

## GENERAL SYNOD

## ABUSE REDRESS MEASURE

## Explanatory note

The draft Abuse Redress Measure provides the legislative architecture to underpin the commitment made to General Synod to bring forward a national redress scheme for victims and survivors of Church-related abuse. The draft Measure requires the redress body to pay due regard to dignity, respect, and compassion in its dealing with victims and survivors. It makes provision for a single “redress body” to deliver the Scheme, in accordance with a framework to be supplemented by rules. It makes further provision for the financing of the Scheme; with further details of the Scheme’s operation to be set out in rules made under the draft Measure.

## BACKGROUND

1. The draft Abuse Redress Measure (**“the draft Measure”**) makes provision for the architecture of a national redress scheme for victims and survivors of Church-related abuse (**“the Scheme”**). It delivers on the commitment made by the Church in its response to the Independent Inquiry into Child Sexual Abuse (**“IICSA”**).
2. Consistent with the assurances previously given, the national Church is firmly committed to meaningful co-production with victims and survivors. The Scheme’s development is overseen by a project board which includes representation from victims and survivors, and which hears from a broader group of voices on a survivor working group. We repeat our gratitude to those individuals for their willingness to join in with this process despite the harm which they have suffered at the hands of the Church.
3. Following endorsement by General Synod in July 2023 (see **GS 2305**), we bring before General Synod the draft Measure for First Consideration. The draft Measure lays the groundwork for the Church of England to deliver a Scheme which offers redress in a range of forms including apology, acknowledgement, therapeutic, and financial support to survivors of abuse perpetrated by a person acting under the authority of the Church of England.
4. The draft Measure reflects the reality that the Church of England comprises a large number of autonomous office holders and bodies, many of them charitable, which are bound together by a shared missional purpose. The draft Measure’s provisions are intended to help all parts of the Church, collectively, to show their contrition and repentance for the Church’s failings, and for the pain and suffering that has occurred.

5. The draft Measure's initial provisions focus on the experience of the victim or survivor. It is intended that the Scheme should give to victims and survivors a single point of access and make consistent provision which minimises as far as possible further delay and trauma for victims and survivors. To that end, the draft Measure starts with a proposal legislatively to enshrine the requirement by design for dignity, respect, and compassion in the operation of the Scheme.
6. It is essential that all parts of the Church of England recognise that an eligible applicant should not experience any difference in the quality of approach, the sum they receive, or the timescale in which their application is dealt with.
7. The draft Measure also makes provision for the funding of the Scheme, giving effect to the principle, which General Synod has endorsed, of a "whole Church approach". The parable of the Good Samaritan reminds us that the good neighbour of those who have suffered harm may be a person or body with no personal connection to the wrong, or any blame, but who uses their resources in order to show mercy.
8. Informed by this teaching, the Scheme's approach to funding is based on a shared commitment between the various parts of the Church. As General Synod is aware, the Scheme will be underpinned by up to £150 million provided by the national Church. The draft Measure makes provision for contributions from the body closest in governance terms to where the abuse occurred or was instigated, for example the parish, diocese, theological educational institution (TEI), cathedral, religious community, mission agency or bishop's office. It is hoped that, in certain circumstances, such a body may be able to discharge at least part of that contribution from insurance (for example where there has been no previous financial settlement). Going forward, the draft Measure requires such bodies to maintain policies of insurance which cover liability for abuse.
9. This approach to contributions reflects the fact that all relevant institutions of the Church must take responsibility; it does not focus on the personal liability of those people serving today who support the work of the Church, but recognises an institutional liability because the wrongdoer acted under the umbrella of the Church of England through the means of a local body. It is a vital means of embedding in practice our core conviction that "safeguarding is everybody's business".

## **RULES**

10. The provisions of the draft Measure will be complemented by rules. The draft Measure establishes the framework of the system, and provides for rules

to be made which will contain further operational details such as the assessment framework which the Scheme provider should follow when they assess an application.

11. Consistent with the approach of meaningful co-production the details of the rules will need to be subject to consultation before a draft is laid before the General Synod. It is not possible to lay draft rules before the General Synod at present both to allow for that process of co-production, and because the draft rules may need to reflect changes to the draft Measure during the legislative process.
12. These rules will be secondary legislation made under this Measure and pursuant to section 83 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. The 2018 Measure provides for the rules to be made by the Rule Committee and laid before General Synod for approval.

## **PROCEDURAL STAGES**

13. Standing Order 48(1) provides for Measures and Canons to be considered by the General Synod through the following successive stages:
  - **First Consideration (see SOs 51 and 52)**
    - Revision Committee (see SOs 54 to 57)
    - Revision (see SOs 53 and 58 to 60)
    - Final Drafting (see SO 61)
    - Final Approval (see SO 64).
14. The draft Measure is being giving First Consideration by the General Synod at the November 2023 group of sessions.
15. The next stage will be the Revision Committee stage. Members who wish to send proposals for amendment for consideration by the Revision Committee must do so in writing to [revisioncommittee@churchofengland.org](mailto:revisioncommittee@churchofengland.org) not later than 5:30 pm on the 19 December 2023.
16. The Measure is expected to return to the Synod for the Revision Stage in July 2024 with the Final Drafting and Final Approval stages being taken as soon as practicable thereafter.

