

The Clergy Discipline Measure 2003

The Clergy Discipline Measure comes fully into force on 1st January 2006. It provides a new structure for dealing efficiently and fairly with formal complaints of misconduct against members of the clergy (except in relation to matters involving doctrine, ritual or ceremonial). All admitted to Holy Orders of the Church of England are covered by the Measure, whether or not in active ministry. Where the formal complaint concerns priests or deacons, the disciplinary structure is centred on the bishop.

There are four grounds for alleging misconduct, namely, acting in breach of ecclesiastical law, failing to do something which should have been done under ecclesiastical law, neglecting to perform or being inefficient in performing the duties of office, and engaging in conduct that is unbecoming or inappropriate to the office and work of the clergy.

The disciplinary process is started by a formal written complaint, which is made to the bishop. The complainant must produce written evidence in support of the complaint, and verify the complaint by a statement of truth. The complaint and the evidence in support are referred by the bishop to the diocesan registrar for advice on whether the complainant is entitled to make the complaint, and whether the allegations are of sufficient substance to justify proceeding with it under the Measure. This is the 'preliminary scrutiny' stage.

Having received the registrar's advice, if the bishop considers that the complainant is entitled to complain and that the complaint deserves further consideration, he will invite the priest or deacon about whom the complaint is made ('the respondent'), to send a written answer verified by a statement of truth, together with evidence in support. The bishop will then decide the appropriate course to pursue. He can:

- take no further action;
- record that the complaint has been made but defer dealing with it for up to five years to see if any other complaints are made within that time;
- refer the complaint to an impartial conciliator in an attempt to obtain agreement between the complainant and the respondent on how the complaint should be resolved;
- impose a disciplinary penalty, but only with the consent of the respondent; or
- require the complaint to be formally investigated by the Designated Officer, who is a barrister employed in the Legal Office of the National Institutions of the Church of England.

It is expected that the vast majority of cases will be dealt with by the bishop. In the minority of cases where the Designated Officer is asked to investigate, he will produce a report for the President of Tribunals, who will then decide if there is a case to answer before a bishop's disciplinary tribunal. A tribunal will consist of two members in Holy Orders and two actual communicant lay people, plus an experienced lawyer in the chair. If a complaint is proved, the tribunal can impose the same penalties that a bishop can impose by consent. The penalties range from a life-long prohibition from exercising any functions, to a rebuke.

From the Church of England Legal Office

Where a penalty is imposed under the Measure, either by the bishop or by the bishop's disciplinary tribunal, it will be recorded in the Archbishops' list, which will be maintained at Lambeth Palace. The respondent will be informed of the particulars to be recorded, and may request the President of Tribunals to review and alter the entry.

The Measure also provides a separate procedure under which a member of the clergy who commits a criminal offence and receives a sentence of imprisonment may be liable to a penalty of removal from office, or prohibition from exercising any functions. A similar procedure is available if a respondent has had a decree of divorce or an order of judicial separation made against him or her and has committed adultery, behaved unreasonably or deserted the former spouse.

The Clergy Discipline Commission has produced a Code of Practice. The Code is intended to be a guide to the Measure and the new procedures. It points users in the right direction, and draws their attention to the relevant provisions in the Measure and the procedural rules made under it. The Code can be purchased from Church House Bookshop, Great Smith Street, London, SW1P (020 7898 1300) or at www.chpublishing.co.uk or can be downloaded from the Church of England website at www.cofe.anglican.org/about/churchlawlegis/clergydiscipline

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