

GENERAL SYNOD

ABUSE REDRESS MEASURE

Explanatory note

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

BACKGROUND

1. The draft Abuse Redress Measure (**“the draft Measure”**) makes provision for the architecture of a national redress scheme for victims and survivors of Church-related abuse (**“the Scheme”**). It delivers on the commitment made by the Church in its response to the Independent Inquiry into Child Sexual Abuse (**“IICSA”**).
2. Consistent with the assurances previously given, the national Church is firmly committed to listening to and learning from victims and survivors. The Scheme’s development is overseen by a project board which includes representation from victims and survivors, and which hears from a broader group of voices on a survivor working group. We repeat our gratitude to those individuals for their willingness to join in with this process despite the harm which they have suffered at the hands of the Church.
3. Following endorsement by General Synod in July 2023 (see **GS 2305**), at the November 2023 group of sessions we brought before General Synod the draft Measure for First Consideration. The draft Measure lays the groundwork for the Church of England to deliver a Scheme which offers redress in a range of forms including apology, acknowledgement, therapeutic, and financial support to survivors of abuse perpetrated by a person acting under the authority of the Church of England.
4. These notes should be read alongside the draft Measure in revision (GS 2325A) which shows amendments made by the Revision Committee in bold.
5. The draft Measure reflects the reality that the Church of England comprises a large number of autonomous office holders and bodies, many of them charitable, which are bound together by a shared missional purpose. The draft Measure’s provisions are intended to help all parts of the Church, collectively, to show their contrition and repentance for the Church’s failings, and for the pain and suffering that has occurred.

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6. The draft Measure's initial provisions focus on the experience of the victim or survivor. It is intended that the Scheme should give to victims and survivors a single point of access and make consistent provision which minimises as far as possible further delay and trauma for victims and survivors. To that end, the draft Measure starts with a proposal legislatively to enshrine the requirement by design for dignity, respect, and compassion in the operation of the Scheme.
7. It is essential that all parts of the Church of England recognise that an eligible applicant should not experience any difference in the quality of approach, the sum they receive, or the timescale in which their application is dealt with.
8. The draft Measure makes provision for the whole Church to co-operate in the Scheme, and makes provision for requests for financial contribution and/or co-operation in the provision of bespoke (non-financial) redress to be made to identified "appropriate authorities". This approach does not focus on the personal liability of those people serving today who support the work of the Church, but recognises that wrongdoers acted under the umbrella of the Church of England through the various bodies and office holders which comprise the Church, and helps demonstrate our core conviction that "safeguarding is everybody's business".

RULES

9. The provisions of the draft Measure will be complemented by rules. The draft Measure establishes the framework of the system, and provides for rules to be made which will contain further operational details such as the assessment framework which the Scheme provider should follow when they assess an application for financial and/or bespoke redress (i.e. an apology or therapeutic intervention).
10. Consistent with the commitment to listen to and learn from survivors, the details of the rules will need to be subject to further consultation before a draft is laid before the General Synod. It is not possible to lay draft rules before the General Synod at present both to allow for that process of listening and learning, and because the draft rules may need to reflect changes to the draft Measure during the legislative process.
11. 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. General Synod is asked to approve an amendment (see clause 23) which would allow General Synod to approve rules before enactment of the Measure, thereby allowing the Measure and accompanying rules to come into force earlier than would otherwise be possible (see paragraph 121 below).

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PROCEDURAL STAGES

12. Standing Order 48(1) provides for Measures to be considered by the General Synod via the following successive stages:
 - First Consideration (see SOs 51 and 52)
 - Revision Committee (see SOs 54 to 57)
 - **Revision (see SOs 53 and 58 to 60)**
 - Final Drafting (see SO 61)
 - Final Approval (see SO 64)
13. The draft Measure was given First Consideration at the November 2023 group of sessions.
14. The Revision Committee stage took place between March and June 2024.
15. There were submissions from 22 members of General Synod to the Revision Committee. The Revision Committee made several amendments to the draft Measure, including the insertion of new clauses 11, 13, 14, and 15.
16. The next stage is the **Revision Stage** in Full Synod, which is being taken at the July 2024 group of sessions. Members who wish to send proposals for amendment for Revision Stage must do so in writing by the deadline specified in the Agenda for that group of sessions.
17. The Measure is expected to return to the General Synod for the Final Drafting and Final Approval Stages in February 2025, along with approval of draft rules.

