

Abuse Redress Measure

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DRAFT of a Measure of the General Synod of the Church of England to create entitlements to redress in connection with certain persons who suffered abuse; to require payments into or out of a fund for awards of redress; and for connected purposes.

General principle

1 Dignity, respect and compassion

Every person exercising functions for the purposes of this Measure must, in doing so, have due regard to the principle that every applicant for redress under this Measure, and every person entitled so to apply but yet to do so, should be treated with dignity, respect and compassion. 5

The redress body

2 Archbishops' Council's functions

- (1) The functions conferred by or under this Measure on “the redress body” are functions of the Archbishops' Council. 10
- (2) The Archbishops' Council may delegate those functions to another person.
- (3) The Archbishops' Council may delegate the functions of determining an application for redress and an award of redress under this Measure (but only those functions) to a panel constituted under the rules, whether or not other functions of the Archbishops' Council are delegated to another person under subsection (2). 15
- (4) If the functions of determining an application for redress and an award of redress under this Measure are delegated to another person under subsection (2), that other person may in turn delegate those functions (but only those functions) to a panel constituted under the rules. 20
- (5) Accordingly, a reference to “the redress body” in a provision made by or under this Measure is a reference to the person or persons for the time being required to exercise the functions under that provision.
- (6) Neither the Archbishops' Council nor a connected person is liable in damages for anything done or omitted in the exercise or purported exercise of the Council's functions under this Measure or the rules. 25
- (7) For the purposes of subsection (6), “connected person” means –
 - (a) if the Council is not the redress body, the person or persons who are,
 - (b) a member, officer or member of staff of the Council, and
 - (c) where paragraph (a) applies, a member, officer or member of staff of the redress body. 30

- (8) Subsection (6) does not apply if the act or omission is shown to have been in bad faith.

Entitlements to redress

3 Person who suffered abuse

- (1) An application for redress may be made by a person who suffered abuse within the Church of England if, on at least one occasion when the abuse took place, each of the following conditions was met. 5
- (2) The first condition is that –
- (a) the person who carried out the abuse had authority to perform a role in the Church of England, or 10
 - (b) the person who suffered the abuse had reasonable grounds to believe that the person who carried out the abuse had that authority.
- (3) The second condition is that there was a close connection between activities authorised for performing that role and carrying out the abuse.
- (4) But the second condition was not met on the occasion in question if – 15
- (a) the person who carried out the abuse also had authority to perform a role outside the Church of England, and
 - (b) the connection between activities authorised for performing that role and carrying out the abuse was closer than the connection referred to in subsection (3). 20
- (5) “Abuse” includes sexual, physical, mental, emotional and spiritual abuse, neglect and maltreatment; and “spiritual abuse” has the meaning given in the rules.
- (6) “Close connection” has the meaning given in the rules.

4 Dependant of person who suffered abuse 25

An application for redress under this Measure may be made by a person who –

- (a) is the surviving partner, or a dependant child or dependant parent, of a person who suffered abuse and has died but, if still alive, would be entitled to make an application under section 3 relating to that abuse, and 30
- (b) has, in consequence of the abuse, suffered mental or emotional harm or economic loss.

5 Continuance of application where applicant dies

- (1) Where an application for redress is made under section 3 or 4 but the applicant dies before the application is determined, the application may continue to proceed in accordance with the rules. 35
- (2) Where the person proceeding with an application for redress by virtue of this section dies before the application is determined, the application may continue to proceed in accordance with the rules. 40
- (3) The person entitled to proceed with an application by virtue of this section is –

- (a) the deceased's surviving spouse, surviving civil partner or other surviving partner, or
- (b) if there is nobody who comes within paragraph (a), a surviving child of the deceased.

