointed to the Commission as a representative of the House of Clergy to replace the Revd Moira Astin, who stood down from General Synod.
3. The members of the Commission wish to record their sincere gratitude to the Commission’s staff without whom it could not function at all: first, to Adrian Iles, the Designated Officer, for his excellent work in the formal investigation of, and reports on, complaints under the Measure, the presentation of cases to the disciplinary tribunals and the drafting of many documents; secondly, to Sarah Clemenson, the Secretary to the Commission, for all her work in dealing with the Commission’s correspondence, meetings, minutes and other matters.

THE WORK OF THE COMMISSION IN 2012

4. The Commission met on three occasions in 2012.
5. The Commission took the opportunity in 2012 to review its ‘Guidance on Penalties’ which had last been revised in 2009. A number of revisions were made; most notably Part 6 of the Guidance was extended to deal with inappropriate relationships (falling short of sexual misconduct) with those in the pastoral care of clergy. The Guidance can be viewed online on the following link: <http://www.churchofengland.org/media/1474847/penalty%20guidance%20revd%20april%2012.pdf>.

¹ Defined in s.3(1)(b) to be “persons who have either a seven years general qualification within the meaning of the Courts and Legal Services Act 1990 (c. 41) or who have held or are holding high judicial office or the office of Circuit judge.”

6. The Commission also revised its guidance document produced for the chairs of bishops' disciplinary tribunals, which had similarly last been revised in 2009. The guidance was updated to reflect points of practice which have arisen, and to draw attention to practice directions issued by the President of Tribunals. The revised guidance was circulated to the panel of chairs in June 2012.
7. In the course of 2012 the Commission considered the position of the respondent where a complaint made about him or her was dismissed. In such a situation, the respondent is not required to submit an answer and so does not have the opportunity to give his or her version of events. It was acknowledged that that could be unsatisfactory from the respondent's point of view, particularly where there were errors of fact in the complaint which he or she wished to correct. Accordingly, the Bishops of Chester and Guildford wrote to all bishops in February 2012, on behalf of the Commission, explaining that a respondent should be permitted if so wished to set out his or her account in writing to the bishop even after a complaint has been dismissed, particularly if it would help to provide a complete picture of what had gone on and avoid issues being misinterpreted in the future.
8. The Commission considered issuing guidance for bishops and registrars concerning the purpose and content of preliminary scrutiny reports. The Commission's aim was to draw attention to guidance that was already in the Code of Practice and to develop that guidance further. Accordingly, the Commission produced a set of guidelines, (which were finalised at its January 2013 meeting and issued in March), highlighting general principles about preliminary scrutiny reports, and reiterating that preliminary scrutiny was not a fact-finding exercise: the registrar should look for potentially credible evidence to support the complaint, and assume for the purposes of preliminary scrutiny that the facts presented in the supporting credible evidence are true.
9. In late 2012 the Commission was consulted in respect of a review of current guidance for the management of clergy personal files. Proposed new draft guidance contained a section on the retention of records relating to complaints made under the Measure, and the Commission was asked for its views on the retention of such records. The Commission recommended that all complaints and supporting documents, including where complaints were dismissed, should be retained permanently, and should only be destroyed when the cleric died (or relinquished his or her orders).
10. In 2012 the Commission also began to consider various issues relating to the Measure which had been raised in the interim Chichester Visitation Report. In particular, the report had raised concerns about the bishop's power of suspension under section 36 of the Measure, and about the limitation period in section 8 for starting complaint proceedings. Work in respect of those, and other issues raised in the report, is ongoing in 2013.

ANNUAL ANALYSIS OF COMPLAINTS

11. The annual analysis of complaints made under the Measure, recording by whom complaints were made and how they were dealt with, is presented in Appendix 2.
12. In 2012, 69 complaints were made under the Measure against priests or deacons, as against 66 in 2011². The total number of respondents in respect of those cases was 64. This compares with the total number of clergy falling within the provisions of the Measure as at 31st December 2012 of around 19,000 (including approximately 11,400 licensed stipendiary and non-

2 Note – two dioceses did not provide returns in 2012.

stipendiary clergy, 1,550 chaplains and clergy in other ministries, and an estimated 6,100 active retired clergy).³

13. A third of dioceses (33%) had no complaints at all, and only 3 had more than 6 complaints. As in previous years, the majority of complaints (62%) were made by complainants other than archdeacons, churchwardens or persons nominated by a PCC, with archdeacons making up a further 36% of complainants.
14. A fifth of complaints (22%) were dismissed by the bishop in 2012 – a drop on the 34% dismissed in 2011 – and no further action taken in a further 7%. A penalty by consent was agreed in 20% of the complaints, 4% were conditionally deferred, and 4% of the complaints were referred to the Designated Officer for formal investigation. 43% of the complaints made in 2012 were in the process of being dealt with by dioceses at the year-end. Following formal investigation, no complaints were referred to a bishop's disciplinary tribunal; the President of Tribunals decided that there was no case to answer in respect of 5 complaints, and one complaint was withdrawn by the complainant.
15. No complaints were heard by a bishop's disciplinary tribunal in 2012.
16. 12 complaints were made against bishops in the course of 2012, of which 7 were dismissed and no further action taken in one complaint. 4 complaints were outstanding at the year-end. No complaints were brought against an Archbishop.

On behalf of the Commission

Sir John Mummary (Chair)
April 2013

³ The statistics are the most recent available and are taken from *Church Statistics 2010/11 (GS Misc 1021)*, published by the Research and Statistics Department of the Archbishops' Council in July 2012.