NOTES ON CLAUSES

Clause 1 Dignity, respect and compassion

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

Clause 2 Archbishops' Council's functions

19. Clause 2(1) stipulates that the Archbishops' Council should be the body which undertakes the functions of the "redress provider" under the draft Measure.
20. Clauses 2(2) to (4), however, provide that the Council may delegate those functions to another person (for example a professional services firm) which, in-turn may delegate certain activities to a panel of persons such as the assessment of an application. This is intended to allow a flexible approach which may allow a range of persons to participate in the assessment process. Further details are to be provided by rules.

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21. Clauses 2(5) to (7) make consequential provision such that the Archbishops' Council or a delegate which exercises its functions under the draft Measure in good faith should not be liable in damages. Clause 2(5) puts beyond doubt that for as long as a function is delegated the person making the delegation does not retain the power to exercise the function.

Clause 3 Person who suffered abuse

22. Clauses 3(1) to (4) specify the conditions which must be met by a person who wishes to apply under the Scheme. Subsection (1) clarifies that a person may apply for redress where they have suffered harm or loss in consequence of suffering abuse within the Church of England, i.e. there must be a causal link.
23. Clauses 3(5) and (6) make provision for the nature of abuse which is in scope, and provide further interpretive guidance.
24. Clause 3(7) provides that rules may make further provision for the categories of harm or loss which may be relevant; and in connection with the stipulated categories of abuse. This allows for further consultation with victims and survivors.
25. Clause 3(8) allows the Archbishops' Council to provide guidance on "close connection" and "spiritual abuse" in the context of this Scheme.

Clause 4 Dependant of person who suffered abuse

26. Clause 4(1) provides that, in exceptional circumstances (for example in the event of suicide) (see clause 8(6)) a surviving dependant child or parent or partner of a person who has been abused but who is deceased may make an application where the deceased would have been entitled to apply. Such a person must have themselves suffered mental or emotional harm in consequence of the abuse.
27. Clause 4(2) provides a signpost to clause 8(6) for easier navigation by an applicant.

Clause 5 Application on behalf of a child

28. Clause 5(1) provides that an application made by a child should be made by an "appropriate adult" to be appointed in accordance with the rules.
29. Clause 5(2) makes consequential provision for a pause to allow for the appointment of an "appropriate adult"; and for circumstances where it is not feasible to make an appointment.
30. Clause 5(3) provides for a relevant appointment to come to an end where the child reaches majority.

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31. Clause 5(4) puts beyond doubt that the appropriate adult must act in the child's best interests in relation to the application.

Clause 6 Continuance of application where applicant dies

32. Clauses 6(1) and (2) make provision for an application which has already been commenced under clause 3 or 4 to continue in the event of the applicant's death, with further provision to be made by rules.
33. Clause 6(3) makes provision for a restricted class of persons to be able to carry on an application in such circumstances.
34. Clause 6(4) provides for rules to specify circumstances in which a deceased's personal representatives may be able to continue an application.

Clause 7 Application for redress

35. Clause 7(1) provides that an application for redress shall be made in accordance with Scheme rules in order to ensure consistency.
36. Clause 7(2) makes provision for the Scheme to be open for application for five years (subject to clause 24) but provides that the General Synod may extend that period by resolution (see clauses 7(2)(b) and 7(9)).
37. Clause 7(3) enables rules to specify that abuse on or before a certain date is in scope of the Scheme (which may be prospective or retrospective).
38. Clause 7(4) stipulates that the Scheme has in scope applications (subject to the requirements of clause 3) where the abuse took place in the United Kingdom or outside the United Kingdom.
39. Clause 7(5) provides that the rules may provide for particular circumstances in which applications may not be made.
40. Clause 7(6) allows for applications to be made jointly in such cases as the rules may specify.
41. Clauses 7(7) and (8) enable the redress body to request information from a person identified in an application (or a surviving relative) where the redress body has reasonable grounds to believe that making the request will help it to determine the application.

Clause 8 Determination of application for redress

42. Clause 8 specifies how the redress body shall determine applications.
43. Clause 8(1) allows the redress body to determine the order of priority of applications, but subject to provision in the rules.

