

**GENERAL SYNOD**  
**CLERGY DISCIPLINE COMMISSION**  
**ANNUAL REPORT FOR 2017**

*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 thirteenth annual report made by the Commission and covers its work in the year to 31 December 2017.*

*The House of Bishops received this report in May 2018.*

## **MEMBERSHIP AND FUNCTIONS**

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.<sup>1</sup> 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. There were no changes in the Commission’s membership during the course of 2017. The membership of the Commission is set out as at 31 December 2017 in Appendix 1.
3. The Chair and Deputy Chair sit respectively as the President and Deputy President of Tribunals. In those capacities they exercise certain judicial functions under the Measure. The Commission itself, however, has no judicial role in respect of individual cases. It has a general responsibility to monitor disciplinary procedures under the Measure in practice, and its specific duties include formulating guidance for the purposes of the Measure generally, issuing general policy guidance to persons exercising disciplinary functions, and giving general advice as to appropriate penalties.

## **THE WORK OF THE COMMISSION IN 2017**

4. The Commission met on three occasions in 2017.
5. At its January meeting the Commission heard from the Revd Stephen Trott, who was a longstanding member of the General Synod for the Diocese of Peterborough, and acted as Synodical Secretary to the Convocation of Canterbury. He had served as Editor of the recent updated edition of *Guidelines for the Professional Conduct of the Clergy*, and had additionally served on the Revision Committee for the nascent Clergy Discipline Measure (“CDM”). Mr Trott made some observations on the operation of the Measure, particularly with regard to

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<sup>1</sup> 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.”

‘vexatious’ complaints, and complaints relating to capability or pastoral difficulties which should be dealt with outside the CDM because they were not matters of misconduct. The Commission was grateful to Mr Trott for raising these matters, and would continue to bear the points in mind.

6. The Commission continued to monitor the progress of various pieces of legislation related to the CDM. The remaining sections of the Safeguarding and Clergy Discipline Measure 2016 were brought into force on 1 January 2017, and the Commission’s Amending Code of Practice and the Clergy Discipline (Amendment) Rules 2016 were all also brought into force on 1 January 2017.
7. The Commission considered the matter of thresholds in CDM cases, and at its May meeting received a presentation from the Archdeacon of Gloucester on the ‘Six Step Process’ in operation in her Diocese. The process was employed in following up concerns and complaints outside the statutory CDM procedure for less serious matters, and was an informal, pastoral and practical framework which aimed to provide security and transparency for those involved: it was not a substitute for CDM, safeguarding or capability procedures. At its October meeting, the Commission heard that the Archdeacons’ Forum were to work with Church of England Clergy Advocates (‘CECA’) on this matter, and that proposals would be put by those bodies to the Archbishops’ Council’s Remuneration and Conditions of Service Committee (‘RACSC’). The Commission would keep a watching brief on the discussions insofar as they related to the CDM and the Code of Practice issued by the Commission.
8. The Chair of the Commission wrote to all diocesan bishops emphasising the importance of accuracy in what information was reported to the relevant archbishop for inclusion in the Archbishops’ list in cases where a penalty was imposed by consent after a complaint had been made. He emphasised that if a penalty was not imposed in respect of all parts of a complaint, the complainant ought to be informed. This was in response to a case reported in the Church Times, where there had been an apparent mismatch between the substance of a complaint and the content of the entry on the list.
9. The Commission is aware that concerns have been expressed about delays in CDM proceedings. It recognises the importance of complaints being determined timeously, and is looking into the issue of whether there are delays and if so the reasons for such delays, and what steps could be taken to reduce delay. At its October meeting, while acknowledging that there was scope for an extension of the time limit at each stage of the process which allowed the potential for delay, members agreed that it would be useful to gauge from diocesan registrars what the main reasons for delays in cases were. It was resolved that a questionnaire be circulated to all diocesan registrars so that data might be collected to inform the Commission’s discussions at a future meeting in 2018. The Commission will continue to work on this issue.
10. The Commission reviewed the application of section 9 of the CDM concerning applications for permission to make a complaint out of time. The Commission agreed that the test to be applied by the President and Deputy President when deciding such applications was whether there was good reason for not having made the complaint, and consider whether the respondent would suffer serious prejudice as a result of the delay; it was not generally appropriate at that stage to consider the merits of a potential complaint.
11. In response to a request from an ordained priest and a licensed reader, the Commission considered whether it should provide written guidance in connection with informal complaints. The Commission resolved that it would not be appropriate for it to do so – it was

not the function of the Commission to provide guidance in respect of complaints or grievances made informally outside the procedures of the CDM.

12. The Commission also considered a letter from the Archdeacon of Macclesfield which raised issues relating to the provision of pastoral care to clergy responding to complaints made under the CDM, particularly in cases involving prohibition. The issues of who was to provide the pastoral care and support, and for what time period, were discussed, as well as matters to do with procedures for notifying respondents that disciplinary proceedings were being brought against them. The Commission resolved to consider the matter in greater detail at a future meeting.
13. The Commission received regular reports at its meetings on the progress of cases that had been referred by bishops to the Designated Officer for formal investigation under the Clergy Discipline Measure, and also was updated on the progress of the IICSA public enquiry.