Award of redress

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6 Application for redress

- (1) An application for redress under this Measure must be made to the redress body in accordance with the rules.
- (2) The application must be made –
 - (a) before the end of the period of five years beginning with the date on which this section comes into force, or 10
 - (b) if the General Synod resolves to extend that period, before the end of the extended period.
- (3) The application may relate only to abuse which took place on or before the date specified in the rules (which may be after the commencement of this section). 15
- (4) The application may relate to abuse which took place in England, elsewhere in the United Kingdom or outside the United Kingdom.
- (5) But the application may not be made in such cases as are specified in the rules.
- (6) The application may be made or continued by two or more persons acting jointly in such cases as are specified in the rules; and, where an application is so made or continued, a reference in this Measure or the rules to the applicant is to be read as a reference to the persons acting jointly. 20
- (7) The Statutory Instruments Act 1946 applies to a resolution under subsection (2)(b) as if this Measure were an Act of Parliament providing for the instrument containing the resolution to be subject to annulment in pursuance of a resolution of either House of Parliament. 25

7 Determination of application for redress

- (1) The redress body must decide the order of priority in which applications for redress under this Measure are to be determined; and in deciding that, the redress body must have particular regard to matters specified in the rules. 30
- (2) Each application for redress is to be determined by the redress body on the basis of –
 - (a) material provided in support of the application,
 - (b) material provided in response to a request made by the redress body (whether to the applicant or for some other purpose), 35
 - (c) advice from a person appointed by the redress body to provide advice to it, and
 - (d) other material which the redress body considers relevant.
- (3) The entitlement to redress on the application is not affected by –
 - (a) whether any matter to which the application relates was reported to the police or a local authority; 40

- (b) whether any matter to which the application relates was reported to a person specified as suitable for that purpose in guidance issued by the House of Bishops or the code of practice issued under section 5A of the Safeguarding and Clergy Discipline Measure 2016;
- (c) whether the person by or in respect of whom the application is made has been convicted of an offence. 5
- (4) The redress body may grant an application for redress under section 4 only if it is satisfied that there are exceptional circumstances which justify granting the application.
- (5) After determining the application, the redress body must notify the outcome of the determination in accordance with the rules. 10
- 8 Determination of award of redress**
- (1) The redress body, on granting an application for redress under this Measure, must determine the award to be made to the applicant; and the award may consist of either or both of the following – 15
- (a) a payment (a “redress payment”);
- (b) some other remedy.
- (2) The amount of a redress payment is to be determined, and the payment itself is to be made, in accordance with the rules.
- (3) The rules may provide that, in a case where compensation for having suffered abuse to which the application relates has been awarded to or in respect of the person who suffered the abuse, the amount of a redress payment is – 20
- (a) if it exceeds the amount of the award of compensation, to be reduced;
- (b) if it does not exceed the amount of the award of compensation, to be zero. 25
- (4) Rules made under subsection (3) must make provision as to the meaning of the reference in that subsection to an award of compensation.
- (5) The rules may make provision – 30
- (a) for enabling a redress payment to be held on trust;
- (b) for enabling the recovery of a redress payment made in error.
- (6) The rules may provide that the award of a redress payment –
- (a) does not give rise to a specified liability imposed by Act of Parliament;
- (b) is to be disregarded for the purposes of assessing eligibility for a specified entitlement conferred by Act of Parliament.
- (7) The redress body may make arrangements for facilitating access for a person awarded a redress payment to advice on the financial management of the award. 35
- (8) The rules may provide that, in the case of an application by a person coming within section 4, this section applies as if the reference to compensation for having suffered abuse were a reference, or included a reference, to compensation for mental or emotional harm or economic loss suffered by the applicant in consequence of the abuse to which the application relates. 40

9 Initial redress payment

- (1) Where the redress body determines that a redress payment should be awarded but has yet to determine the amount of the payment, it may order an amount to be awarded pending the completion of the determination of the amount of the payment. 5
- (2) Where an order has been made under subsection (1) and the amount of the redress payment exceeds the amount ordered under that subsection, the redress body must order a payment of an amount equivalent to the excess.
- (3) In a case where the amount of the redress payment is reduced (including to zero) under provision made in the rules under section 8(3), the reference in subsection (2) of this section to the amount of the redress payment is a reference to the amount of the payment after the reduction is made. 10