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44. Clause 8(2) provides that each application for redress is to be determined taking into account the requirement of both the Measure and the rules, and makes broad provision for the redress body to have regard to material which is provided to it by the applicant, or another person, along with appropriate advice.
45. Clause 8(3) stipulates that the standard of proof on which an application for redress is to be determined is the civil standard, i.e. the balance of probabilities.
46. Clause 8(4) puts beyond doubt that the redress body shall not determine a person's civil or criminal liability.
47. Clause 8(5) provides that an application to the Scheme is not conditional on an applicant having reported the abuse to a law-enforcement agency, or in accordance with House of Bishops' guidance, and is not dependent on whether or not the person accused of the abuse has been convicted.
48. Clause 8(6) makes further provision in connection with clause 4 (see above). Clause 8(7) provides that the Archbishops' Council may issue guidance on what would amount to "exceptional circumstances" in that context.
49. Clause 8(8) makes consequential provision for the notification of an outcome following an application.
50. Clause 8(9) allows for an application to be paused in circumstances to be specified in rules.

Clause 9 Determination of award of redress

51. Clause 9 makes provision for redress to be both financial in nature and other than financial (for example to provide a remedy which may be tailored to the needs of a particular victim or survivor).
52. Clause 9(1) provides for redress of both types; and clause 9(1)(b) provides that non-financial redress may be provided on more than one occasion, subject to a clear long-stop date which may be specified in rules.
53. Clause 9(2) makes provision for the redress body to stipulate that relevant abuse was aggravated by a factor, and to identify this factor and its impact on the award. Clause 9(7) allows for the rules to provide for the factors which may be regarded as aggravating for these purposes.
54. Clause 9(3) provides that the amount of a redress payment and the provision of any other remedy shall be made in accordance with the rules.
55. Clause 9(4) allows financial advice to be provided to an applicant where appropriate.

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56. Clauses 9(5) and (6) enable a reduction in the amount of a redress payment to take account of previous compensation which a victim or survivor may have received, with further provision for the definition of compensation to be provided in rules. Such a reduction would not necessarily prevent the award of redress which is other than financial in nature.
57. Clause 9(8) allows for the recovery of a payment made in error, and for a payment to be held on trust where appropriate circumstances arise. Clause 9(8)(c) makes particular provision for the recovery of a redress payment where the redress body is satisfied that the applicant knowingly provided false information.
58. Clause 9(9) enables the rules to make provision (if required), with the approval of the relevant government department, which would disregard redress payments for the purpose of taxation, or as capital sums to be taken into account in connection with the assessment or payment of benefits.
59. Clause 9(10) allows for rules to apply clause 10 to an application made under clause 4 (by a dependant) but where a reference to compensation for having suffered abuse includes a reference to the person having suffered mental or economic harm or economic loss as a consequence of the relevant abuse.

Clause 10 Initial redress payment

60. Clause 10(1) enables the redress body to make an interim payment of financial redress before determining the total amount of the redress payment.
61. Clause 10(2) makes provision for the “top up” of the interim payment where the assessed amount exceeds the interim payment.
62. Clause 10(3) makes provision consequential on clauses 9(5) and (6) such that where rules under that provision apply, and the amount of the redress payment is reduced accordingly, that reduction also applies for the purpose of clause 10.

Clause 11 Waiver

63. Clause 11 makes provision for a person who has received an award of redress to waive any right to bring civil proceedings in relation to that abuse, and to recover any further compensation. It has in view the prevention of double recovery.
64. Clause 11(1) provides for such waiver where an award of redress is made under clause 9 (by implication where it is accepted).
65. Clause 11(2) disapplies in this context any common law rule which would prevent a child from agreeing a settlement.

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66. Clause 11(3) stipulates what is meant by “relevant abuse”.
67. Clause 11(4) adds a proviso that nothing in this section affects other rights under the Measure, including a right of appeal and of reconsideration.
68. Clause 11(5) allows for rules to make additional provision.

Clause 12 Right to appeal

69. Clause 12(1) provides a right of appeal against:
- a) a decision that no redress is available (for example where an applicant does not meet the eligibility criteria, or the requisite burden of proof);
 - b) the amount of a redress payment (for example where financial redress is not available as a result of previous compensation); and
 - c) where the remedy offered is not a redress payment, the details of that remedy
70. Clause 12(2) applies the provisions of clause 9(5) to this clause.

