Submissions to the Revision Committee for the Abuse (Redress) Measure

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PRELIMINARY

As I said my speech at First Consideration, this draft measure is not ready for revision because too many policy decisions remain to be made. Accordingly, the steering committee should consider withdrawing the measure and bringing a new measure to Synod for first consideration at a future date when the policy decisions have been made.

If this measure proceeds to revision in full Synod there is a strong possibility that, because the revised measure will be so different from the original, it will be sent back for further revision in committee. This will be no quicker than starting with a new measure.

Clause 2

Given the recent difficulties over the ISB and the involvement of the Archbishops' Council as revealed in the Wilkinson Report, the Archbishops' Council should have no part in the redress scheme or it will lack any credibility. Accordingly, all references to the Archbishops' Council should be removed and replaced by some other body – a safeguarding body? - once the scheme has been properly worked out.

Clause 3

This clause needs to be considered very carefully as to its effect. The Revision Committee needs to be sure what its effect might be. I think there may be some very complex arguments arising here.

For example, the church organist gives private organ lessons on the church organ during which abuse is alleged to have taken place. Although the organist had permission to use the organ for private lessons the organist did not have authority to perform the giving of organ lessons *in the Church of England* because it was a private contractual arrangement between the organist and pupil. The pupil could not have reasonable grounds to assume the organist had such authority unless, for example, payment was made direct to the PCC or the lesson was publicised on church notices etc. If in this example it is felt that the pupil *did* have reasonable grounds then is it not the case anyone who suffered abuse within a church building or church grounds would have reasonable grounds to assume that the abuser was authorised, whether or not the abuser had any connection with the church at all?

Clause 3 (5)

This clause is so widely drafted as to include bullying by bishops, archdeacons, other clergy, church officers, diocesan staff etc. Is this intended?

Clause 6

This clause is so vague as to be virtually meaningless – the rules may provide for anything about timing of applications.

Why is there a five-year limitation period? A survivor may not feel able to come forward until much later.

As I read the clause, it seems to only have effect for past abuse. If abuse occurs in the future, more than five years after the section comes into force, the survivor would be unable to make an application for redress. If this is the effect of the clause what is the policy behind such a decision?

What situations are intended to be covered by clause 6 (5). Any bar on an application should be specified in the measure and not the rules.

Clause 7

It is not clear to me what standard of proof is required for the redress body to determine that abuse did or did not happen. Is it the balance of probabilities or some lesser standard? Does this not need to be stated?

Clause 7 (1) only deals with the order of priority in which applications are to be determined. Does there not need to be a clause that in deciding whether to grant an application for redress the redress body must have regard to the matters in this measure and the rules?

Clause 7 (3) is dealing with entitlement to redress, but the matters stated in (a) to (c) *may* be relevant in deciding whether abuse actually took place and so whether the applicant can make an application under clause 3. There may be very good reasons why a survivor did not report the abuse, but there may be circumstances where the fact that it was not reported is highly relevant to deciding whether or not abuse took place. This potential conflict between clauses 3 and 7 needs removing or clarifying.

Would clause 7 (4) fit more usefully in clause 4 (or benefit form a reference in clause 4) so that a dependant reading clause 4 would know that there must be exceptional circumstances?

Clause 10

Does Clause 10 (9) prevent an application for judicial review?

Clause 11

I do not understand how clause 11 relates to clause 14. If payments made by the Archbishops' Council are to be treated for all purposes as charitable (as per clause 14) why is clause 11 (3) necessary? It seems that the Council is under a statutory duty (by clause 11 (2)) to make payments from the redress fund and so the trustees have no discretion not to make the payment. Accordingly, they cannot be in breach of their duties as charity trustees. Or have I misunderstood?

Clause 12

The word 'require' in clause 12 (1) should be deleted. Putting a liability on parishes and others to contribute to the redress fund is unfair. Most of the survivors complaint (apart

from the original abuse) is the way that the diocese or central church has handled their compliant and is nothing to do with the parish.

Concerning the table of accountable bodies:

1. The incumbent or priest in charge or SSM are not employed by the parish so why should the PCC have any responsibility? This will lead to anomalies. If a priest commits abuse in his own parish his PCC are liable but if he commits abuse while covering in a neighbouring parish that PCC would be liable. They have no control over what the priest does or how he does it.
2. But if this category is to remain it should also include 'assistant curates' (by whatever name they are known).
3. The category of visitor to a church school should be removed from the table because of the anomalies it creates. Any liability should be on the governing body of the church school. A visitor may be visiting in different capacities – priest conducting worship or teaching, governor, parent. Why should the PCC be liable in the latter two cases?
   Furthermore, a church secondary school is bound to be in one parish but may receive visitors from many surrounding parishes. Why should the PCC in which the school is situated be liable to contribute for the wrong doing of someone from another parish?
   And what about a priest committing abuse in both a community school and a church school – the PCC is not liable in the first case but is in the second. This makes no sense.

Clause 12 (7) should be removed since any amount claimed should be as a request and not a requirement. Therefore, no debt can arise.

Clause 15

I am unclear what 'liability of abuse' means. Does it mean civil liability to be determined by the civil law of tort or negligence or does it man also liability to contribute to an award made under the redress measure? Insurance against the latter will be difficult or impossible to obtain.

Alternatively, Delete Clauses 12 to 15

If clauses 12 to 15 were deleted all the anomalies and difficulties referred to above would be removed. All payments would then be made from Church Commissioners funds who have the resources (unlike may parishes and other accountable bodies).

Paul Benfield

19th December 2023

Brenda Wallace Chelmsford 85

Good morning, I would like to make representation to the Revision Committee regarding the Abuse Redress Measure.

I am writing in my capacity as a member of Broken Rites (www.brokenrites.org) , the support and campaign group for separated and divorced clergy spouses.

I would like to raise two points:

Firstly, we have been advised informally that spouses who have been victims of domestic abuse by clergy will qualify to apply under the redress scheme and would be grateful if this could be formally confirmed.

Secondly, we are very concerned about the issues around contributions from accountable bodies (paragraph 12 of the draft measure). This recommends that where a priest was responsible for the abuse, the PCC could be approached for a contribution towards the redress. In many situations where clergy marriage breaks down, often as a result of domestic abuse or issues requiring a CDM, the spouse will move out of the parsonage house (at considerable financial and emotional cost) while the priest will remain in post, often with a blind eye turned to the abuse which led to the breakdown. We frequently hear that an abusive priest may continue to be supported by the parish who may be unaware of the extent of the abuse.

Under such circumstances, it would be difficult if not impossible for a divorced or separated spouse to make a claim which could then be brought to a PCC where the clergy person is still parish priest and Chair of the PCC.

I hope you will take this situation into consideration when revising the measure.

I am copying Maggie Wilkinson, Chair of Broken Rites, into this email. I am sure she would be happy to respond to any more specific questions you may have.

Bruce Bryant-Scott Europe 113

Although I believe I am a member of the Revision Committee, I wanted to get this concern on our agenda as a submission for a revision. This arises out of my experience in the Diocese of British Columbia and the General Synod of the Anglican Church of Canada when they were involved in a redress scheme for the survivors of the "Indian" Residential Schools. The context was somewhat different, being ordered by a court of law after agreement between the Canadian government, multiple religious entities (incorporated Christian denominations and Catholic religious orders), and several thousand claimants.

The total paid out was over CAD $2 billion, most of that coming from the federal government. The religious entities negotiated their individual contributions, and the various corporations of the Anglican Church of Canada were collectively responsible for something like CAS $16 million. This was apportioned to the thirty dioceses according to size, and most dioceses then apportioned it to their parishes. Some parishes had to contribute just a few hundred dollars, but larger ones were looking at up to CAD $10,000, and had to fund-raise, use unallocated reserves, or simply add it to the budget.

Before the settlement these lawsuits were an existential threat to the dioceses and the General Synod. One diocese, the Diocese of Cariboo (see city of Kamloops in the interior of British Columbia) suspended operations after settling just two cases. Other parishes in the Diocese of Cariboo were making inventories of possessions, including land, buildings, and contents, including ecclesiastical silverware, the supplies in the Sunday School cupboard, and even the drawings of children on bulletin boards. When I attended the Canadian General Synod in 2001 there were confidential meetings where the four regional archbishops outlined plans for how the church might operate on a national level should the General Synod go into receivership.

We are not in this position, but one learning from all of this for the Church of England might be the collective responsibility all Christians share for the trauma caused by the failings of those in positions of trust. No, as individuals most of us did not know of this abuse, but if we are to be responsible Christians, we must address the pain that has been caused by the institution and its members. **Therefore, I suggest that every parish/benefice in the Church of England make a contribution to the fund that is established under paragraph 11.**

Paragraph 12(3) lists a number of other ecclesiastical bodies from whom contributions may be obtained, although, frankly, this is the most contentious aspect of the measure and might sink it in a vote at General Synod if a strong enough opposition campaign is organised. One of the benefits of the Canadian experience is that it was "no-fault" - we did not demand contributions from just the dioceses which had Residential Schools, but all thirty of them, including the largest, the Diocese of Toronto, which had none of the "Indian" Residential Schools. I am not advising a "no-fault" scheme, but I think we need to recognise that our efforts to get money out of PCCs, cathedral chapters, diocesan boards of finance, theological schools, mission agencies, and other bodies, may be very limited - the costs to get the funds, both legal, organisational, and spiritual, may be greater than it is worth.

The good news is that the vast majority of the redress fund has already been committed by Church Commissioners (bless 'em!).I suggest that we include a paragraph, separate from paragraph 12(3), that requires all 7410 parishes/benefices to contribute to the fund, running from perhaps £100 for the smallest to £2000 to the largest. I admit that I am pulling these figures from out of the air, but it is the principle that is the important thing, not the amount - that we all take responsibility for the collective failing of the Church of England. The sum should be enough to be felt, but not so great as to impair continued ministry.

