

GENERAL SYNOD
SAFEGUARDING (CODE OF PRACTICE) MEASURE

Explanatory notes

The draft Safeguarding (Code of Practice) Measure replaces the existing duty to have due regard to safeguarding guidance with provision for a safeguarding code of practice which may impose requirements on, as well as give guidance to, relevant persons.

Introduction

1. In its 2019 report¹ on case studies relating to Bishop Peter Ball and to the Diocese of Chichester, the Independent Inquiry into Child Sexual Abuse (IICSA) made a number of recommendations, all of which were welcomed by the Archbishops' Council and subsequently endorsed by the General Synod.
2. One of those recommendations was concerned with the current statutory duty to "have due regard" to safeguarding guidance issued by the House of Bishops². IICSA described "due regard" as a "term of art" which lacked sufficient clarity and was not generally understood. IICSA recommended that ecclesiastical legislation was amended to make the nature of the obligation clear.
3. The draft Safeguarding (Code of Practice) Measure ("the Measure") replaces the duty to have due regard to safeguarding guidance with provision for a safeguarding code of practice which may impose requirements on relevant persons, as well as giving guidance to them. A relevant person to whom a requirement applies will be obliged to comply with that requirement. Guidance contained in the code will assist relevant persons in understanding how to meet the requirements the code imposes on them.
4. The Measure extends the current list of "relevant persons" so that (as well as the clergy, licensed lay persons, churchwardens and parochial church councils) it also includes diocesan bodies such as diocesan boards of education and finance, bodies carrying out mission initiatives, staff of the Archbishops' Council with safeguarding responsibilities (e.g. staff in the National Safeguarding Team) and those with safeguarding responsibilities in dioceses, parishes and mission initiatives. The current draft Cathedrals Measure will add cathedral chapters to the list of "relevant persons" and their addition is reflected in this draft Measure.

¹ *Anglican Church Case Studies: Chichester/Peter Ball Investigation Report* (May 2019), available at <https://www.iicsa.org.uk/publications/investigation/anglican-chichester-peter-ball>.

² See recommendation 2 (which mistakenly refers to Canon C 30; the duty to have due regard is contained in section 5 of the Safeguarding and Clergy Discipline Measure 2016).

Notes on clauses

Clause 1 Code of Practice

5. Clause 1 inserts a new section 5A (headed “Code of Practice”) in the Safeguarding and Clergy Discipline Measure 2016 (“the 2016 Measure”).
6. New section 5A(1) imposes an obligation on the House of Bishops to issue a code of practice for relevant persons on safeguarding children and vulnerable adults. The House of Bishops may revise the code of practice.
7. New section 5A(2) sets out, by means of a list, who is a “relevant person” for the purposes of the code of practice. Paragraphs (a) to (g) cover the same office holders and bodies as currently come within the list of relevant persons in section 5 of the 2016 Measure. Paragraph (h) provides that the chapter of a cathedral is a relevant person, reflecting a change to be made by the current draft Cathedrals Measure. Paragraphs (i) to (n) add further bodies and persons to the list of relevant persons. Diocesan Boards of Education and Finance and other statutory diocesan bodies will be relevant persons, as will any body that is established to carry out a mission initiative under a bishop’s mission order. Staff of the Archbishops’ Council, and independent contractors engaged by the Council, who work in the field of safeguarding (e.g. the National Safeguarding Team) will be relevant persons. So too will individuals with safeguarding responsibilities in dioceses, parishes and mission initiatives.
8. New section 5A(3) enables the code of practice to impose requirements on relevant persons, and to give them guidance.
9. New section 5A(4) provides that a relevant person must comply with a requirement imposed on that person by the code.
10. New section 5A(5) enables the code to specify exceptions to the requirements it imposes so that it can appropriately provide for particular situations that do not fit the general pattern. New section 5A(6) – for similar reasons – enables the code to authorise a person of a specified description (e.g. a diocesan safeguarding adviser) to make an exception, so that the particular circumstances of unusual cases can be dealt with appropriately.
11. New section 5A(7) provides that instead of a single safeguarding code of practice, the House of Bishops can – should it wish to do so – issue separate codes dealing with different matters. If separate codes are issued, references in other legislation to the safeguarding code of practice is to be read as reference to each of the separate codes.
12. New section 5A(8) defines Diocesan Board of Education consistently with the provisions for the establishment of those bodies in the current draft Diocesan Boards of Education Measure.

Clause 2 Amendments and repeals

13. Clause 2(1) repeals the provisions in section 5 of the 2016 Measure which impose a duty to have due regard to House of Bishops’ guidance.

14. The remaining subsections in clause 2 make amendments and repeals to other legislation that are consequential on the repeal and replacement of the duty to have due regard with provision for a safeguarding code of practice.

Clause 3 Short title, commencement and extent

15. Clause 3 provides for the short title of the Measure, its commencement and extent.

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