Clause 13 Permission to appeal

71. Clause 13(1) stipulates that a person may only bring an appeal with the permission of a person appointed to consider such matters by the Archbishops’ Council (see clause 13(2)); and provides that an application must be brought in accordance with the rules.
72. Clause 13(2) provides for the qualification of the appeal body. Such a person must have held high judicial office, or have held, or be eligible to hold, the office of circuit judge (circuit judges must be lawyers who have held a ‘right of audience’ (the right to appear in court as an advocate) for at least seven years, or have been a recorder, or held certain other judicial roles on a full time basis for at least three years including being a High Court Master or District Judge).
73. Clause 13(3) requires that when the Archbishops’ Council appoints a person to hear an appeal it must seek to ensure that both an application for permission and, if the appeal is granted, the appeal itself are heard without undue delay.
74. Clause 13(4) specifies the threshold test for the grant of permission to appeal.
75. Clause 13(5) puts beyond doubt that the person who determines an application for permission to appeal is not subject to the direction of the Archbishops’ Council or the redress body (if a person other than the Council).
76. Clause 13(6) makes consequential provisions.

GENERAL SYNOD***Clause 14 Determination of appeal***

77. Clause 14(1) specifies that an appeal is limited to a review (rather than a re-hearing) of the determination, and allows for rules to provide for further procedural details.
78. Clause 14(2) provides that the appeal should be decided either by the person who decided the application for permission, or another person appointed in the same manner as that person.
79. Clause 14(3) allows the person who decides the appeal to appoint one or more persons to assist.
80. Clause 14(4) prescribes the possible outcomes on appeal; and clause 14(5) makes consequential provision.
81. Clause 14(6) puts beyond doubt that the person who determines an application for permission to appeal is not subject to the direction of the Archbishops' Council or the redress body (if a person other than the Council).
82. Clause 14(7) stipulates that the decision on appeal is final, subject to any rights to seek judicial review which might be available in the general law.

Clause 15 Reconsideration in light of new information

83. Clause 15 makes provision for reconsideration of a decision in certain circumstances, prior to the consideration of any appeal.
84. Clause 15(1) provides that a right to reconsideration may lie where the applicant obtains information of which they were unaware at the time of their application and could not have discovered with reasonable diligence at the time of their application.
85. Clause 15(2) provides that a right to reconsideration may lie where a person other than an applicant has information which that person has reasonable grounds to believe is relevant to the application.
86. Clause 15(3) provides for the applicant or third party to provide such new information for consideration by the redress body, subject to any rules.
87. Clause 15(4) provides for the impact of any application for reconsideration on any appeal.
88. Clause 15(5) makes further provision in connection with rules.

GENERAL SYNOD***Clause 16 Account for redress payments***

89. Clause 16(1) requires the Archbishops' Council to open and maintain a redress fund from which redress payments are paid.
90. Clause 16(2) provides that the Archbishops' Council should fund the Scheme, whether or not it is the redress body.
91. Clause 16(3) makes clear that in making payments (on its own account or to another redress body), the Archbishops' Council must not breach its obligations under charity law.

Clause 17 Contributions and co-operation

92. Clause 17 provides the legislative architecture for the "whole Church approach", and makes provision for the redress body to make a request to specified governance bodies within the Church known as "appropriate authorities".
93. Clause 17(1) provides that the redress body may, having made an award of redress, request from one or more appropriate authorities a financial contribution and/or that body's commitment to co-operate in the provision of bespoke redress.
94. Clause 17(2) provides that the rules may provide that the redress body may make a request for a financial contribution from a person identified as having carried out abuse. This is an enabling power, to allow for further consideration by the Project Board.
95. Clause 17(3) specifies which person or governance body is to be classed as the "appropriate body", for each category of person identified as having committed abuse in the table following that clause.
96. Clauses 17(4) to 17(11) make ancillary provision.
97. Clauses 17(4) to (6) make consequential provision which allows for the amount of a financial contribution to be determined in accordance with rules; and for financial contributions of different amounts, or different kinds, to be sought from different persons in connection with any offer of redress.
98. Clause 17(7) stipulates that a relevant appropriate authority may make a financial contribution, or co-operate in the provision of some other remedy, even if that person has not been requested to do so.
99. Clauses 17(8), (10) and (11) define relevant expressions and provide additional interpretive guidance, and provide that rules may make specific provision in connection with the cathedral church of Christ in Oxford.