I acknowledge that this may not be popular; taking responsibility seldom is (see Genesis 3.12-13).

I look forward to discussing this submission and others with you. May God bless us in this work or redress, healing, and reconciliation. God be with you,

Fiona Gibson Hereford 128

Please find attached some points which we in the Diocese of Hereford wish to submit to the Revision Committee and the Rule Committee for their consideration when shaping the Abuse (Redress) Measure and the associated Guidance.

We wish to reiterate that, as I said in my speech in the debate at the November Group of Sessions, these comments are made in the context of being utterly and wholeheartedly committed to an effective, transparent, and just redress scheme for all victims and survivors of church-based abuse.

I should also declare that I was part of the Finance Focus Group which worked on some aspects of the Redress Scheme, feeding into the main Project Group.

Fiona Gibson

Comments from the Archdeacon of Ludlow, on behalf of the Hereford Diocesan Secretary, Hereford Diocesan Safeguarding Officer, and Archdeacon of Hereford:

- A big question is the amount of redress. Clearly the rules here are important (and not yet available for responsible bodies to see). The same is true of contribution levels from parishes. How qualified is a remote, third party provider to make this assessment? The rules and the means testing formula need to be published as soon as possible, in order to allay the fears of PCCs and other accountable bodies.
- There appears to be no right of appeal for church bodies, only for survivors. Is that correct?
- Would this require a new insurance premium for every single PCC/accountable body or would they be covered by current policies, albeit with an increased premium?
- Re: the accountable body list. It is a stretch of accountability to have PCCs as a responsible body for visitors to church schools.
- In general, are we confident in the third-party provider being able to assess the correct level of CofE involvement?
- How confident are we that insurance will be available to cover all (or the vast majority) of costs unless, of course, the PCC or other accountable body has been negligent?
- What would be the situation if a claim were to be made and upheld where the PCC was the accountable body, but the abuse took place at a time in the past when insurance either wasn't available, or wasn't generally taken out? Would the PCC then be responsible for paying the full amount of financial redress awarded?
- If the redress scheme means that new disclosures of abuse come forward, how will determinations under the redress scheme relate to any criminal proceedings and proceedings under either the existing Clergy Discipline Measure or the forthcoming Clergy Conduct Measure?
- In all the lists of accountable and responsible bodies, there is no mention of the perpetrator. Notwithstanding some of the difficulties, particularly if the perpetrator has subsequently died and never faced any enquiry or proceedings, ought

perpetrators not to be included in the list of those needing to contribute to financial redress?

Comments from a Parish Safeguarding Officer in the Diocese of Hereford:
Where individual parish churches have appropriate and effective safeguarding practices in place and, despite these, abuse occurs there then it is unreasonable for the PCC to contribute to financial redress but reasonable that the church as a whole should contribute.

1.1 The measure at 18 'Power to make the rules' twice states 'Rule Committee' but at 21 *Other interpretation* does not refer to 'Rule Committee'.

1.2 It is noted that GS-2325X states at: 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.'

1.3 Surely the definition of '*Rule Committee*' should appear at clause 18?
e.g."Rule Committee" has the meaning given in the Ecclesiastical Jurisdiction and Care of Churches Measure 2018.

2.1 Clause (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—* (underlining added) The second column has the heading 'Accountable Body'. Surely it should read '*the accountable body specified in the second column*'?

3.1 Clause 12 Contributions
(1) The redress body, having made an award of redress, may request or require a contribution from one or more accountable bodies. (underlining added)
(2) The amount of the contribution is to be determined in accordance with the rules.

3.2 I note in 12 that: '*The PCC for the parish in which the school is situated*' is an accountable body. I feel this is totally unreasonable. As benefice safeguarding officer I and the PCC have no responsibility for safeguarding in our church school in Fownhope. I doubt the PCC insurance covers the school. Surely the accountable body should be the school's governing body or the Diocesan Board of Education and not the PCC?

3.3 '*The PCC for the parish*' is an accountable body. It is accepted that safeguarding is a PCC responsibility. However, *IF* a PCC has taken its responsibilities seriously and taken all reasonable steps to ensure due safeguarding processes are in place and followed *THEN* it is unreasonable and unjust to hold the PCC accountable for financial redress over and above any insurance cover.

3.4 Clause 12 (1) should be amended to read: '(1) The redress body, having made an award of redress, may request or require a contribution from one or more accountable bodies *where that body is proven not to have had effective safeguarding practices in place and that facilitated the abuse*.

The Revd Canon Mark Bennet Oxford 184

Paragraph numbers refer to GS2325

I will address particular comments below, but my main concerns involve the allocation of responsibilities for contributions and the lack of financial modelling or illustrations to show how the scheme will work overall. Insurance and means testing do not seem to me to sit easily together, and there has been no canvassing of a collective scheme to moderate the impact of uninsured risks: such a scheme could operate either at diocesan or national level – or both – the Diocese could have a fund, with a. national fund to back up Dioceses faced with exceptional demands.

It is a common feature of review reports to find that there may be deep and bitter conflicts within the parish – some very much in favour of the alleged abuser (or even proven abuser) and others supporting the victim or complainant. Asking for a contribution in such cases – even a symbolic contribution – is likely to be pastorally disastrous and there should at least be some discretion in the scheme to avoid unintended consequences.

The scheme design is being pushed through very quickly, without the benefit of Professor Jay's report. The recent report on the demise of the ISB suggests that some care is required to ensure that the scheme design is fit for purpose.

In many cases I have not suggested specific wording as there are still points of principle to be resolved

The overall scheme has much to commend it, but detailed concerns are as follows:

Paragraph 2

The provisions in Paragraph 2 do not say anything about the qualities and qualifications required of the person(s) to whom Archbishops Council may delegate its functions. Nor do they say anything about how Independence is to be secured. Nor do they mandate delegation: "may" should be replaced by "shall".

Provision must also be made in the case that the person/body ceases to function (eg if the person(s) involved resign). Once Archbishops Council has first delegated its functions, some thought needs to be given to how succession is achieved, and this must be fed also into the Governance Review, which may require some significant alterations to the text.

Paragraph 5

Consideration must be given to other dependents – eg parents in the case of the death of a child who was exercising a caring function, as well as to the particular circumstances where the death is in some way connected with the effects of the abuse.

Paragraph 11

The independence of the Redress Fund must be secured. Under the Governance Review it should be the Church Commissioners or an independent body who should administer the fund and not CENS.

Paragraph 12

12(3) It is illogical for the PCC to be responsible for the actions of an actor who it does not appoint, authorise supervise or manage.

(a) Incumbent or Priest in Charge – bishop/diocese/patron – so probably Diocesan Board of Finance

(b) needs splitting out.
Churchwardens are not, at least formally, appointed by the APCM and are the Bishop's Officers unable to take up duties until formally admitted.

A licenced lay minister may have been appointed from within the parish, but may also have moved to the parish with the Bishops licence and been admitted to the local ministry team on that basis. It is the incumbent who may be responsible for their supervision.

People appointed from within the parish to work within the parish are a simpler case.

(c) Schools are responsible for administering their own policies on visitors and volunteers, and may carry their own insurance. Care need to be taken to define those for whom the church is properly responsible.

We had a case where an ordained priest ran a youth group for the church and was part time employed by a local school. Those abused encountered the same person in multiple contexts and roles – paragraph (4) needs also to consider that the responsibility may be shared with another institution outside the scope of the redress scheme.

Likewise paragraph (10) dodges the case where abuse may take place across multiple contexts involving the same person.

Paragraph 13

This does not adequately secure independence. It will be important for the eventual Redress Body to be able to effect changes of its own volition, perhaps necessarily through General Synod. Perhaps by the mechanism of a reasonable request which cannot be unreasonably refused (though there is no guarantee that an agenda item will be passed by Synod)

Paragraph 15
This should allow for Diocesan Boards of Finance and Archbishops Council/CENS to set up voluntary collective schemes with the intention of covering uninsured risks. I have not seen the financial modelling, but it could be that seed funding from the Church Commissioners could be seen as bridging funding – dealing with historic cases and also with the gap until the Redress Scheme is mature enough to become largely self-funding. There may yet be exceptional cases.

Paragraph 18

This should specify that the Rules Committee should take expert advice (to be funded from the scheme?) and also that for any change proposed to the rules they should certify that survivors, claimants and their representatives have been consulted.

Paragraph 19

The review should be defined as independent

Paragraph 21

This could usefully identify the Rules Committee

Jeffrey Terry Truro 231

Comments on Specific Sections

1. §3(5) Is it appropriate to leave the definition of spiritual abuse to be set out in rules ?

2. §3(6) Is it appropriate to leave the definition of close connection to be set out in rules ?

3. Should not both of the above terms be as understood in law as both are the subject of judicial precedent ? Is it not dangerous to seek to summarise judicial precedent in a set of rules which may or may not reflect the position in law ? Might this not lead to undesirable divergence between the rules and the law if the law continues to evolve over time?

4. Since appeal lies to a judge will it not create potential problems if the rules turn out to be at variance with the general law ?

5. §4(a) Is it intentional that only a dependant parent should be able to make a claim. Victims of abuse may not infrequently be minors. Are the parents of a minor who has committed suicide because of the abuse to be debarred from making a claim ? A non dependant parent may suffer mental or emotional harm and may even suffer economic loss perhaps by giving up work because of the trauma or in order to pursue justice for their child.

6. If the intention is that the estate of the minor (or any victim of abuse) should be able to bring a claim, should not this be made expressly clear ? It would be somewhat controversial if the right to make a claim should terminate on the death of an abused person.

7. §5 The wording suggests that if a person dies after an application has been made, the application may continue. What if the abused person dies before an application is even made ? See above considerations.

8. §6(2)(a) Under the general law time would not start to run against a minor until they reach 18. They would then have at least 3 years, possibly longer depending on a number of factors, to bring a claim. The 5 year time limit on claims imposed by this section might conflict with this principle. Is that the intention? By way of example, assume the Measure becomes law in 2025, claims would have to be brought by 2030. A child of 12 abused in, say, 2024 would not reach 18 until 2030 and would normally then have at least 3 years to bring a claim: but this provision would bar them. The younger the abused person, the more draconian this fixed time limit will be.

