

GENERAL SYNOD

CLERGY CONDUCT MEASURE

REPORT OF THE STEERING COMMITTEE OF MEMBERS IN CHARGE

Chair: The Revd Canon Kate Wharton (Liverpool) *Chair*

Members: The Rt Revd Viv Faull (Bristol)
The Revd Paul Cartwright (Leeds)
HH Peter Collier KC (ex officio)
Ven Malcolm Chamberlain (Sheffield)
Ms Kashmir Garton (Worcester)
Mr Geoffrey Tattersall KC (Manchester) (Chair of the Revision Committee) (until January 2025)¹

1. The draft Clergy Conduct Measure received First Consideration from the General Synod at the July 2023 group of sessions. It was then committed to a Revision Committee. At the July 2024 group of sessions, the Synod took note of the report of that Committee (GS 2311Y) and completed the Revision Stage which committed the Measure to the Steering Committee in respect of their Final Drafting.
2. The Steering Committee has conducted its business by correspondence under Standing Order 61(2) and (3). It now returns the draft Measure (GS 2311B) for Final Drafting and Final Approval.
3. Under Standing Order 61, on the Final Drafting Stage the Steering Committee may propose ‘drafting amendments’ or ‘special amendments’ or both. These two categories of amendments are defined in SO 61(6) as follows –

“drafting amendment” means an amendment to clarify any remaining uncertainties of meaning or to improve the drafting, and

“special amendment” means an amendment, other than a drafting amendment, considered necessary or desirable by the Steering Committee and which does not reopen an issue which has been decided by the Synod or any Revision Committee in relation to the Measure or Canon.

¹ The Committee would wish to record its heartfelt sadness at the untimely death of Geoffrey Tattersall just prior to the completion of this report.

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4. The Committee has identified a number of drafting amendments and six special amendments that need to be made to the draft Measure.

Part A: Drafting Amendments

5. The drafting amendments are in bold in GS 2311B.
6. Clause 9(2) and (3) have been re-drafted to clarify that the Clergy Conduct Commission may issue both guidance in a formal Code of Practice (see also clause 67) and then general policy guidance from time to time.
7. In clause 15(2)(d) the drafting has been amended to make clear that where the respondent does not hold a form of authority by reference to an archdeaconry (e.g. a diocesan wide PTO) then the archdeacon of the archdeaconry in which the respondent is resident has standing to bring the complaint.
8. In clause 19(2) the words "in a course of conduct" have been added to make clear that the series of acts relied upon must form a general course of conduct and not be disparate.
9. Clause 27 has been amplified by inserting a re-drafted subsection (10) to make clear that where the President of Tribunals considers that referring a case to a tribunal would cause an injustice (see clause 27(6)) then the case is to be dismissed and no further steps on it are to be taken.
10. Clause 30(4) has been slightly re-worded to clarify the circumstances in which a person may not be appointed to sit on the Vicar-General's court.
11. Clause 34(1)(b) has been expanded to make clear that the power to impose a suspension or restriction order is also triggered when a cleric is charged with an offence without having been arrested or interviewed under caution.
12. Clauses 41(3), 43(4) and 45(3) have been amended by removing the reference to section 52 of the EJM 1963 and replacing it with reference to paragraphs (1) to (3) of section 4 of the Clerical Disabilities Act 1870 to make clear the full consequences of deposition from Holy Orders.
13. The words "or unwilling" have been added to clause 53(2)(b) to remove any uncertainty regarding the grounds upon which the Dean of the Arches and Auditor may delegate a case to another judge.

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14. Clause 55(5) has been re-drafted to make clear that the section also applies where a cleric is included in a barred list outside of England.
15. Clause 58 has been amended to clarify any uncertainty in the text that a cleric may appeal against the inclusion in the Archbishops' List on the basis that the name has been included in error.
16. Clause 71 has been updated to include further references to the CDM that are to be repealed.
17. The drafting in Schedule 2 paragraph 2(3) and (4) adds clarificatory words to remove any doubt about the transitional provisions in relation to conditional deferment and conditional discharges that were imposed by the CDM but are still in force when the CCM comes into operation.

Part B: Special Amendments

Special Amendments 1 and 2

Clause 16

After subsection (7) insert—

“(7A) A complaint against a clerk in Holy Orders who holds office in a Royal Peculiar may be made in so far as the rules may provide; and for that purpose, the rules may apply provisions of this Measure with modifications.”

In subsection (8), leave out “(7)” and insert “(7A)”.