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100. Clause 17(9) makes particular provision for the application to the Diocese in Europe.

Clause 18 Power to amend list of accountable bodies

101. Clauses 18(1) to (3) provide that the General Synod may amend the table in clause 17(3) by resolution.

Clause 19 Payments by charities to or from redress fund

102. Clause 19(1) puts beyond doubt that payments made to or from the redress fund by the Archbishops' Council are charitable (and therefore within scope of its charitable purposes).
103. Clause 19(2) provides that clause 19(1) must be read subject to clause 16(3) (which provides that the Archbishops' Council is not required to act contrary to charity law).
104. Clause 19(3) puts beyond doubt that any payments made by an appropriate authority which is a charity are charitable (and therefore within scope of their charitable purposes).
105. Clauses 19(4) and (5) define relevant expressions.

Clause 20 Insurance

106. Clause 20(1) provides that the Archbishops' Council may prepare and revise a code of practice for appropriate authorities relating to insurance against liability for abuse (i.e. not any request for payment under the Measure).
107. Clauses 20(2) and (3) make consequential provision.

Clause 21 Information sharing

108. Clause 21 makes provision for appropriate authorities to co-operate in information sharing for purposes of the draft Measure.
109. Clause 21(1) provides that an appropriate authority must co-operate with the redress body with a view to entering an agreement for the disclosure of information.
110. Clause 21(2) additionally provides that the redress body may serve notice on an appropriate authority, or person other than the applicant, to require them to provide information, or evidence, to assist the redress body's determination.
111. Clause 21(3) provides that the Archbishops' Council may put in place arrangements for enabling a person who is given notice to object on certain grounds.

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112. Clauses 21(4) and (5) provide for rules to make additional provision.
113. Clause 21(6) adds the proviso that a notice given under this section should not require a person to contravene data protection legislation, or to provide a document which they would be able to withhold in court proceedings.
114. Clause 21(7) specifies that processing of personal data by the redress body for these purposes is assumed to be necessary for reasons of substantial public interest, in order to seek to clarify that such processing has a lawful basis.
115. Clause 21(8) makes interpretive provision.

Clause 22 Legal costs etc.

116. Clause 22(1) enables rules to provide for the assessment and reimbursement of legal costs in connection with support to victims and survivors.
117. Clauses 22(2) and (3) make further consequential provisions in connection with legal costs which may be made by rules.

Clause 23 Power to make the rules

118. Clause 23(1) provides that the Rule Committee may make rules under the draft Measure.
119. Clauses 23(2) to (4) make further provision for the rules.
120. Clause 23(5) provides that the rules will be secondary legislation made under the Measure as if made under section 83 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018. The 2018 Measure provides for the rules to be made by the Rule Committee and laid before Synod for approval.
121. Clause 23(6) make provision for rules to be approved by General Synod before the Measure is passed, thereby enabling the Rule Committee to approve rules in substantially the same form following enactment without needing to return to Synod (thereby, subject to Synod's Final Approval of the Measure and its parliamentary stages, allowing the Scheme to come into operation without unnecessary delay).

Clause 24 Review of this Measure

122. Clause 24(1) provides that the Archbishops' Council must, not later than 15 months before the Scheme's five-year term, carry out a review of the Measure as enacted and the rules, and decide whether the window for an application should be extended.

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123. Clause 24(2) provides that once the Archbishops' Council has carried out a review, it must publish a report of the review and its decision.
124. Clause 24(3) requires the Archbishops' Council to lay the report before General Synod, in aid of its decision under clause 7(2)(b).

Clause 25 Interpretation of references to relatives etc.

125. Clauses 25(1) to (8) define various words and phrases which refer to relatives of a victim or survivor of abuse for the purpose of the draft Measure. Clause 25(4) extends the definition of a child to include a step-child.

Clause 26 Other interpretation

126. Clause 26 defines various words and phrases used in the draft Measure.

Clause 27 Short title, commencement and extent

127. Clause 27 makes standard provision for the draft Measure's citation, commencement and extent.
128. Clause 27(8) makes particular provision for the application of the draft Measure to the Diocese in Europe.

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