9. §6(7) refers to subsection 2(b) but there is no subsection 2(b).

10. §7(4) Is there to be any guidance in the rules or elsewhere on the meaning of “exceptional circumstances” in this context ?

11. §10(2) By limiting the appeal to a review, the Measure is ruling out a rehearing but (unless the rules are to provide otherwise) also probably limiting the ability of the appeal body to allow new evidence to be adduced (Ladd v Marshall). This may be an unduly harsh

approach when the applicant, one assumes, will often not be legally represented when collating evidence for the initial hearing before the panel and may have failed to present all the evidence which could reasonably have been obtained with the assistance of legal advice.

12. §12(3) There was considerable debate at Synod as to whether it is appropriate to seek contributions from PCC's. I echo the concerns expressed.

13. §12(7) This raises the spectre of litigation between the redress body and an arm of the church such as a PCC. Is that desirable ?

14. §15 How easy will it be for PCCs to obtain insurance cover for historic abuse which has not yet come to light and at what cost ? This section imposes an additional financial burden on PCC's many of which are already struggling.

Contested Cases

15. It seems clear that the redress body is to decide both whether an award is to be made and the amount of any award or what other remedy if any should be made.

16. The factors to be borne in mind in determining whether an award should be made are set out in §7(2). Unless covered by §7(2)(d) (other material considered relevant), there appears to be no express provision for hearing or taking into account what the alleged perpetrator has to contribute to the process. Indeed, it seems that an award may be made without the alleged perpetrator, who may deny the allegations or throw a different light on them, being heard at all. This could potentially result in an innocent person being effectively found guilty of the alleged abuse without even being heard on the issue or given a proper opportunity to put their side of the case.

17. It may be questioned, therefore, whether the Measure as constructed complies with the requirements of natural justice, particularly the principle of audi alteram partem. Might this also be an infringement of the alleged perpetrator's human rights under ECHR ?

18. Should not §7 include an express requirement for the redress body to hear what the alleged perpetrator has to say before deciding whether to make an award or not ?

19. This also raises the question of whether cross examination of the applicant and / or alleged perpetrator is to be allowed.

Appeal

20. Only the applicant has a right of appeal under §10.

21. Since any grant of an award involves at least an implicit finding that there has been abuse by a particular person, a serious matter indeed, ought the alleged perpetrator also to have a right of appeal ? Might this not also be an infringement of the principles of natural justice and / or human rights under ECHR if no right of appeal is allowed to the person effectively convicted of guilt by the redress body ?

Standard of Proof

22. It was said at Synod that the redress body will apply the civil standard of proof but it was rightly pointed out by a member that this is not a simple balance of probabilities (51%) test. There is a sliding standard with increasingly cogent proof required the more serious the allegation. Presumably the redress body will have to apply this (unless the measure makes express provision to a contrary effect) as the right of appeal is to a judge who will apply the usual law of England unless expressly required to do otherwise by the Measure.

23. Some allegations to come before the redress body will be exceptionally serious – physical or sexual abuse committed by a person in a position of trust, possibly against a minor or vulnerable adult. In the civil courts the standard of proof required may well be approaching the criminal standard of proof. Is this what is intended and, if so, is it desirable ?

24. A genuine victim may fail to meet the required high standard of proof and thus feel doubly abused. Conversely, if a lower standard is applied than in the civil courts, an alleged perpetrator may consider this to be an abuse of their human rights.

25. These are issues requiring very careful thought.

Public Hearings ?

26. Are the proceedings of the redress body to be in public or private and confidential ? If public, this may deter some applicants from applying: if private, there will be complaints of a lack of transparency.

Henderson v Henderson

27. Will the Henderson principle apply to proceedings before the redress body or the appeal judge or will a disappointed applicant be able to “relitigate” the matter in the civil courts and / or a “convicted” perpetrator be free to pursue proceedings in the civil courts to clear their name, thus resulting in a lack of finality and possible double expense for the parties ?

28. One possibility might be to request that applicant and alleged perpetrator consensually accept the jurisdiction of the redress body as arbitrator under the Arbitration Act: but that could have implications beyond those intended and would not, in any event, deal with the situation where no consensual submission was forthcoming.

Rev. Jeffrey Terry, Barrister (non practising)

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5 December 2023

Mike Keirle Salisbury (Channel Islands) 215

Thank you for the opportunity to comment on the Abuse Redress Scheme GS2325.

I listened to the debate on this with great care and it is absolutely right that there should be dignity, respect and compassion for those who have been victims of abuse in the Church and I fully support the principle and providing the £150 million to address this.

Where I think those drafting the Measure have taken a significantly wrong turn, is to seek to seek contributions from "one or more accountable bodies" as outlined in section 12 (1-10).

This immediately sets up a series of conflicts within the Church at every level - local, diocesan, cathedral and national, which could result in litigation, legal challenge and risks the very real possibility that the original abuse will be compounded by further abuse against those who will have had nothing to do with the original conduct of an abuser but who will be deemed 'responsible' (and what does that mean?) by a definition within the measure under the table produced in Section 12 (3).

For example, if an Incumbent or Priest or SSM commits abuse, the accountable body is the PCC according to the table. This is utterly absurd, as the PCC may have had no knowledge whatsoever of the alleged abuse and may themselves be reeling from the betrayal and the loss of trust between themselves and the Incumbent; the loss of members of the congregation who may have left and the effect upon the wider community, as well as the personal sense of duplicitous behaviour by someone they thought they knew.

To demand a punitive contribution (and it will be viewed as punitive) could and would seriously damage that body in that case, not to mention relationships between the local church and diocesan/national church and further erode trust between parish and wider church. Even if a payment was exacted out of a PCC, this is ultimately self defeating, as any PCC who felt aggrieved by this procedure would simply subtract the amount from their Share payment to the Diocese, thus effectively making a different body responsible for the contribution. This, in my view, is extremely short sighted and, in the rush to ensure victims have redress, we will simply create another group of victims who will feel abused by the wider church. I would ask that the group reviewing this, take serious cognisance of the fact that this demand for contributions will do further damage to relationships in the Church and will inevitably produce resentment towards victims and survivors and achieve the exact opposite of what was trying to be achieved.

This will also further reduce the willingness of people to stand for PCCs when collectively, they may find themselves being described as the accountable body for the actions of an SSM or Lay Readers or visitor to a church school who has committed appalling abuse. There has to be a better way.

The only place where I think this would be appropriate is if a PCC or Mission Agency or Religious Community or diocesan body had deliberately and knowingly put someone at risk by their inaction, for example, if someone had not had their DBS check done or where

complaints had been made by someone which had not been reported or followed through or where a CCSL letter had been ignored and abuse had therefore followed. In that case, where a clear and deliberate failure had taken place, then there might be a case for a contribution.

We will also find ourselves in dispute where a claim for redress has been made where they may be conflicting views on the evidence. Challenging this may do further damage to the victim or the person who has been accused of abuse where it has not actually happened.

Of course, as you down the table in 12 (3), it is only Archbishops and Bishops who can clearly point to the Church Commissioners as an accountable body and that in itself is not a good optic. In my view, £150 million has been set aside by the Church Commissioners.. Any notion of trying to claw it back from local bodies is misplaced, will cause untold issues moving forwards, will set church communities against the wider church and will not satisfy those who have been abused. The complexity of trying to manage this can only further muddy the already muddy waters regarding safeguarding failures within the Church. I cannot support the Measure in its current form with section 12 intact

Thank you for reading this.

Dawn Braithwaite Birmingham 250

I am grateful for the opportunity to have commented on the Measure at General Synod.

Firstly, I wish to add my appreciation for the work done to get this first Measure out. I wanted to follow up my thoughts as presented with an email with short bullet points on my observations.

- Lack of time limit for appeal: I think there should be a time limit as it helps with the progression of cases and good planning and governance.
- An appeal is limited to a review: Can we explain what this means in the rules? I take this to mean that no new evidence will be permitted at the appeal stage, but I am not sure if that is your intention.
- Who can bring a claim or continue a claim after someone dies: I know this is potentially complex but I wondered whether there will be an application of the rules of testacy here or whether this process sits deliberately outside of this. As I asked in the chamber, could an executor or a holder of letters of administration pursue a claim on behalf of an estate. I envisage disputes in this area and would ask you to consider a short and sharp process to determine such disputes. For example, if there is a dispute as to who could bring a claim, the rules could provide that representations are made to the Chair of the Panel who will make the decision and the decision of the Chair is final.
- S8(7): I assume that this is simply saying that the survivor who receives compensation will be encouraged to get financial advice but that the 'church' will not be doing any more than that and will not be providing any form of financial advice.
- Do you anticipate that the Scheme will be sufficiently easy to navigate such that in all but exceptional circumstances those seeking to make claims will not have to instruct lawyers. Many will in the initial stages, seek legal help and will incur costs in so doing. This will inevitably lead to the argument as to who should reimburse for those leal fees. A current thorny issue in the Windrush compensation Scheme.
- Bringing the Scheme to an end: Does the 'church' reserves the right to bring the Scheme to an end on giving appropriate notice or giving 12 months' notice. Is this seen as to insensitive at this stage? It may be that in 10 years time, this Scheme has to be wound up and you need the power to so do.

My final point is more on the operational side. Many compensation scheme attract criticism because there are insufficient resources dedicated to the day to day management of them. Please ensure that sufficient monetary resources are available to manage this scheme.

I hope these comments assist as you consider the necessary revisions and the rules.

Kind regards

Dawn Brathwaite

Rosemary Lyon Blackburn 255

I wish to make the following two points re GS 2325

1/ Whilst I can see the reasons behind a " whole church approach" as described in GS 2325P, I am anxious that this is yet another burden placed on hard-pressed PCCs and Wardens.