18. Special amendments 1 and 2 to clause 16 provides that a complaint under the draft Measure will be able to be made against a clerk in Holy Orders who holds office in a Royal Peculiar to the extent that the rules will allow. It confirms that clergy who hold office in a Royal Peculiar² are within the jurisdiction of the draft Measure.
19. Royal Peculiars operate under the oversight of the Crown rather than the diocesan bishop.
20. The position since 1963 has been that clergy who hold office in a Royal Peculiar have been exempt from the disciplinary provisions contained in the Ecclesiastical Jurisdiction Measure 1963 and then the Clergy Discipline Measure 2003. The

² Which means, Westminster Abbey, St George's Chapel, Windsor, and the Chapels Royal.

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position reflected the ecclesiastical and constitutional status of the Peculiars as sitting outside of the diocesan and provincial structures of the Church of England.

21. Following consultation with the Royal Household, the Deans of Windsor and Westminster and the Dean and Sub-Dean of His Majesty's Chapels Royal, it has been agreed with the Steering Committee that clergy holding office in a Royal Peculiar will be subject to the CCM for complaints that amount to serious misconduct. Where a complaint is made the initial stages will mirror that under the CCM, with an assessor appointed by the Royal Peculiars allocating the case to the correct track. Where the assessor allocates the case as 'serious misconduct' the Dean³ will refer the matter to the Investigation and Tribunals Team and the case will proceed in accordance with the provisions of the CCM, including to a disciplinary tribunal, which will exercise all the same powers as a bishop's disciplinary tribunal.
22. The rules will set out the procedure for referral, of complaints of serious misconduct, by the Dean of a Royal Peculiar (or in the case of a complaint against the Dean, by the Independent Assessor) to the Office for Investigation and Tribunals.
23. Each Peculiar will have in place a system for dealing with non-serious complaints, but the system will ensure that complaints regarding serious misconduct will be heard within a modified tribunal process.
24. The draft rules will be considered by General Synod in July 2025.

Special Amendment 3

Clause 37

After subsection (2) insert—

“(3) A penalty of removal from an ecclesiastical office imposed on an archbishop or bishop, or on a person holding a preferment the right to appoint to which is vested in His Majesty (and which is not a parochial benefice), does not take effect unless and until His Majesty by Order in Council confirms the penalty.”

25. Special amendment 3 to clause 37 provides that where a penalty is imposed removing a person from an ecclesiastical office, the appointment to which vests in His Majesty⁴, then the order does not take effect unless approved by Order in

³ A modified procedure will exist where the complaint is against the Dean.

⁴ For example, archbishops, bishops, deans and some other appointments, but not appointments to a parochial benefice.

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Council. This maintains the current position under the CDM and recognises the special constitutional position of these office holders.

Special Amendment 4

Clause 58

After subsection (6) insert—

“(6A) The rules must make provision for a case where a conviction on which a clerk’s inclusion on the list is based becomes protected by virtue of the Rehabilitation of Offenders Act 1974.”

- 26.** This special amendment proposes an amendment to clause 58 that will allow the rules to make provision for cases where a cleric has been included in the Archbishops’ List due to being convicted of an offence and a penalty imposed under clause 58.
- 27.** Clause 58 allows the bishop, archbishop or President of Tribunals to impose a penalty without a formal complaint being made in reliance upon the fact that the cleric has been convicted of a criminal offence. The Rehabilitation of Offenders Act 1974 provides that certain⁵ offences may become spent after the expiry of a period of time and that the conviction can no longer be relied upon for certain purposes – for example employment decisions. In order to ensure that the Archbishops’ List is a full record of all penalties that have been imposed it will be necessary to make specific provision in relation to how the CCM interacts with the Rehabilitation of Offenders Act. This amendment allows that provision to be placed in the rules, which will be considered by Synod at a later group of sessions.

Special Amendments 5 and 6

Clause 68

In subsection (6), leave out “other than a Royal peculiar”.

After subsection (6) insert —

“(6A) Accordingly, an extra-diocesan place is to be treated as being in the province which includes the diocese in which, by virtue of subsection (6), it is situated.”

⁵ Save for some offences which are excluded.

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28. These are technical amendments which clarify that a place that is extra-diocesan – for example Westminster Abbey⁶ - is nevertheless to be treated as being part of the province in which it is geographically located for the purposes of the extent of the Measure.

On behalf of the Committee
The Revd Canon Kate Wharton
Chair

January 2025

⁶ Which, whilst being geographically situated in, is treated as being without the Province of Canterbury.