## ANNUAL ANALYSIS OF COMPLAINTS

14. 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.
15. In 2017, 101 complaints were made under the Measure against priests or deacons, as against 90 in 2016. The total number of respondents in respect of those cases was 75. This compares with the total number of clergy falling within the provisions of the Measure as at 31 December 2016 of around 19,550 (including approximately 11,020 licensed stipendiary and non-stipendiary clergy, 1,980 chaplains and clergy in other ministries, and an estimated 6,560 active retired clergy and those holding a permission/licence to officiate).<sup>2</sup> As in previous years, the number of clergy against whom a complaint was made remains very low – some 0.4% of the total number.
16. 21% of dioceses had no complaints at all, compared with 26% in 2016, and 5% had six or more complaints. As in previous years, the majority of complaints (72%) were made by complainants other than archdeacons, churchwardens or persons nominated by a PCC, with archdeacons making up a further 28% of complainants, a slight decrease on last year.
17. 18% of complaints were dismissed by the bishop in 2017 (a slight decrease on 2016) and no further action was taken in 19%, an increase on the previous year (14%). A penalty by consent was imposed in 19% of the complaints, 2% were conditionally deferred, while 7% of the complaints were referred to the Designated Officer for formal investigation. 35% of the complaints made in 2017 or earlier were in the process of being dealt with by dioceses at the year-end. Following formal investigation, the President or Deputy President of Tribunals decided there was no case to answer in respect of two complaints, three complaints were referred to a bishop's disciplinary tribunal, and seven investigations were ongoing at the end of the year. Four complaints were concluded by a bishop's disciplinary tribunal in 2017.
18. There were seven cases where a penalty of prohibition or removal from office was imposed under section 30(1)(a) of the Measure following conviction and sentence of imprisonment.

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<sup>2</sup> The statistics are the most recent available and are taken from *Ministry Statistics 2016*, published by the Research and Statistics Department of the Archbishops' Council in 2017.

19. Seven complaints were made against bishops or archbishops in the course of 2017; two were dismissed, and no further action taken in two more. Six complaints were outstanding at the year-end (compared with four at the end of 2016).
20. Of those seven, two were complaints against the Archbishops.
21. During the course of the year, the President and Deputy President of Tribunals considered 52 applications and reviews.

**On behalf of the Commission**

**The Rt Hon. Sir Andrew McFarlane (Chair)**  
**May 2018**

## APPENDIX 1: MEMBERSHIP OF THE COMMISSION AS AT 31<sup>ST</sup> DECEMBER 2017

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

#### **Chair (and President of Tribunals)**

The Rt Hon Lord Justice McFarlane\*

#### **Deputy Chair (and Deputy President of Tribunals)**

Sir Mark Hedley\*

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

The Rt Revd Nicholas Baines, Bishop of Leeds+^

The Rt Revd Christopher Lowson, Bishop of Lincoln+^

The Revd Canon John Sinclair (Newcastle)+^

The Ven. Jackie Searle, Archdeacon of Gloucester (Gloucester)+^

Canon Carol Wolstenholme OBE (Newcastle)+^

Mr David Mills MBE (Carlisle)+^

### Other members appointed under section 3

Mr Martin Follett (Diocesan Registrar of Exeter and Truro)\*#

The Revd Canon Jane Sinclair\*

The Ven. Moira Astin, Archdeacon of Reigate\*

Dr Jamie Harrison (Durham)\*^

^ Member of the General Synod.

\* Appointed to 31<sup>st</sup> December 2018.

+ Appointed to 31<sup>st</sup> December 2020.

# 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*

	2017 (2016)	%
<b>Formal complaints made to bishops (total)</b>	101 (90)	
<i>Dioceses with no complaints made</i>	9 (11)	21% (26%)
<i>Dioceses with between 1 and 5 complaints made</i>	31 (28)	74% (67%)
<i>Dioceses with 6 or more complaints made</i>	2 (3)	5% (7%)
<b>Of the total, the following numbers of complaints were made by:</b>		
<i>a person nominated by a PCC under s10(1)(a)(i)</i>	0 (4)	0% (4%)
<i>a churchwarden under s10(1)(a)(ii)</i>	0 (0)	0% (0%)
<i>an archdeacon under s10(1)(a)(iii)</i>	28 (30)	28% (33%)
<i>another person under s10(1)(a)(iii)</i>	73 (56)	72% (62%)
<b>Number of complaints delegated under s13 Dioceses, Pastoral and Mission Measure to a suffragan bishop for determination</b>	9 (11)	9% (12%)
<b>Action taken in 2017 in relation to complaints made in 2017 or earlier</b>		
<i>Dismissed by the bishop under s11(3)</i>	21 (31)	18% (26%)
<i>No further action under s12(1)(a) &amp; s13</i>	23 (10)	19% (14%)
<i>Conditional deferment under s12(1)(b) &amp; s14</i>	2 (3)	2% (4%)
<i>Resolved by conciliation under s12(1)(c) &amp; s15</i>	0 (0)	0% (0%)
<i>Penalty by consent under s12(1)(d) &amp; s16</i>	23 (18)	19% (24%)
<i>Formal investigation under s12(1)(e) &amp; s17</i>	8 (6)	7% (8%)
<i>Withdrawn (rule 59(1)(a))</i>	0 (1)	0% (1%)
<i>No decision as at 31<sup>st</sup> December 2017</i>	41 (35)	35% (24%)