In Clause 12 Contributions (1) it states that the redress body may request or require a contribution from the PCC if the abuse has been committed by the incumbent, P in C or SSM. Could we have some clarity on whether it is " request " or " require".

2/In the Clause 12 table , it also states that a PCC would be liable for having to pay redress for abuse carried out by a visitor to a church school in the parish. Why would the school not be liable? As someone pointed out in the debate in November, some PCCs can be held somewhat " at arm's length" from a school governing body. It seems hardly fair for the PCC to be liable for any abuse on school premises in these circumstances.

Glynne Williams Chelmsford 276

I am a member of the House of Laity of General Synod and would like to express my concerns about some aspects of the Abuse Redress Measure as presented to us. They are as follows:

Clause 1: Dignity, respect and compassion

I see no dignity, respect or compassion indicated for people who are accused of abuse, regardless of whether it has been proved or not. As Christians, all members should be treated with dignity respect and compassion. The rule of law in this country states that a person is innocent until proven guilty, not the other way round.

Clause 2: Archbishops' Council functions

How are we to know to whom the Council 'may delegate' and how is that to be debated in Synod? Should the functions be delegated to an independent body right from the start?

Clause 7: Determination of application for redress

In paragraph 3 (a), (b) and particularly (c), if I read it right, the entitlement to redress is not affected by whether or not any matter to which the application relates was reported to the police or a local authority. The implication of this paragraph seems to be that regardless of whether a criminal offence has been committed in law, redress will be given. If a person in respect of whom the application is made has not been convicted of an offence, how can they be considered guilty? Does this not imply that the Church of England operates its own legal system outside that established in the United Kingdom? If so, it opens an enormous legal problem which risks costing the Church many millions of pounds in compensation for those not convicted in the eyes of the law, yet viewed as guilty in the eyes of a Committee of the Church of England. It also opens the way for mischievous and time-wasting claims made with the idea of claiming financial compensation.

Clause 12: Contributions

The 'accountable body' for incumbent or priest or self-supporting minister, a lay worker licensed to a parish and a visitor to a church school, is designated as the PCC. Why? The PCC does not employ the incumbent, priest or self-supporting minister, does not license a reader, nor does it license a visitor to a church school. Further, the PCC cannot and should not be held responsible for the activities of anyone working inside or outside the parish for 24 hours a day. The accountable body is the central body, the Church of England, and contribution should be made through central funds and the Church Commissioners, unless it is proven that a PCC, a member of it, or a churchwarden has had knowledge of abuse and failed to report it. The law of unintended consequences might well be that parishioners refuse to serve on PCCs, knowing that at some moment they might be made collectively responsible for something which happened when they were not serving.

Clause 15: Insurance

What insurance company will insure any accountable body for events which may have taken place years before? And how will hard-pressed PCCs afford this insurance even if they can get such a policy? PCCs are already paying huge amounts which they can ill afford to Ecclesiastical and other insurance companies.

Clause 18: Power to make the rules

There are various references to 'the rules' in the measure, but I can see nowhere any definition of what the rules are. On the contrary, it seems that 'the rules' are to be decided by the Rule Committee. This is far too nebulous an idea for a lay member like myself to agree to, and we need very specific information which is not forthcoming. Who appoints the Rule Committee and under what criteria? This should be made very specific and the General Synod should have the opportunity to debate such appointments.

General

Financial redress

I find the many references to financial redress concerning. I note in Mr Kubeyinje's briefing note GS 2325P that his main focus is on contributions in the financial sense. In order to avoid mischievous claims which may be made to obtain money, financial contributions should be the very last consideration, and only under very strict conditions, for example, the person abused has been unable to work or has had to pay for counselling or other therapies. The first resort should be prayer, advice, counselling and therapy, not money.

Third-party operators (briefing note GS2325P paragraph 21)

I would like to see specific details of how much consultants, third-party operators etc are being paid and for how many hours of work they are being paid.

Legal protection for PCCs and Churchwardens

I see no reference to protection for PCCs, churchwardens or indeed clergy against malign claims. It is entirely foreseeable that someone could make an allegation for reasons of church politics or personal dislike. It is very important for those drafting this legislation to be entirely clear that clergy need protection as they are very vulnerable to mischievous claims. PCCs and churchwardens are not under contract and are not employees. They give of their time and treasure entirely on a voluntary basis. This must be taken into account in any revision of the Measure.

Dr Simon Eyre Chichester 287

Good afternoon
I would venture to suggest that a major revision to the involvement of parishes in funding part of the redress scheme payments would be appropriate

Im attaching the 5 minute version of my speech at Synod which outlines the areas of concern. I am also emailing Jenyy Jacobs to see if I might become involved via the appointments committee

The main aim of the scheme is to provide appropriate redress swiftly to those who have suffered. Whiel I understand the desire to involve those parishes where abuse has taken place, the involvement in parishes then having to help fund any redress payments potentially via insurance seems to add a layer of complication which really the scheme, to achieve its purpose, doesn't need

I hope my comments will be of help in helping the final form of the redress scheme to appropriately take shape

My very best wishes

Dr Simon Eyre

Speech GS 2325 Abuse (Redress) Measure 5 minutes

Thank you for calling me chair.

I fully support the intentions of this proposed legislation. Its aim to provide proportionate recompense to those who have suffered abuse in our churches and cathedrals is absolutely right and proper.

However, I have considerable concern at the impact that this will have at the parish level. The aim of drawing part of the compensation from the parish where the abuse took place I believe is flawed for a variety of reasons. It will be the PCCs who will bear the administrative burden of executing elements of the proposed legislation and even if adequate insurance can mitigate the financial implications the proposals raise several causes for concern:

1. Often the abuse has occurred 20-30 years previously. Almost certainly there will be no members of the current PCC of an affected parish who were PCC members at the time of the abuse. Indeed, it is unlikely that current members of the parish were even members of the congregation at the time. Is it really right that this burden be placed on them?
2. The parishes involved have often already been severely affected. In my own deanery of Eastbourne, I can think of at least two parishes where abuse occurred that have since dwindled in size in part due to the abuse that took place there. These two particular parishes, because of their decline, have now become combined benefices

with a neighbouring parish. Under the proposed legislation it would therefore be the responsibility of a joint PCC to enact the legislation. Again is this right and proper?

3. Then there is the question of insurance which raises at least three questions.
   a) Parishes where abuse has occurred may already have had to call on their public liability insurance to settle a civil claim. Will the insurers now support a further claim via the proposed compensation scheme.
   b) Also, even if a parish has adequate insurance to cover any payments under the redress scheme will they be like those trapped in houses on a floodplain faced with spiralling insurance premiums as a result of the claims made against them.
   c) Thirdly what about parishes who have changed their insurers in recent years and perhaps inadvertently lost potential cover for historic abuse occurring while their previous policy was in place.
   Even the wording of the measure alludes to the difficulties.
   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. What if a parish because its history is unable to obtain insurance at affordable cost?
4. Finally, I think there might be a significant risk if PCCs are asked to act in this process, some PCC members would walk away and resign. At the end of the day the Churchwardens and PCC members are all unpaid volunteers and this would be an entirely understandable reaction. Why should they be facing the stress and concern about something they had no direct involvement with themselves individually or in most cases corporately.

The parish at its heart is the worshipping congregation, not its physical structures or boundaries. If the congregation had no involvement in the abuse why should they be drawn into the process simply because of the geographical location where there the abuse was perpetrated?

So much about what happened in many abuse cases was due to corporate failure.

-Failure at the time of the appointment of these priests to detect the possibility of future abuse.

-Failure of those supervising them, the Archdeacons, the Bishops in the Dioceses affected and the Diocesan structures to detect and prevent such events.

-Failure at even the highest level through the actions of some of our previous Archbishops.

Much has now been done in this respect. My own diocese of Chichester is a shining example. Perhaps the Diocese most affected by cases of historical abuse now has some of the most robust structures in place to monitor and prevent such abuse happening again.

I ask the revisions committee as it starts to look at this legislation to seriously address the question of parish involvement in the scheme. Corporate failure requires a corporate response rather than burdening PCCS who may already be struggling to find members and who often have existing serious financial problems to address.

Thanks are due to all who have drafted this legislation. It will have been a difficult and sensitive task which has been undertaken with the utmost rigor and compassion. But I would ask that the role of the parish in its execution is subject to critical review at this stage.

Sue Cavill Derby 297

I would like to submit the following comments on the Abuse Redress Measure - First Consideration.

I am very much in favour of redress being given to those who have suffered abuse in the Church of England and hope that this can happen as quickly as possible.

However, I have some concerns about the draft measure around the lack of clarity about how bodies will be contacted for contributions, and the way in which accountability is defined.

Request or require

In section 12, 1) says: 'The redress body, having made an award of redress, may request or require a contribution from one or more accountable bodies'.

However, at 5) it says: '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.

Moreover, in 7) it says: 'The amount of a contribution required to be paid may be recovered as a debt due to the redress body'.

There is a significant lack of clarity here – at first we have 'request or require' then suddenly it becomes only 'require'. Request has a very different meaning from require. Bodies who are asked for a contribution and feel they should give something may not have the means to give very much. If the amount is 'required' it is implied they will have no option.

I certainly do not think that PCCs should be 'required' and I think there is an argument to be made that the redress body should be entirely financed by the Church Commissioners, with opportunities for bodies to give contributions if requested.

I am also very concerned about the redress body being able to recover the amount of contribution required as a debt. PCCs are often in very difficult financial circumstances and to have something like this hanging over them, perhaps likely to deplete their reserves, would be a very deleterious. The measure does talk about taking out insurance, but this assumes that such insurance can be purchased and that PCCs could afford it. Please think about the reality of PCCs' positions.