10 Appeal

- (1) A person who applied for redress under this Measure may, in accordance with the rules, appeal against a determination under section 8 – 15
 - (a) that no award of redress is made to the person, or
 - (b) as to the amount of a redress payment or, in so far as the award is a remedy other than a redress payment, as to the form or detail of that remedy.
- (2) An appeal under this section is to be limited to a review of that determination. 20
- (3) An appeal under this section is to be decided by a person appointed by the Archbishops' Council; and a person is eligible for appointment only if that person –
 - (a) holds or has held high judicial office, or
 - (b) holds or has held the office of circuit judge or has the qualifications required for holding that office. 25
- (4) In making an appointment under subsection (3), the Council must seek to ensure that the appeal takes place without undue delay.
- (5) In a case where the amount of a redress payment was reduced under provision made in the rules under section 8(3), the reference in subsection (1)(b) of this section to the amount of the redress payment is a reference to the amount of the payment before the reduction was made. 30
- (6) On an appeal under this section, the person deciding the appeal may –
 - (a) confirm the determination,
 - (b) reverse the determination, or 35
 - (c) vary the determination by increasing or reducing the amount of a redress payment or changing the form or content of any other remedy.
- (7) The power under subsection (6)(b) to reverse a determination includes a power to award a redress payment or make any other award of redress; and sections 8 and 9 apply accordingly with such modifications as are necessary. 40
- (8) The person deciding an appeal under this section –
 - (a) may appoint a person to assist with the decision, and
 - (b) in making the decision, must have due regard to the views of the person appointed.

- (9) A decision on an appeal under this section is final.
- (10) In subsection (3)(a), “high judicial office” means –
- (a) high judicial office within the meaning of Part 3 of the Constitutional Reform Act 2005 (see section 60(2) of that Act), or
 - (b) membership of the Judicial Committee of the Privy Council. 5

The redress fund

11 Account for redress awards

- (1) The Archbishops’ Council must open an account (“the redress fund”) from which payments for awards of redress are to be made.
- (2) The Archbishops’ Council (whether or not it is the redress body) must ensure that payment is made from the redress fund of whatever amounts are required for making awards of redress. 10
- (3) But subsection (2) does not require the Archbishops’ Council to do anything which would put it in breach of its duties as a charity; nor does it require any member of the Council to do anything which would put that member in breach of the member’s duties as a charity trustee. 15

12 Contributions

- (1) The redress body, having made an award of redress, may request or require a contribution from one or more accountable bodies.
- (2) The amount of the contribution is to be determined in accordance with the rules. 20
- (3) An “accountable body” is, in the case of a person who committed abuse in respect of which an award of redress has been made and who is of a description given in the first column of the following table, the person specified in the second column – 25

<i>Person who committed abuse</i>	<i>Accountable body</i>	
The incumbent or priest in charge of a parish or a self-supporting minister exercising ministry in a parish	The PCC for the parish	
A lay worker or reader licensed to a parish, another office holder within a parish or an employee of or other worker in or volunteer for the PCC for a parish	The PCC for the parish	30
A visitor to a church school	The PCC for the parish in which the school is situated	35
The dean, clergy, lay officers or staff of a cathedral	The Chapter of the cathedral	
An archbishop or a diocesan bishop	The Church Commissioners	