<b>Number of complaints referred unsuccessfully to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)</b>	2 (0)
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<b>Penalties by consent imposed under s12(1)(d) &amp; s16</b>	
<i>Prohibition for life (with or without resignation)</i>	6 (1)
<i>Limited prohibition (with or without resignation)</i>	9 (11)
<i>Resignation without prohibition including revocation of licence</i>	3 (0)
<i>Injunction</i>	0 (1)
<i>Rebuke</i>	2 (3)
<i>Injunction and Rebuke</i>	3 (4)
<b>Cases referred for formal investigation under s12(1)(e) &amp; s17</b>	
<i>President of Tribunals decided 'No case to answer'</i>	2 (2)
<i>President referred complaint to bishop's disciplinary tribunal</i>	3 (4)
<i>President not decided as at 31<sup>st</sup> December 2017</i>	2 (1)
<i>Formal investigation ongoing as at 31<sup>st</sup> December 2017</i>	7 (3)
<i>No further steps taken under s16(3A) (penalty by consent)</i>	1 (0)
<b>Number of cases determined by a tribunal</b>	4 (3)
<b>Complaints withdrawn from a tribunal or otherwise terminated</b>	1 (1)
<b>Number of suspensions imposed (total)</b>	18 (24)
<i>Suspensions under s36(1)(a) in course of complaint proceedings</i>	10 (10)
<i>Suspensions under s36(1)(b) following arrest</i>	6 (13)
<i>Suspensions under s36(1)(c) following conviction</i>	0 (1)
<i>Suspensions under s36(1)(d) following inclusion in a barred list</i>	1 (0)
<i>Suspensions under s36(1)(e) following determination that the cleric presents a significant risk of harm</i>	1
<i>Suspensions under s36A pending determination of an application to bring proceedings out of time</i>	0

<b>Cases where a penalty of prohibition or removal from office was imposed under s30(1)(a) following conviction and sentence of imprisonment</b>	7 (5)
<b>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</b>	1 (0)
<b>Cases where a penalty of removal from office or prohibition was imposed under s30(1)(c) following inclusion in a barred list</b>	1 (0)

### *Complaints against Bishops and Archbishops*

<b>Formal complaints made to archbishops</b>	2017 (2016)
<i>in respect of a bishop</i>	5 (6)
<i>in respect of the other archbishop</i>	2 (0)
<b>Action taken in 2017 in relation to complaints made in 2017 or earlier</b>	
<i>Dismissed under s11(3)</i>	2 (3)
<i>No further action under s12(1)(a) &amp; s13</i>	2 (0)
<i>Conditional deferment under s12(1)(b) &amp; s14</i>	0 (0)
<i>Resolved by conciliation under s12(1)(c) &amp; s15</i>	0 (0)
<i>Penalty by consent under s12(1)(d) &amp; s16</i>	0 (0)
<i>Formal investigation under s12(1)(e) &amp; s17</i>	0 (0)
<i>Withdrawn (rule 59(1)(a))</i>	0 (0)
<i>No decision as at 31<sup>st</sup> December 2016</i>	6 (4)
<b>Number of complaints unsuccessfully referred to conciliation before being dealt with under s12(1)(a), (b), (d) or (e)</b>	0 (0)
<b>Number of Vicar-General's courts held</b>	0 (0)
<b>Number of suspensions imposed</b>	0 (0)



<b>Cases where a penalty of removal from office or prohibition was imposed under s31(1)(a) following conviction and sentence of imprisonment</b>	0 (0)
<b>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</b>	0 (0)
<b>Cases where a penalty of removal from office or prohibition was imposed under s31(1)(c) following inclusion in a barred list</b>	0 (0)

<b><i>Applications and reviews before the President/Deputy President of Tribunals</i></b>	
<i>Application to bring a complaint out of time (s9)</i>	18 (8 granted)
<i>Review of a dismissal (s11(4))</i>	15 (0 reversed)
<i>Referral of a decision of no further action (s13(3))</i>	2 (0 overturned)
<i>Consulted by bishop re penalty in case of divorce/conviction (s30(2))</i>	13
<i>Appeal against notice of suspension (s36(6))</i>	3 (0 revoked)
<i>Review of inclusion of name in list under s38(1)(a) to (d) (s38(2))</i>	1 (0 excluded)