Accountable bodies

In the table in section 12 showing the person who has committed the abuse and the accountable body for that abuse, it states:

Person who committed abuse	**Accountable body**
A visitor to a church school	The PCC for the parish in which the school is situated

The wording here is very unclear – what type of visitor to a church school? As it stands, this could mean anyone and obviously PCCs have no control over visitors to schools. Although there is often a strong connection between incumbents and PCCs with church schools, the idea that PCCs would have any responsibility for abuse committed in schools is ludicrous. At best the church may have representation on the board of governors and in the case of academies even this could be very weak. So I think this category should be removed altogether.

Summary

In summary, my view is that:

1) PCCs, and possibly other bodies, should be requested, not required, to provide contributions towards redress
2) The redress body should not have the power to extract funds from PCCs as redress
3) Ideally the Church Commissioners should foot the entire bill, with contributions on request from the relevant bodies and opportunities for those bodies to apologise as appropriate
4) The category stating that PCCs are accountable for visitors to church schools who commit abuse should be removed altogether.

Please let me know if you wish me to reword this in any way as I only joined General Synod in 2021 so am still feeling my way as to appropriate wording.

Peter Kelsey Derby 298

I am new to Synod and just finding my way around the various functions, so forgive me if my comments are more informal than they should be.

I am, like virtually everyone else, fully in favour of this measure's aims.

My concerns are about contributions from unrelated parties.

Whether any local body should be required under **12 (1)** to contribute is also very dubious. If there has been abuse caused by people at any level who were appointed by current post holders then there is cause for contributions from the body that appointed them but being held accountable for someone who is no longer in post seems punitive. If this lessens the money that the Church Commissioners recoup then I do not think that unreasonable and, in some way, enhances, not diminishes, the one Church approach.

In **12 (3)** you lay out who the "accountable body" is.

From a Parish perspective the potential cost, and disincentive to serve, on PCCs will be huge.

Surely "accountable body", effectively, should mean the body who was responsible for the appointment. I am the Treasurer of a small PCC in vacancy and we will sit on the interview panel when we appoint a new Priest but we do not have the final say; that obviously lies with the Bishop. Nor are we involved with the discernment of Ordinands or their training. Similarly we do not appoint LLMs or licence PtOs. It therefore seems illogical that the PCC is the accountable body in these instances.

On a practical note item **15** seems unrealistic. Do we have premium examples available and are they affordable? On a different note I am not sure that taking out insurance is compatible with a one Church approach as by taking out insurance we appear to be trying to pass off our responsibilities for abuse to a third party. Abuse is not like a flood, where you should insure against it, it is a sin and I do not believe that we should be insuring against sin.

Please let me know if anything needs clarification.

Clive Billenness Europe 306

REMOVE ENTIRELY SECTIONS 12 (CONTRIBUTIONS) TO 15 (INSURANCE)

1.1. The purpose of the Measure is to establish a means of making payments to the victims of abuse by members of the Church of England. It is inappropriate to include in this measure the internal mechanisms by which contributions to the Redress Fund will be obtained from different parts of the Church since this will raise all manner of questions and debate about the merits and means of undertaking this. This risks delaying the passage of the measure through Synod since while it is likely that the principles of a Redress Scheme enjoy almost universal support, there are likely to be many voices of opposition to the details of how contributions from individual organisations will be sought and obtained. It will be better if the internal arrangements for how to replenish the initial funding were dealt with separately after the principles of establishing a Redress Fund and its operation in making payments to victims have been approved by Synod.

1.2. There are many individual issues regarding these sections and I expect that this Committee will receive more submissions about these potentially than about the rest of the Measure, and that these will occupy more time by the Committee than the rest of the Measure. I have laid out separately my detailed submissions on these sections below but the reasons why I submit that these sections should be omitted are detailed below.

1.3. Firstly, the measure itself contains uncertainty. Clause 12(1) states:
The redress body, having made an award of redress, may *request* or *require* a contribution from one or more accountable bodies.

These are two entirely different forms of action, each requiring different procedures and regulation, yet here they are simply included side by side, totally ignoring the different implications of each. Many of my comments included in Section 1 make the assumption that the redress body will seek to **require** a payment with some form of sanction if a demand for payment is refused. It is inappropriate to include such uncertainty in a document which will not only go before Parliament but will also at some point be likely to be tested in the Courts.

1.4. If the Measure were to adopt a **request** approach, then many parts of the Measure can simply be removed since a request implies no compulsion and the Redress Body can exercise discretion and good judgement in each individual case. Once must not forget, however, that a **request** does not imply any liability and therefore is not an insurable risk.

1.5. This Measure introduces for the first time the principle that a Parochial Church Council can be somehow compelled to pay money to a Redress Scheme in which they have no direct involvement and where there is no proof of any actual tort leading to a corporate liability towards an individual victim. It is unclear whether such payments can be compelled from a Parochial Church Council in the absence of any proven liability, and if this

Measure is passed into Canon Law, it is highly likely that Councils will immediately take actions to place their resources beyond the reach of the Redress Scheme. Short of legal action to obtain such money, there seems to be no way to enforce a demand for a contribution to the Fund.

1.6. Were such a legal action to be commenced, this would deplete the existing resources of local churches in obtaining legal advice, and would also be likely to lead to a mass resignation of members of the Council to avoid any personal involvement in the matter. In such circumstances, the overall stability of a Parish could be placed at risk of serious harm since if no one could be found to act as the Statutory Officers of the parish, many items of day-to-day business (e.g. payment of insurances, health and safety compliance, safeguarding activities, maintenance etc) would either go undone or fall back onto an incumbent which would create an intolerable workload. Parishioners might feel that they are being treated as malefactors and not as victims themselves and therefore show hostility to both a claimant and any members of their family living in the community. “The Church” would be blamed as an anonymous institution with futher consequent reputational damage.

1.7. In the event of undignified and much-publicised litigation between Redress Body and Parish this could only harm the reputation of the Church and also cause distress to any claimant, since in order for the Redress Body to demonstrate to a court that their demand for money from a Parish was well-founded, many details of the original claim will have to emerge.

1.8. Further difficulties arise in relation to merging parishes and what enforceable liability might be transferred into new bodies, as well as managing gifts and covenants made on condition that the money be used only for specified purposes excluding contributions to a Redress Scheme. The Church of England has recently witnessed the establishment of an Ephesian Fund in response to Living In Love And Faith, so it is clear that parishes are already exercising both their minds and their wallets to express their clear intentions about how the money which they voluntarily to their churches will be spent. Any suggestion of compulsory ‘taxation’ of parishes will rapidly acquire a pejorative name, such as “The Smyth Tax” and will further damage already strained relations between individual parishes and their Dioceses.

1.9. In many cases, abuse cases are historic and will not therefore be seen as having any connection to current members of a parish, who are not likely to accept any liability or responsibility for historic events over which they had no control or involvement.

1.10. It is deeply questionable whether any kind of link between the laity of a parish and the individual actions of a member of clergy can be established, unless a substantial amount of supervisory control over clergy conduct is delegated to a PCC which is unthinkable. Clergy are overseen by officers appointed by Dioceses, and PCC’s are therefore likely to repudiate any contingent liability arising from conduct which was entirely outside their control.

1.11. A similar position would be likely to be adopted by other bodies affected by this

Measure.

1.12. This might be seen as expecting the passengers on the Titanic to have to pay a surcharge on their tickets upon arrival in New York to pay recompense for the negligence of the captain and crew for hitting an iceberg and not having sufficient lifeboats on board.

1.13. As a member of the Diocese in Europe, I am also pondering whether this scheme can be in any way enforced within other countries' legal systems, where Canon Law is not recognised as having legal force, and where individual national laws would probably preclude levies of this type since they might compel the disbursal of charitable funds in ways which are not permitted under local laws. An example of this is France, where all funds are held not by a PCC but an entirely separate 'Association Cultuelle' which operates strictly under French laws on religion, and has no legal relationship with the Church of England.

1.14. Considerable emphasis was placed in November Synod on any liabilities being an 'Insurance Matter'. There are a number of reasons why this is is practice unachievable:

1.14.1. You cannot insure for liability arising from past events, since the risk would be impossible to assess for an underwriter.

1.14.2. Turning to future events, a PCC (or other body) would be seeking insurance against liabilities over which it had no control and so could not therefore mitigate.

1.14.3. This is in effect a form of 'subrogation' since a PCC's insurer would not cover any risks where the claimant had no legal standing to pursue a claim against that PCC, and I doubt if a notional award based not on liability but on 'ability to pay' and on the notion of 'expression of remorse'.

1.14.4. The notes to this Measure and conversations with the project team suggest that requests for payment from a PCC (or indeed other body) will be based on their ability to pay. The existence of an insurance policy would clearly influence this, and this is therefore likely to raise the premium since the level of liability would be affected by the existence of the policy itself.

1.14.5. If the likely level of liability for compulsory contribution from another body will be based on their ability to pay (including access to Insurance cover), then the very existence of such an insurance policy would be likely to increase the risk of claim. In case of Kidnap Insurance, which many large corporations operate for staff working in high-risk regions, it is often a condition of the policy that its existence is kept completely secret, since kidnappers knowing such a policy exists, may raise their demands accordingly. Thus any church body approached for a contributory payment may be unable to declare that they hold such insurance.

1.14.6. It is very unlikely that any insurer will be willing to meet a claim unless it is

first placed in the hands of their loss adjusters. This is likely to make any claim process both protracted and tortuous.

1.15. Unless and until the team responsible for progressing this measure are able to provide specimen insurance policies complete with quotations for premia and full conditions of issue and claim, then no reliance can be placed on assurances that compulsory contributions to the Redress Fund are an insurable risk.

1.16. There is a very serious danger that attempts to compel a Church body to contribute to a Redress Fund will lead to open hostility between members of that church body and a claimant for Redress. This may be either a general community resentment if the identity of the claimant is not know, or individual hostility if it is. This risks, in turn, also creating some form of local 'blaming' exercise in which blame is heaped on the claimant for the financial woes of a parish.