## **NOTES ON CLAUSES**

### ***Clause 1 Dignity, respect and compassion***

17. Clause 1 specifies an overarching duty to which every person who exercises functions under the draft Measure must have due regard, namely to treat every applicant, and every person entitled to apply (but who has not yet done so) with dignity, respect and compassion.

### ***Clause 2 Archbishops' Council's functions***

18. Clause 2(1) stipulates that the Archbishops' Council should be the body which undertakes the functions of the "redress provider" under the draft Measure.
19. Clauses 2(2) to (4), however, provide that the Council may delegate those functions to another person (for example a professional services firm) which, in-turn may delegate certain activities to a panel of persons such as the assessment of an application. This is intended to allow a flexible approach which may allow a range of persons to participate in the assessment process. Further details are to be provided by rules.
20. Clauses 2(5) to (7) make consequential provision such that the Archbishops' Council or a delegate which exercises its functions under the draft Measure in good faith should not be liable in damages.

### ***Clause 3 Person who suffered abuse***

21. Clauses 3(1) to (4) specify the conditions which must be met by a person who wishes to apply under the Scheme.
22. Clauses 3(5) and (6) define certain words and phrases which, in particular, provide that rules may define spiritual abuse. This allows for further consultation with victims and survivors.

### ***Clause 4 Dependant of person who suffered abuse***

23. Clause 4 provides that, in exceptional circumstances (for example in the event of suicide) (see clause 7(4)) a surviving dependant child or parent or partner of a person who has been abused but who is deceased may make an application where the deceased would have been entitled to apply. Such a person must have themselves suffered mental or emotional harm in consequence of the abuse.

### ***Clause 5 Continuance of application where applicant dies***

24. Clauses 5(1) and (2) make provision for an application which has already been commenced under clause 3 or 4 to continue in the event of the applicant's death, with further provision to be made by rules.
25. Clause 5(3) makes provision for a restricted class of persons to be able to carry on an application in such circumstances.

### ***Clause 6 Application for redress***

26. Clause 6(1) provides that an application for redress shall be made in accordance with Scheme rules in order to ensure consistency.
27. Clause 6(2) makes provision for the Scheme to be open for application for five years (subject to clause 20) but provides that the General Synod may extend that period by resolution (see clause 6(7)).

28. Clause 6(3) enables rules to specify that abuse on or before a certain date is in scope of the Scheme (which may be prospective or retrospective).
29. Clause 6(4) stipulates that the Scheme has in scope applications (subject to the requirements of clause 3) where the abuse took place in the United Kingdom or outside the United Kingdom.
30. Clause 6(5) provides that the rules may provide for particular circumstances in which applications may not be made.
31. Clause 6(6) allows for applications to be made jointly in such cases as the rules may specify.

### ***Clause 7 Determination of application for redress***

32. Clause 7 specifies how the redress body shall determine applications.
33. Clause 7(1) allows the redress body to determine the order of priority of applications, but subject to the provision of the rules.
34. Clause 7(2) makes broad provision for the redress body to have regard to material which is provided to it by the applicant, or another person, along with appropriate advice.
35. Clause 7(3) provides that an application to the Scheme is not conditional on an applicant having reported the abuse to a law-enforcement agency, or in accordance with House of Bishops' guidance, and is not dependent on whether or not the person accused of the abuse has been convicted.
36. Clause 7(4) makes further provision in connection with clause 4 (see above).
37. Clause 7(5) makes consequential provision for the notification of an outcome following an application.

### ***Clause 8 Award of redress***

38. Clause 8 makes provision for redress to be both financial in nature and other than financial (for example to provide a remedy which may be tailored to the needs of a particular victim or survivor).
39. Clauses 8(1) and (2) provide for redress of both types, and enables further provision for the calculation of a redress payment to be specified in rules.
40. Clauses 8(3) and (4) enable a reduction in the amount of a redress payment to take account of previous compensation which a victim or survivor may have received, with further provision for the definition of compensation to be provided in rules. Such a reduction would not necessarily prevent the award of redress which is other than financial in nature.

41. Clause 8(5) allows for the recovery of a payment made in error, and for a payment to be held on trust where appropriate circumstances arise.
42. Clause 8(6) enables the rules to make provision, with the approval of the relevant government department, which would disregard redress payments for the purpose of taxation, or as capital sums to be taken into account in connection with the assessment or payment of benefits.
43. Clause 8(7) allows financial advice to be provided to an applicant where appropriate.

#### ***Clause 9 Initial redress payment***

44. Clause 9(1) enables the redress body to make an interim payment of financial redress before determining the total amount of the redress payment.
45. Clause 9(2) makes provision for the “top up” of the interim payment where the assessed amount exceeds the interim payment.
46. Clause 9(3) makes provision consequential on clause 8(3) such that where rules under that provision apply, and the amount of the redress payment is reduced accordingly, that reduction also applies for the purpose of clause 9.

