

GENERAL SYNOD

DRAFT SAFEGUARDING (CODE OF PRACTICE) MEASURE Policy Note

This policy note provides the context for the Draft Safeguarding (Code of Practice) Measure.

1. Current position

The Church of England is committed to effective safeguarding. Section 5 of the Safeguarding and Clergy Discipline Measure 2016 ('the Measure') was introduced to support this objective. Under the Measure 'A relevant person must have due regard to guidance issued by the House of Bishops on matters relating to the safeguarding of children and vulnerable adults.' This 'due regard' duty must be followed and 'relevant persons' cannot disregard it unless they have 'cogent' reasons for doing so.

2. Weaknesses of the current position

Section 5 has several weaknesses which undermine the clarity that is needed for effective safeguarding practice. The weaknesses are captured by the following independent observations.

2.1. The IICSA May 2019 report: The Anglian Church. Case Studies: 1. The diocese of Chichester. 2. The response to allegations about Peter Ball.

Recommendation 2 of this report stated: "Amendment of Canon C30. The Church of England should amend the current canon requiring clerics to comply with the Bishop's Guidance on Safeguarding. The use of the words 'due regard' in Canon C30 is an acceptable term of art, but lacks sufficient clarity. Very few individuals who gave evidence to the Inquiry said they understood what this meant, including the Archbishop of Canterbury himself".

[It should be noted that this recommendation contained a technical error: it is not the Canon that imposes the duty to have due regard, it is section 5 of the Safeguarding and Clergy Discipline Measure 2016].

2.2. Use of the term "guidance"

In common parlance the term "guidance" is used to cover such ideas as advice, explanation, good practice, research findings. However, "safeguarding guidance" as used by the Church covers a range of different concepts including what must be done. This creates ambiguity and uncertainty. The Social Care Institute for Excellence noted in its "Final overview report of the independent safeguarding audits" (March 2019):

"The underlying difficulty is the overall Church of England's use of the term "practice guidance" to cover a variety of policies, procedures (i.e. instructions of what must be done) and guidance (which is best practice, research evidence etc.). It is not always evident which part of the processes contained within the practice guidance must be

followed, which should be followed but allow for discretion, the rationale for being allowed such discretion and what content is further guidance”.

2.3. October 2020 IICSA Investigation Report in respect of the Anglican Church

Page 26 of this report notes the following:

“There remain a number of concerns about the Church’s current policies:

- As noted in the SCIE overview report, the Church uses terms such as “practice guidance” to cover a variety of national policies, procedures and guidance.
- In its Chichester / Peter Ball Investigation Report, the Inquiry recommended the amendment of Canon 30 to require clergy to comply with the House of Bishops’ safeguarding guidance, as the term “due regard” lacks sufficient clarity.”

3. Proposed amendments

The proposed amendment to the Measure will address the weaknesses identified above.

- It will do this by introducing a Safeguarding Code of Practice. This Code will contain the Church’s suite of safeguarding policies which will clearly differentiate between what is a “requirement” and what is “guidance” on how to meet the requirement.
- The duty to have “due regard” is removed, but the power for the Code to include exceptions is introduced. The list of relevant people to whom the Code applies is extended to include a wider range of roles than were previously required to have “due regard”.

The passing of the amendment will promote improved safeguarding practice in the Church and will demonstrate tangibly the Church’s commitment to become safer for children and vulnerable adults. Further legislation is expected to be introduced next year to give effect to recommendations in the second IICSA report.

National Safeguarding Team

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