1.17. Finally, it must be borne in mind that while the Redress Scheme is intended to support individual victims of Church-based abuse, where such abuse has occurred, it is often the case that an entire parish or school is also a victim of the abuse which has occurred, and so seeking to create a liability against them will be seen as treating their suffering as being of less importance than that of the claimant.

For all the reasons stated above, I therefore invite the Revision Committee to propose to omit sections 12 – 15 entirely from the Measure.

Assuming that the above proposal is not accepted by the Revision Committee, I will include detailed proposals in my other proposals below.

PARAGRAPH 2

1.18. Professor Alexis Jay has received multiple representations within her review of the future of safeguarding that the Archbishops' Council should not be permitted to have any oversight or management responsibility for the Redress Scheme. Recent criticisms of the Archbishops' Council in the Wilkinson Report tend to raise further questions about its competence to manage schemes such as this. It is therefore recommended that this Measure state that:

1.19. "The General Synod shall designate a Body upon which the functions of this measure shall be conferred. This shall hereafter be referred to as 'The Responsible Body'. The General Synod shall by a simple majority in a vote of the whole Synod to confirm or to vary this designation at the end of every third year following its first designation"

1.20. In consequence, substitute *passim* "The Responsible Body" for "The Archbishops' Council"

1.21. The effect of this amendment will be to bring back to General Synod every three years for review the performance of the Responsible Body, with a

power to appoint a different Resonsible Body should it be dissatisfied with the performance of the existing one.

Paragraph 2(6)

1.22. Omit this entirely

1.23. In the light of recent events, it is unacceptable that the Archbishops' Council or indeed any Responsible Body should not be held fully accountable at a corporate level for damages where a victim of Church abuse is caused further suffering by an act or omission of the Responsible Body. With power comes responsibility and accountability.

1.24. Besides, surely the Responsible Body can insure against this in the same way that Parishes are expected to.

Paragaph 8(8)

1.25. Insert into section 8:

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 **and/or deficiencies in processing the claim caused by the redress body or its agents.**

1.26. There have been multiple well-publicised complaints about defects in the Interim Support Scheme, and an Internal Audit Report is awaited into its operations, although the precise parameters of the audit have not been made available.

1.27. There must be a strong and powerful disincentive for the scheme's administrators to prevent them from making the process unreasonably complex or lengthy as a way of discouraging claims. There must also be a process whereby, if the administration of the scheme is contracted out to a third party, any contractual deficiency by that third party which leads to harm to the claimant can result in a compensatory payment to the applicant.

1.28. It lies with the redress body, in establishing a contract with a third party service provider to include a mechanism to recover any additional compensation awarded where this is as a result of a service failure by the contractor.

Paragraph 12

1.29. **Section (1) Omit "or require".** Reasons have been stated above. Otherwise clarify these two mutually exclusive options.

1.30. **Section (3)** Where the abuser is in the first or second categories, substitute for The PCC for the Parish – "The Body granting the Permission To Officiate to that person". PCC's have no control over these persons and cannot even subject a Lay Reader to a Disciplinary procedure. Responsibility must therefore lie with the body granting the Permission To Officiate.

1.31. **Section (3)** Create a new category "Employee of or other worker in or

volunteer for the PCC for a parish" and define the Accountable Body as "The body with employer's responsibility for that person". Such persons should be covered by employer's liability insurance under normal circumstances. The test of who this is would be whoever is paying the a National Insurance Contribution for that person or who pays their expenses to them.

1.32. **Section (3)** For "A visitor to a church school" substitute as the Accountable Body "The Governing Body of the School" since Governors cannot abdicate their responsibility for the oversight of all safeguarding activities within that school.

1.33. **Section (3)** Amend "A suffragan bishop or archdeacon" to read **"A suffragan bishop, honorary bishop or archdeacon"** since not all honorary bishops are suffragans but still operate under the authority of the Diocese.

1.34. **Section (7)** **<u>strike out entirely.</u>** The power to make the Redress Body a 'debtor' constitutes a real and present danger to the financial stability of parishes and should be omitted. Only a Court of Law should be empowered to do this, not a Church Body.

2. **Section 14** Please note that this quite probably unenforceable within some countries of the Diocese in Europe since local legislation may determine what constitute 'charitable objectives'. In France for example this would not be accepted for Religious Associations.

3. **Section 15** This requires substantial amendment or expansion since the term 'liability' is not the same as being 'assessed by a Redress Body'. Up to this point, the whole theme of this measure has referred to acting to show repentance and contrition. This now raises the issue of 'liability' and changes the entire approach of the Measure.

4. **Section 17** Insert a new clause (4)

"The amounts payable to a solicitor acting on an application for redress or an appeal under this measure shall be on a scale consistent with the costs incurred by the Redress Body in obtaining legal advice and services in such cases"

There must be equity in legal costs to prevent applicants by escalating their irrecoverable legal costs by overwhelming them with a barrage of legal services funded by the Church.

5. **Section 22 Para (5)** Please urgently obtain appropriate advice about the extent to which this Measure in part or in whole will apply within the Diocese in Europe. Can victims of abuse make claims to the Redress Body ? Can the Redress Body legally seek payments from Chaplaincies in Europe ? What are the insurance implications for Chaplaincies in Europe ?

Shayne Ardron Leicester 332

I would just like to give an explanation regards my requested amendment to the Abuse Redress Measure GS2325.

Mrs Shayne Ardron (Leicester) to move the following amendments:

'In Clause 12 (3) remove "A visitor to a church school" and insert "An official visitor from the church or church body to a school"

And related to that,

remove "The PCC for the parish in which the school is situated" and insert "The PCC for the parish, or church body from which the official visitor has come"

1. A school has many visitors so it should reflect who the visitors are rather than where the school is.
2. It shouldn't matter whether it's a church school or a secular school our accountability should be the same. Churches and various church bodies (e.g. through the Growing faith foundation) will visit both church and secular schools.
3. The parish church or church body, needs to be aware of its responsibilities of those it sends rather than just any visitor of a school in its parish which it couldn't hope to know about.
4. This may still not be the correct the wording as there are many different forms of responsibility rather than PCC e.g. DCC and I'm sure there are others, which is why I have used the term church bodies. Hopefully you will have other correspondence to help define that wording.

If this does not make sense please feel free to contact me to clarify any points.

Robert Zampetti London 361

Throughout the measure reference is made to the Archbishops' Council. As the Archbishops' Council is set to be replaced by a newly established Church of England National Services (CENS) Board of Trustees, it should be left up to that legislation to redistribute authority appropriately in accordance with the governance changes. References to the Archbishops' Council in this measure may create possible future conflicts that will need to be resolved. While it might not be a legal requirement to prescriptively account for the future still-proposed change in the governing body to which this measure alludes, I recommend that we explicitly do just that to avoid all doubt as the fundamental reference context for its provisions are shifting at the same time.

Section 1 – Dignity, respect and compassion

This section as it stands is fine.

Section 2 – Archbishops' Council's Function

Since it is important to address the clearly stated concerns on the part of survivors and the General Synod that there be an independent Safeguarding body, this entire section is problematic. I offer the following suggested changes:

§2(1) If it is already the case that the Archbishops' Council holds the authority for the "functions conferred by or under this Measure", then this subsection is unnecessary. I recommend that this subsection be removed – or be combined with the next subsection if needed to legally enable the creation of an independent body.

§2(2) If current law does not permit the Archbishops' Council to delegate the necessary functions to another body, then I would recommend that the first two clauses be combined along the lines of

> (1) 'Since the functions conferred by or under this Measure on "the independent redress body" are currently functions of the Archbishops' Council, this measure shall enable the Archbishops' Council or its successor body to delegate those functions to another person or body.'

§2(3) I recommend that this subsection be strengthened on the matter of independence. I will suggest we use the term, "independent redress body". But I note that this body could very well be some future iteration of a newly constituted ISB. I suggest the following wording[1]:

> (3) 'The Archbishops' Council <u>or its successor body</u> ~~may~~ <u>must</u> delegate the

[1] Underscoring/strikeout are used throughout this document to indicate additions/deletions to existing text.

functions of determining an application for redress and an award of redress under this Measure ~~(but only those functions)~~ to an independent redress body ~~panel~~ constituted under the rules, whether or not other functions of the Archbishops' Council are delegated to the independent redress body or another person under subsection (2[2]).'

Throughout the measure, all references to "the redress body" should be amended to "the independent redress body" - which might also then impact the final wording of subsection (5) below.

§2(4) I am not sure how necessary it is to specifically enable another layer of delegation. I would suggest that if the revision committee believe such further flexibility is needed, then preserve this subsection, otherwise one could also assume that the independent body established in subsection

(3) would set up whatever structure(s) it thought best while retaining the authority with which it was established.

§2(5) If the recommendations above are adopted, I would recommend that the wording of this subsection by modified for further clarity

(5) 'Accordingly, a reference to "the redress body" in a provision made by or under this Measure is a reference to the independent body ~~person or persons for the time being~~ required to exercise the functions under that provision.'

If there are any references to "the redress body" in subsequent clauses of the measure that are intended to apply solely to the Archbishops' Council or its successor body and are not subject to delegation, these references should be thus amended. I have seen none.

§2(6) & §2(7) If the recommendations above regarding the required establishment of an independent body are adopted, this subsection and the next would need to be reworded

(6) '~~Neither~~ The independent redress body, the Archbishops' Council or its successor body, and any ~~nor a~~ connected person ~~is~~ shall not be held 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.'

(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 independent redress body.'

§2(8) This subsection as it stands is fine.

[2] If subsections (1) and (2) are merged, this reference would now be to subsection (1) and this and all following subsections of this section would be renumbered (2) to (7)

Section 3 – Person who suffered abuse

This section as it stands is fine.

Section 4 – Dependant of person who suffered abuse.

This section as it stands is fine.

Section 5 – Continuance of application where applicant dies

This section as it stands is fine.