#### ***Clause 10 Appeal***

47. Clause 10(1) provides a right of appeal against:
  - a) a decision that no redress is available (for example where an applicant does not meet the eligibility criteria, or the requisite burden of proof);
  - b) the amount of a redress payment (for example where financial redress is not available as a result of previous compensation); and
  - c) where the remedy offered is not a redress payment, the details of that remedy
48. Clause 10(2) stipulates that the appeal is by way of a review of the determination of the redress body.
49. Clause 10(3) provides for the qualification of the appeal body. Such a person must have held high judicial office, or have held, or be eligible to hold, the office of circuit judge (circuit judges must be lawyers who have held a 'right of audience' (the right to appear in court as an advocate) for at least seven years, or have been a recorder, or held certain other judicial roles on a full time basis for at least three years including being a High Court Master or District Judge).
50. Clause 10(4) requires that when the Archbishops' Council appoints a person to hear an appeal it must seek to ensure that the appeal takes place without undue delay.

51. Clauses 10(5) to (9) make consequential provision.

***Clause 11 Account for redress payments***

52. Clause 11(1) requires the Archbishops' Council to open and maintain a redress fund from which redress payments are paid.

53. Clause 11(2) provides that the Archbishops' Council should fund the Scheme, whether or not it is the redress body.

54. Clause 11(3) makes clear that in making payments (on its own account or to another redress body), the Archbishops' Council must not breach its obligations under charity law.

***Clause 12 Contributions***

55. Clause 12 provides the legislative architecture for the "whole Church approach", and makes provision for a contribution to the redress fund from specified governance bodies within the Church known as "accountable bodies".

56. Clauses 12(1) and (2) enable the Archbishops' Council to seek a contribution, the amount of which will be determined by the rules. This contribution may be voluntary or mandatory.

57. Clause 12(3) specifies the link between the location of abuse, and the accountable body which is required to make a contribution in each case. The relevant accountable body is likely to hold a policy of insurance which would respond to civil claims.

58. Clauses 12(4) to 12(11) make ancillary provision.

59. Clause 12(4) makes consequential provision which allows for contributions to be sought from different persons in connection with any offer of redress.

60. Clause 12(5) stipulates that relevant accountable bodies cannot seek to avoid an obligation to contribute under the draft Measure by arguing that another person is vicariously liable at common law.

61. Clause 12(6) clarifies that a requirement to contribute under the provisions of the draft Measure does not extend the personal liability of a trustee, director, officer or employee.

62. Clause 12(7) provides that the amount payable under clause 12 may be recovered as a debt at common law from the relevant body.

63. Clause 12(8) clarifies that an accountable body may make a payment into the redress fund even if a contribution has not been sought from that accountable body.
64. Clause 12(9) makes provision that, in practice, the liability of a diocesan bishop will form part of the expenses of their office for the purposes of the Episcopal Endowments and Stipends Measure 1943.
65. Clauses 12(10) and (11) define relevant expressions, and provide that rules may make specific provision in connection with the cathedral church of Christ in Oxford.

***Clause 13 Power to amend list of accountable bodies***

66. Clauses 13(1) to (3) provide that the General Synod may amend the table in clause 12(3) by resolution.

***Clause 14 Payments by charities to or from redress fund***

67. Clause 14(1) puts beyond doubt that payments made to or from the redress fund by the Archbishops' Council are charitable (and therefore within scope of its charitable purposes).
68. Clause 14(2) puts beyond doubt that any payments made by an accountable body which is a charity are charitable (and therefore within scope of their charitable purposes).
69. Clauses 14(3) and (4) define relevant expressions.

***Clause 15 Insurance***

70. Clause 15 requires accountable bodies to obtain policies of insurance which cover liability for abuse so far as it is practicable for them to do so.

***Clause 16 Information sharing***

71. Clause 16 makes provision for accountable bodies to co-operate in information sharing for purposes of the draft Measure. Rules may make further information about information sharing and personal data in aid of the Scheme.

***Clause 17 Legal costs etc.***

72. Clause 17(1) enables rules to provide for the assessment and reimbursement of legal costs in connection with support to victims and survivors.
73. Clauses 17(2) and (3) make further consequential provisions in connection with legal costs which may be made by rules.



### ***Clause 18 Power to make the rules***

74. Clause 18(1) provides that the Rules Committee may make rules under the draft Measure.
75. Clauses 18(2) to (4) make further provision for the rules.
76. Clause 18(3) provides that the rules will be secondary legislation made under the Measure as if made under section 83 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. The 2018 Measure provides for the rules to be made by the Rule Committee and laid before Synod for approval.

### ***Clause 19 Review of this Measure***

77. Clause 19 provides that the Archbishops' Council must, not later than 15 months before the Scheme's five-year term, carry out a review of the Measure as enacted and the rules, and decide whether the window for an application should be extended.

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

78. Clauses 20(1) to (8) define various words and phrases which refer to relatives of a victim or survivor of abuse for the purpose of the draft Measure.

### ***Clause 21 Other interpretation***

79. Clauses 21(1) and (2) define various words and phrases used in the draft Measure.

### ***Clause 22 Short title, commencement and extent***

80. Clause 22 makes standard provision for the draft Measure's citation, commencement and extent.

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