<i>Person who committed abuse</i>	<i>Accountable body</i>	
A suffragan bishop or archdeacon	The bishop of the diocese which includes the suffragan see or archdeaconry	
An officer or employee of a diocesan board of finance	The diocesan board of finance	5
A member or officer of a religious community or a person training to become a member of a religious community	The religious community	10
A member of staff or other employee of a theological education institution	The governing body of the theological education institution	
(4) Contributions of different amounts may be requested or required from different persons (including from different persons of the same description).		
(5) It is not open to a person from whom a contribution is required to argue that some other person is vicariously liable to pay some or all of the contribution.		15
(6) The imposition on a body of a requirement for a contribution does not extend the personal liability of a trustee, director, officer or employee of the body.		
(7) The amount of a contribution required to be paid may be recovered as a debt due to the redress body.		20
(8) A person specified in the second column of the table in subsection (3) may choose to make a payment into the redress fund, even if the person has not been requested or required to make a contribution to the fund.		
(9) In a case where the bishop of a diocese is the accountable body, the amount of a contribution or of a payment under subsection (8) is to be treated as an expense of the bishop for the purposes of section 5 of the Episcopal Endowments and Stipends Measure 1943 (payments by Church Commissioners).		25
(10) In the table—		
“cathedral” means a cathedral to which the Cathedrals Measure 2021 applies or the cathedral church of Christ in Oxford and “clergy”, in relation to a cathedral, is to be read with section 12(12) of that Measure;		30
“church school” has the meaning given in the Diocesan Boards of Education Measure 2021;		
“PCC” means parochial church council;		35
“religious community” has the same meaning as in the Canons (see Canon DA 1);		
“theological education institution” means an institution recognised by the House of Bishops as an institution for training candidates for ordination as ministers of the Church of England.		40
(11) In a case where the person who committed the abuse is the dean or a member of the clergy, lay officer or member or staff of the cathedral church of Christ in Oxford, this section has effect as if the reference in subsection (3) to the Chapter of the cathedral were a reference to the person specified in the rules.		

13 Power to amend table of accountable bodies

- (1) The General Synod may by resolution amend the table in section 12(3) by adding, removing or varying an entry.
- (2) Before a draft of a resolution under this section is laid before the Synod for its approval, the Archbishops' Council must carry out such consultation as it considers appropriate. 5
- (3) The Statutory Instruments Act 1946 applies to a resolution under this section as if this Measure were an Act of Parliament providing for the instrument containing the resolution to be subject to annulment in pursuance of a resolution of either House of Parliament. 10

14 Payments by charities to or from redress fund

- (1) The making of payments from the redress fund by or on behalf of the Archbishops' Council is to be treated for all purposes as charitable.
- (2) But subsection (1) is to be read in light of section 11(3).
- (3) Where an accountable body which is a charity makes a payment into the redress fund, the making of the payment is to be treated for all purposes as charitable. 15
- (4) "Charitable", in relation to a payment into or from the redress fund, means –
- (a) furthering the charity's charitable purposes,
 - (b) being consistent with the charity's constitution, 20
 - (c) providing public benefit,
 - (d) not being contrary to the interests of the charity, and
 - (e) being within the powers exercisable by the charity trustees.
- (5) An expression used in subsection (4) and in the Charities Act 2011 has the same meaning in that subsection as in that Act. 25

*Miscellaneous***15 Insurance**

Each accountable body must, in so far as it is reasonably practicable to do so, obtain on the open market insurance to cover liability for abuse.

16 Information sharing 30

- (1) An accountable body must cooperate with the Archbishops' Council and, if the Council is not the redress body, with the redress body –
- (a) with a view to entering into an agreement for the disclosure of information held for the purposes of this Measure, and
 - (b) otherwise in connection with such disclosure. 35
- (2) The rules may make further provision in connection with the disclosure of information, and the use of personal data, held for the purposes of this Measure; and "personal data" has the same meaning as in the Data Protection Act 2018.

17 Legal costs etc.

- (1) The rules may make provision for the assessment and reimbursement of costs incurred in connection with providing legal advice and assistance for the purposes of this Measure.
- (2) The rules may make provision for the reimbursement of other specified costs. 5
- (3) The rules may require a payment of a specified amount to be made to the solicitor acting on an application for redress or an appeal under this Measure, regardless of the outcome of the application or appeal.