APPENDIX 1: MEMBERSHIP OF THE COMMISSION AS AT 31ST DECEMBER 2012

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

Chair (and President of Tribunals)

The Right Hon Lord Justice Mummery*

Deputy Chair (and Deputy President of Tribunals)

His Honour Judge John Bullimore*

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

The Right Reverend Dr Peter Forster, Bishop of Chester+^

The Right Reverend Christopher Hill, Bishop of Guildford+^

Revd Alastair Cutting (Chichester)+^

Revd Canon Celia Thomson (Gloucester)+^

Dr Anna Thomas-Betts (Oxford)+^

Mr David Mills (Carlisle)+^

Other members appointed under section 3

Mr Niall Blackie (Diocesan Registrar of Lichfield)*#

The Venerable Annette Cooper, the Archdeacon of Colchester*^

The Reverend Canon Cynthia Dowdle*

Mr Michael Sayers (former Secretary of the Council on Tribunals)*#

^ Member of the General Synod.

* Appointed to 31st December 2013.

+ Appointed to 31st December 2015.

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

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

Complaints against Priests and Deacons

	2012 (2011)	%
Formal complaints made to bishops (total)	69 (66)	
<i>Dioceses with no complaints made</i>	14 (12)	33% (28%)
<i>Dioceses with between 1 and 5 complaints made</i>	25 (31)	60% (72%)
<i>Dioceses with 6 or more complaints made</i>	3 (0)	7% (0%)
Of the total, the following numbers of complaints were made by:		
<i>a person nominated by a PCC under s10(1)(a)(i)</i>	0 (0)	0% (0%)
<i>a churchwarden under s10(1)(a)(ii)</i>	1 (2)	1% (3%)
<i>an archdeacon under s10(1)(a)(iii)</i>	25 (14)	36% (21%)
<i>another person under s10(1)(a)(iii)</i>	43 (50)	62% (76%)
Number of complaints delegated under s13 Dioceses, Pastoral and Mission Measure to a suffragan bishop for determination	9 (10)	
Action taken in 2012 in relation to complaints made in 2012 or earlier		
<i>Dismissed by the bishop under s11(3)</i>	16 (25)	22%
<i>No further action under s12(1)(a) & s13</i>	5 (12)	7%
<i>Conditional deferment under s12(1)(b) & s14</i>	3 (4)	4%
<i>Resolved by conciliation under s12(1)(c) & s15</i>	0 (0)	0%
<i>Penalty by consent under s12(1)(d) & s16</i>	15 (8)	20%
<i>Formal investigation under s12(1)(e) & s17</i>	3 (6)	4%
<i>Withdrawn (rule 59(1)(a))</i>	0 (0)	0%
<i>No decision as at 31st December 2012</i>	32 (18)	43%

Number of complaints referred unsuccessfully to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	0 (0)	
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Penalties by consent imposed under s12(1)(d) & s16		
<i>Prohibition for life (with or without resignation)</i>	2 (0)	
<i>Limited prohibition (with or without resignation)</i>	11 (3)	
<i>Resignation without prohibition including revocation of licence</i>	0 (0)	
<i>Injunction</i>	2 (0)	
<i>Rebuke</i>	0 (2)	
<i>Injunction and Rebuke</i>	2 (3)	
Cases referred for formal investigation under s12(1)(e) & s17		
<i>President of Tribunals decided 'No case to answer'</i>	5 (4)	
<i>President referred complaint to bishop's disciplinary tribunal</i>	0 (1)	
<i>President not decided as at 31st December 2012</i>	2 (0)	
<i>Formal investigation ongoing as at 31st December 2012</i>	2 (1)	
Number of cases determined by a tribunal	0 (1)	
Number of suspensions imposed (total)	13 (6)	
<i>Suspensions under s36(1)(a) in course of complaint proceedings</i>	9 (3)	
<i>Suspensions under s36(1)(b) following arrest</i>	4 (5)	
Cases where a penalty of prohibition or removal from office was imposed under s30(1)(a) following conviction and sentence of imprisonment	4 (3)	
Cases where a penalty of removal from office or prohibition was imposed under s30(1)(b) following decree of divorce or order for judicial separation	0 (1)	

Complaints against Bishops and Archbishops

Formal complaints made to archbishops	2012 (2011)
<i>in respect of a bishop</i>	12 (5)
<i>in respect of the other archbishop</i>	0 (0)
How complaints were dealt with	
<i>Dismissed under s11(3)</i>	7 (5 ⁴)
<i>No further action under s12(1)(a) & s13</i>	1 (0)
<i>Conditional deferment under s12(1)(b) & s14</i>	(0)
<i>Resolved by conciliation under s12(1)(c) & s15</i>	(0)
<i>Penalty by consent under s12(1)(d) & s16</i>	(0)
<i>Formal investigation under s12(1)(e) & s17</i>	(0)
<i>Withdrawn (rule 59(1)(a))</i>	(0)
<i>No decision as at 31st December 2012</i>	4 (1)
Number of complaints unsuccessfully referred to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)	0 (0)
Number of Vicar-General's courts held	0 (0)
Number of suspensions imposed	0 (0)
Cases where a penalty of removal from office or prohibition was imposed under s31(1)(a) following conviction and sentence of imprisonment	0 (0)
Cases where a penalty of removal from office or prohibition was imposed under s31(1)(b) following decree of divorce or order for judicial separation	0 (0)

4 One complaint was outstanding from 2010.