Section 6 – Application for redress

This section as it stands is fine except for the recommended changes to all references concerning "the redress body"; thus, in subsection (1)

(1) 'An application for redress under this Measure must be made to the independent redress body in accordance with the rules.'

Section 7 – Determination of application for redress

This section as it stands is fine except for the recommended changes to all references concerning "the redress body"; thus, in subsections (1), (2), (4), and (5)

(1) 'The independent 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 independent redress body must have particular regard to matters specified in the rules.'

(2) Each application for redress is to be determined by the independent 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 independent redress body (whether to the applicant or for some other purpose),

(c) advice from a person appointed by the independent redress body to provide advice to it, and

(d) other material which the independent redress body considers relevant.'

(4) 'The independent 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 independent redress body must notify the outcome of the determination in accordance with the rules.'

Section 8 – Determination of award of redress

This section as it stands is fine except for the recommended changes to all references

concerning “the redress body”; thus, in subsections (1) and (7)

(1) ‘The independent 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—

(a) a payment (a “redress payment”);
(b) some other remedy.’

(7) ‘The independent redress body may make arrangements for facilitating access for a person awarded a redress payment to advice on the financial management of the award.’

Section 9 – Initial redress payment

This section as it stands is fine except for the recommended changes to all reference concerning “the redress body”; thus, in subsections (1) and (2)

(1) ‘Where the independent 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.

(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 independent redress body must order a payment of an amount equivalent to the excess.’

Section 10 – Appeal

This section as it stands is fine except for the recommended changes to all reference concerning “the Archbishops’ Council or its successor body”; thus, in subsections (3) and (4)

(3) ‘An appeal under this section is to be decided by a person appointed by the Archbishops’ Council or its successor body; 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.

(4) In making an appointment under subsection (3), the Council or its successor body must seek to ensure that the appeal takes place without undue delay.’

Section 11 – Account for redress awards

§11(1) & §11(2) These subsections would need to be reworded to take into account the establishment of an independent redress body and to allow for the envisioned dissolution of the Archbishops’ Council with the creation of CENS; thus, I recommend the following changes:

(1) ‘The Archbishops’ Council must initially open an account (“the redress fund”) from which payments for awards of redress are to be made.

(2) Once the redress fund is established, the ~~Archbishops' Council (whether or not it is the~~ independent redress body must ensure that payment is made from the redress fund of whatever amounts are required for making awards of redress; such payments would be subject to scrutiny by the Archbishops' Council or its successor body and the General Synod'

§11(3) This subsection appears unnecessary. Presumably the establishment of the fund for the express purpose of paying redress awards is deemed to not be in breach of the Council's charitable duties. If it is in breach, this measure itself is rendered moot. Having established the fund in accordance with its charitable purposes (namely exercising its fiduciary responsibility to ethically manage liability), the Council hands over the administration of the fund to an independent body operating according to fixed rules against which the Council or its successor and the Synod will hold it to account. I cannot envision a circumstance where the independent body following the rules instructs payments to be made that would cause the Council or its successor to be in breach of its fiduciary responsibilities as a charity. I can, however, envision a situation where the Council or its successor uses such responsibilities as a flimsy excuse for not making the appropriate award determined by an independent body following clearly established principles and rules.

Sections 12 to 15 -- Eliminate

I recommend that these 4 sections be left out of the measure completely. As currently envisioned, this well-meaning attempt to create a whole church approach will only actually serve to further delay the speed at which survivors' cases can be applied for and rewarded. We have £150 million available and are not reliant on additional sources. Should it become apparent that many survivors need financial payment from specific accountable parties as part of their redress, legislation can be brought forward when the facts on the ground so require and when there is sufficient data to know what would be needed.

In terms of addressing the desire for a whole church approach in order to show contrition, the independent redress body might request that a member or members of a PCC or other accountable body issue an apology – which is often what is wanted by a survivor. And it will be important for the independent body to be mindful that the accountable body as currently comprised no longer includes anyone who might have been able to provide the appropriate safeguarding intervention at the time the abuse occurred. It might be preferable, instead of requiring a contribution towards the financial award, to require the members of the PCC or other accountable body to refresh their safeguarding training.

Nevertheless, should the revision committee ignore these recommendations, I would then request changes to those sections as I have indicated below.

Section 12 – Contributions and other acts of contrition

This section should empower the independent redress body to **request** contributions, **not require** them. I've suggested in the section title above that, if kept, this section also acknowledge that other remedies or "acts of contrition" might be requested by the independent redress body from various accountable bodies. Moreover, there should be flexibility in determining the appropriate accountable body(ies) based on the specifics of the case and the desires of the survivor(s). I suggest the following changes be made to subsections (1) to (8):

(1) 'The independent redress body, having made an award of redress, may request ~~or require~~ a contribution and/or other remedies from one or more accountable bodies.

(2) The amount of the contribution and/or the nature of the remedy(ies) ~~is~~ are to be determined in accordance with the rules.

(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 or as established on a case- by-case basis by the independent redress body following established guidelines which include taking into consideration any specific requests made by the survivor(s)—

[*TABLE as presented*]

(4) Contributions of different amounts and/or different remedies 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 and/or remedy(ies) ~~is~~ are requested ~~required~~ to argue that some other person is vicariously liable to pay some or all of the contribution or perform the requested remedy(ies).

(6) The imposition on an accountable body of a ~~requirement~~ request for a contribution does not extend the personal liability of a trustee, director, officer or employee of the body.

(7)[3] ~~The amount of a contribution required to be paid may be recovered as a debt due to the redress body.~~

(8) A person specified in the second column of the table in subsection (3) may choose to make a payment into the redress fund or perform a remedy, even if the person has not been requested ~~or required~~ to make a contribution to the fund or to perform some other remedy(ies).'

Section 13 – Power to amend table of accountable bodies

This section references the power of the General Synod to amend the table of

[3] If subsection (7) is removed, subsections (8) to (10) would be renumbered (7) to (9)

accountable bodies. I would eliminate subsection (2) which requires that any proposed resolution with such changes be reviewed by the Archbishops' Council first. As with everything having to do with Safeguarding, it will be best if the Archbishops' Council refrains from even the appearance of manipulating the process. While I understand there may be practical legal and charitable concerns involved, this seemingly innocuous clause is far more than is required. Sensible, legal advice and guidance will be available without a specific provision that requires the Archbishops' Council or its successor body to seek its own consultation.

Section 14 – Payments by charities to or from redress fund

This section raises concerns about whether one can legally make payments "charitable" by statute – a concern expressed also in my comments on subsection 11(3) above. Putting that aside, we do not want such assertions by various boards of trustees (including the Archbishops' Council itself or its successor body) to become obstacles to the effective distribution of redress awards. Thus, if we keep this section at all, for the sake of clarity, I recommend referencing the potential successor in subsection (1) and eliminating subsection (2) altogether. Subsection (2) serves only to provide a loophole excuse for preventing a payment and meddling in the decisions of the independent redress body.

(1) 'The making of payments from the redress fund by or on behalf of the Archbishops' Council <u>or its successor</u> is to be treated for all purposes as charitable.

(2) ~~[4] But subsection (1) is to be read in light of section 11(3).'~~

Section 15 – Insurance

While this section certainly contains good advice, I am struggling to ascertain how this section could be enforced against "each accountable body" and who would be the arbiter of what is "reasonably practicable" vis-à-vis each of these accountable bodies. I recommend striking this section. Instead, as part of our ongoing Safeguarding campaign churchwide, we should promote the idea of obtaining insurance and even investigate ways these accountable bodies might be helped to do so. The clause in this section is more window dressing than action-enabling.

Section 16 – Information sharing

This section as it stands is fine.

Section 17 – Legal costs etc.

[4] If subsection (2) is removed, subsections (3) to (5) would be renumbered (2) to (4)

This section as it stands is fine.

Section 18 – Power to make the rules

This section as it stands is fine.

Section 19 – Review of this Measure

This section as it stands is fine, except for adding a reference to the successor body and adding a paragraph explicitly noting Synod oversight consistent with section 6(2)

'The Archbishops' Council or its successor body 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, and

(c) report the outcome of the review to General Synod along with a resolution to extend'

Section 20 – Interpretation of references to relatives etc.

This section as it stands is fine.

Section 21 – Other interpretation

This section as it stands is fine. New terms to be defined may need to be added based on my suggestions (e.g., "survivor", "successor body", "remedy" or "act of contrition", etc.). Note that here reference to "redress body" should be amended to "independent redress body" if my suggestion to so rename throughout is observed.

Section 22 – Short title, commencement and extent

This section as it stands is fine.

Caroline Herbert Norwich 371

To the Revision Committee for the Abuse (Redress) Measure

While I welcome this Measure overall, I have a couple of specific points (both of which I raised in my speech in debate on the First Consideration of this Measure):

1) Clause 12(3) currently says that if a visitor to a church school commits abuse then the accountable body is the PCC of the parish in which the school is situated. I would like to propose that the accountable body should not be the PCC, but rather the governing body of the school. My reason for proposing this is that a PCC does not formally oversee the safeguarding policies and practices of a church school in its parish and would have no say over the admission or conduct of visitors. Therefore to hold the PCC accountable seems to me to go against common sense and natural justice, as the PCC would be unable to have any involvement in or influence on events. (If what is intended is that the PCC are only held to be the accountable body in such cases if the visitor was visiting the school under the auspices of the PCC, then this should be clarified in the text of the Measure).

2) Clause 12(5) reads "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." I understand the reasoning behind this given in paragraph 60 of GS 2325X but I am concerned that this does not allow for the possibility that a genuine error of attribution may have been made and I would like to see some provision made for the person from whom the contribution is required to be able to appeal or challenge the decision. Given that Clause 10 deals with appeals by the person who applied for redress, it seems inequitable to fail to provide any mechanism for the person from whom the contribution is required to do the same. If this is not thought to be necessary, then it will be important to specify that the presumed relevant accountable body should have involvement from as early as possible in the process, to avoid erroneous attributions of responsibility.