*Procedure***18 Power to make the rules**

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- (1) The power to make the rules for the purposes of this Measure is exercisable by the Rule Committee.
- (2) The rules may make whatever provision the Rule Committee thinks necessary or appropriate for carrying into effect a provision of this Measure.
- (3) The rules may make different provision for different cases. 15
- (4) The rules may provide for a person to exercise a discretion.
- (5) The rules are to be treated for the purposes of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 as if they were rules under section 83 of that Measure.

Review

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19 Review of this Measure

The Archbishops' Council must, before the beginning of the final 15 months of the five-year period referred to in section 6(2)(a) –

- (a) carry out a review of the operation of this Measure and the rules, and
- (b) decide, in light of that review, whether the period during which an application for redress may be made should be extended. 25

*Interpretation***20 Interpretation of references to relatives etc.**

- (1) This section applies for the purposes of this Measure.
- (2) A person is the “surviving partner” of a deceased person if that person is the deceased’s surviving spouse, surviving civil partner or other surviving partner. 30
- (3) A person is the “other surviving partner” of a deceased person if, immediately before the death, they were not married to, or civil partners of, each other but –
 - (a) were living together as if they were, or 35
 - (b) were in a relationship having other characteristics of a marriage or civil partnership.

- (4) “Child”, in relation to a person, does not include a step-child of that person or a child of that person’s civil partner or other partner; and for that purpose –
- (a) a reference to a child is not limited to a person aged under 18, and
 - (b) a reference to a person’s other partner is to be construed in accordance with subsection (3). 5
- (5) A person is a “dependant child” of a deceased person if –
- (a) the person is a child of the deceased for whom, immediately before the death, the deceased had a financial or caring responsibility, or
 - (b) the deceased had, immediately before the death, parental responsibility for the person. 10
- (6) “Parental responsibility” has the meaning given in the Children Act 1989.
- (7) A person is a “dependant parent” of a deceased person if –
- (a) the person is a parent of the deceased, and
 - (b) the deceased had, immediately before the death, a financial or caring responsibility for the person. 15
- (8) “Spouse” includes a person married to somebody of the same sex; and references to being married are to be construed likewise.

21 Other interpretation

- (1) In this Measure –
- “abuse” has the meaning given in section 3; 20
 - “accountable body” has the meaning given in section 12;
 - “claim” has the meaning given in subsection (2) below;
 - “redress body” has the meaning given in section 2;
 - “redress fund” has the meaning given in section 11;
 - “redress payment” has the meaning given in section 8(1)(a). 25
- (2) “Claim” includes a counterclaim; and a reference to the dismissal of a claim includes a reference to the strike out of the claim or the giving of summary judgment against the claimant.

Final

22 Short title, commencement and extent 30

- (1) This Measure may be cited as the Abuse Redress Measure 2024.
- (2) This section comes into force on the day on which this Measure is passed.
- (3) The other provisions of this Measure come into force on such day as the Archbishops of Canterbury and York may by order jointly appoint; and different days may be appointed for different purposes. 35
- (4) The power to make an order under subsection (3) is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament.
- (5) This Measure extends to – 40

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- (a) the whole of the province of Canterbury, except the Channel Islands (subject to subsection (6)),
 - (b) the whole of the province of York, except the Isle of Man (subject to subsection (7)).
- (6) This Measure may be applied to the Channel Islands or either of them, with or without modifications, under any procedure for doing so which has effect in the Islands or (as the case may be) the Island in question; and for this purpose, the references to the Channel Islands or either of them have the same meaning as references to the Bailiwicks or either of them in the Channel Islands Measure 2020. 5
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- (7) If an Act of Tynwald or an instrument made under an Act of Tynwald so provides, this Measure extends to the Isle of Man subject to such exceptions, adaptations or modifications as are specified in the Act or instrument.