It may be that the second point is more properly addressed in the rules which will accompany the Measure, so apologies if this is not the right time or place to raise this.

Many thanks,

Caroline Herbert

Norwich 371

Prudence Dailey Oxford 376

I am writing in response to the consultation in relation to the Safeguarding Abuse Redress Scheme. I should begin by saying that I am very much in favour of the scheme overall, which is indeed overdue; but I do nevertheless have some concerns over the details of the current proposals, especially as they relate to contributions from Parishes.

I understand that the scheme is not intended to be punitive or to impute blame, and that any contributions 'requested or required' from Parishes would be based on an assessment of ability to pay; but in practice, the effect would be likely to punitive on Parishes, which rarely have any spare resources that—unlike large chunks of the Church Commissioners' funds—are not already earmarked for some purpose. Where Parishes have reserves, these will often have been built up to assist with the costs of maintaining an ancient listed building, and/or be the result of gifts or legacies from individuals who expected their money to be used to further the mission and ministry of the Parish, rather than to compensate a third party for something that may well not have been the PCC's fault.

This is especially true of incidents occurring in the context of church schools, which are entirely outside the control of the PCC; but even if (say) the perpetrator of the abuse was the incumbent, incumbents are not employed by the PCC, which cannot be responsible for their actions. Of course, it is not hard to imagine situations where the PCC is, indeed, culpable for safeguarding failures; but even then this ought not to be relevant, if (as we have been told) the redress scheme is independent of any imputation of blame. Indeed, if there is no blame or punishment attached, why should the location or context of the abuse have any impact on where compensation payments come from? It would seem fair and reasonable for PCCs to be given an opportunity to contribute to redress, especially in situations where the local leadership acknowledges some local responsibility for the abuse; but for this to be a requirement—or even for any degree of moral pressure to be applied—would be unjust. Rather, the entirety of the compensation should be paid by the Church Commissioners, with any reimbursement on an entirely voluntary basis.

The question also has to be asked as to whether a 'whole Church approach' is, in fact, necessary for victims and survivors to feel that they have been appropriately compensated for what happened to them. Those survivors who have made their views known to members of Synod appear to be directing their sense of anger primarily towards the National Church Institutions, rather than the Parishes. Although the initial abuse may have occurred locally, this has been compounded by the perceived re-abuse in relation to how the Church responded to the claims of abuse; and this is where the real sense of betrayal originates. Furthermore, given that the complex interrelationships between different parts of the Church are hard to understand even for those directly involved in Church governance, it seems implausible that those in receipt of compensation under the scheme will be scrutinising exactly which parts of the Church the money comes from.

It was notable that similar fears to those I have outlined were raised by a number of speakers during the Synod debate (most of whom, I should mention, were not in any way connected with Save the Parish!). In his summing up of the debate, the Bishop of Winchester nevertheless did not seem to take those concerns on board, but instead appeared simply to defend this element of the draft proposals as it stood. This was despite Synod having been advised that the proposals were being brought at an earlier stage of development than is usually the case, in order to obtain input into them. Parishes (and indeed Dioceses) up and down the country are really struggling at the moment: if proposals to wring money out of Parishes in relation to safeguarding redress were to be pushed

through without due regard to the anxieties expressed, this would serve only to exacerbate the problem of breakdown of trust within the Church.

Finally, from a discussion that took place at our Diocesan Synod (to which unfortunately I did not have chance to respond), it became clear that some people are under the impression that Parishes would be expected to contribute to compensation ONLY here this was covered by insurance; but in previous discussions with Jim Butterworth and Katie Harrison, that was not my understanding. Indeed, it was recognised that it may not be possible to insure against this, and that (depending on their resources) Parishes might then be expected to foot the bill themselves. If it is indeed the case that there will be no financial liability on Parishes beyond that which could be met through insurance, this would of course obviate my concerns. At any rate, this is something that needs to be clarified.

Jonathan Baird Salisbury 400

May I please make the following observations on the above draft Measure:

1. Under Clause 12, the wording 'request or require' is draconian, potentially unilateral, open-ended & could lead to significant & unquantified liabilities. The unintended consequences & implications of such wording is potentially most troubling.

2. Under Clause 14, stating boldly that payments made are 'for charitable purposes' does not mean that they are. Aka, saying that 'black is white' does not mean that black is white. Furthermore, this may contravene or breach charity legislation or regulation.

3. Under Clause 15, requiring every charitable body in the Church to take out the relevant liability insurance is going to be above the competence of the vast majority of such bodies. It is going to create a cottage industry of such liability insurance & introduce considerable & inappropriate cost & complexity.

Would not a single, blanket policy for the whole Church be more efficient, commensurately priced, fairly & comprehensively worded & both more apposite & appropriate?

Three general comments on the draft Measure:

1. Does the real hurt arise from the original abuse or from the manner, in which the case has been handled subsequently? Potential compensation cannot be entertained without a clear understanding on this point.

2. As a way of demonstrating collective remorse, the imposition of an arbitrary & unilateral tithe would be questionable ethically & do precious little to assuage the hurt, which has been incurred by victims.

3. This smacks of being an extremely complicated & intricate piece of legislation, with swathes of potential unintended consequences, which is being introduced with undue haste & without proper forethought.

In the first instance, what can be learned in such matters from precedents in the secular world?

And where is the evidence of such learning?

Tony Allwood St Edmundsbury & Ipswich 397

I would like you to consider these comments on the above measure. They are mainly from the perspective of a PCC member, but are more widely applicable.

I fully support the Measure in principle, but do have reservations about Section 12, the contribution from accountable bodies. I understand the concept of the "whole Church approach" and agree with the intention, but the detail needs much more consideration.

Within my Diocese, the vast majority of churches already hold 3rd party liability insurance within their general buildings insurance, and this is checked every 3 years as part of the Archdeacon's inspection. However, the existing insurance policies available require that in the case of an abuse claim, they (the insurance company) must take control of the claim and negotiate with the claimant or their legal representatives. It is unclear how this would work with a contribution to a redress fund (which had been determined outside their control), and this whole area needs work with the insurance companies to provide simple and straightforward policies which are easily understandable by PCCs and other church institutions.

Claims may arise from allegations of historical abuse, possibly many years ago. PCCs may have changed their insurance company since the date of the alleged abuse. I understand that the major insurance companies will honour claims when the alleged abuse took place since 1999 and the PCC can produce evidence that they were fully insured at the time of the abuse and for all years subsequently, even if they changed company. It would be good if this is confirmed and incorporated into insurance policy documentation. It would be also useful to remind PCCs and other church institutions of the importance of retaining insurance records! To cover the pre-1999 situation, an additional line in the Measure stating that contributions would not be sought for abuse allegations prior to 1999, would relieve the uncertainty of such situations.

If the above points are resolved and the contributions are covered by insurance, then the insurance rates will rise and all PCCs and other church institutions will share the cost of the abuse redress. Synod will need to decide whether the additional cost of the bureaucracy and administration of such a scheme, both within the church and the insurance companies, is worth the perceived benefit.

A hidden cost will be the impact of the potential hassle of a contribution claim on Clergy, Churchwardens and PCC members. My Diocese with ~470 churches, ought to have ~ 940 Churchwardens. In fact, we currently have about 660. People are loath to stand due to the responsibility and workload, and any additions, however small, will make that worse.

Making the PCC the accountable body for abuse committed by visitors to church schools puts an unreasonable requirement on clergy. Very often the Vicar is the only church representative on the board of governors of such schools, and it would be unfair to require them to monitor the operation of the school safeguarding policy.

I hope that the Revision Committee will carefully consider other options (eg deleting the contributions sections altogether, or having a “token” £1000 contribution which is not covered by insurance), and will also clarify and resolve the issues mentioned above.

Dr Nick Land York 437

I thought it might be helpful if I sent you a paper which refers to the 'variable standard of proof in civil cases' which I referred to in my GS speech. I am not a lawyer - my experience is from appearing as either an expert or a professional witness in a variety of criminal court and civil court/tribunal hearings.

My concern was the situations where a determination was being made by the scheme where there has been no previous criminal conviction or CDM determination.

In such a situation then in making the determination the scheme 'tribunal' will effectively be determining that the person alleged to have committed the abuse did indeed do so. This may be seen as falling into a category of tribunal hearings (as described in the paper) where

'*allegations are made of criminal or quasi-criminal conduct which, if proved, would have serious consequences for the person against whom they are made'.*

and where the standard of proof might be expected to be

'A civil standard of proof which will for all practical purposes be indistinguishable from the criminal standard.'

In such a situation the person against who the allegation has been made (or the church body found responsible for them) might appeal if the determination has simply been on balance of probabilities. Such an appeal could overturn the tribunal finding and deprive the applicant of support which, under balance of probabilities, they would have been entitled to (as well as being deeply distressing).

One way to avoid this could be that in situations where the scheme is making a determination where there has been no previous proceedings, MDM findings, or recognition of wrong doing - the determination could be made on a two stage basis.

1. Determination that the applicant has been abused in a church setting and thus entitled to redress - which could be determined on the basis of balance of probabilities - and funded centrally.

2. Determination of which church institution might have liability to pay the award, which, if there is the potential for identifying an abuser for the first time, might need to be determined with a higher standard of proof.

This could avoid distressing and time consuming appeals.

David Hermitt Co-opted 491

The current measure does not explicitly mention racial abuse.

Furthermore, the definition used to describe the types of abuse that must be included as a safeguarding matter is less specific than we find in other publications. For example in schools we use the KCSIE document to be clearer about the forms of abuse. This is updated annually to reflect changes.

The current definition that is used in the measure might lead those who have been victims of other types of abuse, such as racial abuse, to not come forward. It would be better to make it clear that any form of abuse would be considered.

I would suggest that we must encourage all victims of abuse to feel confident to come forward. Hence, please could the next revision more explicitly mention racial abuse and others contained in safeguarding best practice.

Regards

David Hermitt