

B11 THE CLERGY DISCIPLINE MEASURE 2003

The Clergy Discipline Measure 2003 (2003 No.3) came fully into force on 1st January 2006. The Measure can be obtained from HMSO. 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.

A diagram showing how the new disciplinary procedures work is on page 3

Grounds

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.

Making a complaint

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.

The Bishop's decision

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;
- with the respondent's consent, 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.

Bishop's disciplinary tribunal

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.

The Archbishops' list

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.

Proceedings in secular courts

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.

Guidance material

The Code of Practice

The Clergy Discipline Commission ("the 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, 31 Great Smith Street, London, SW1P 3BN (020 7898 1300) or via their website.

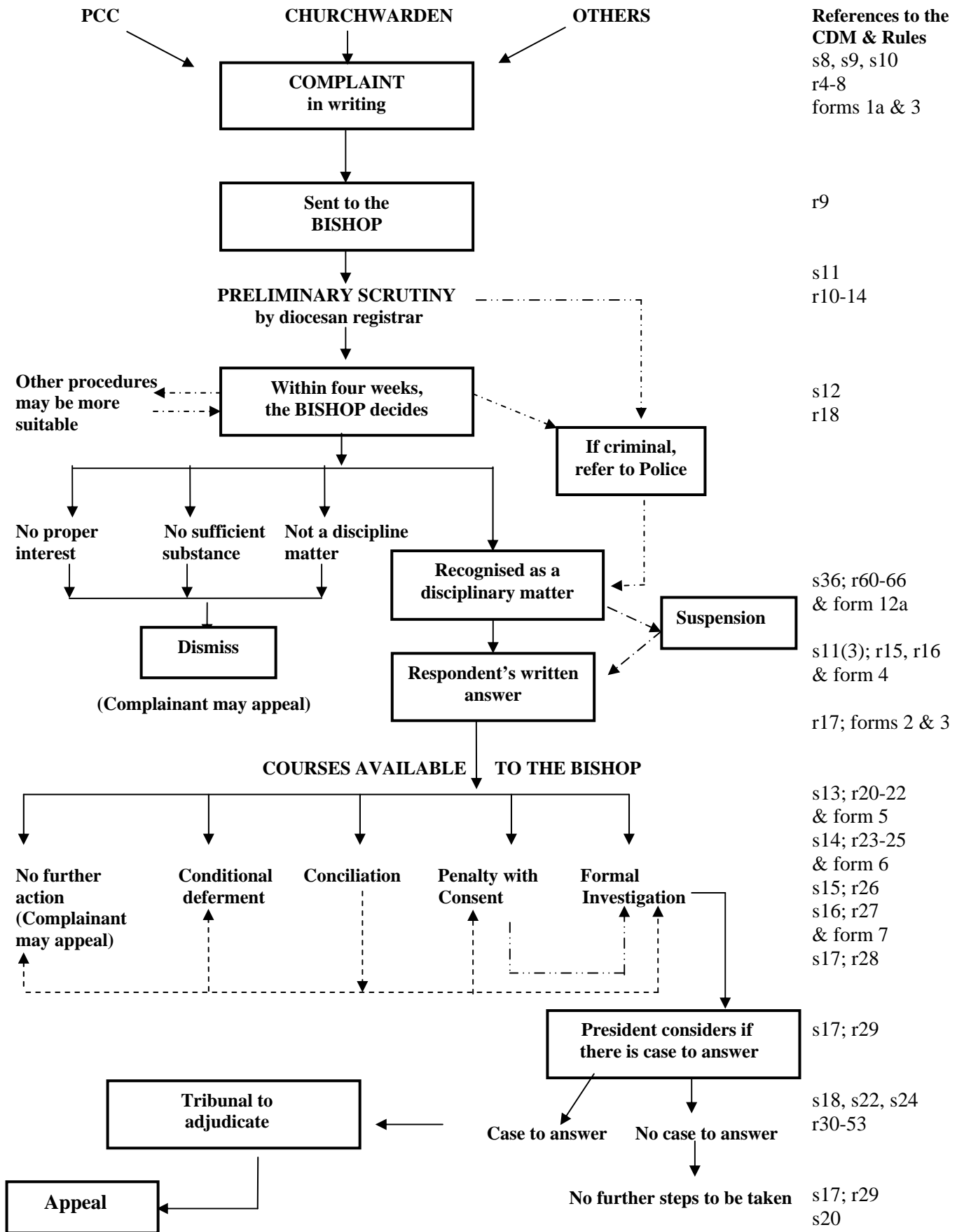
Pages 4-5 of this section form a leaflet on how to make a complaint.

There is a link from the diocesan website ([admin/downloads/clergy discipline measure](#)) to the Church of England national website where all the relevant documents can be found.

Guidance on penalties

The Commission has issued guidance on penalties.

The New Disciplinary Procedure



“I have a complaint about misconduct by a member of the clergy – what can I do?”

A high standard of integrity and service is expected of our Clergy. Mostly that standard is met, but occasionally individual Clergy can fall short of what is expected. When this occurs there are different ways to respond:-

1. When it is a minor incident or behaviour, you are encouraged to share your disappointment with the Clergy person concerned and resolve it together.
2. When that is insufficient, a word with the Area or Rural Dean or the Archdeacon will lead to someone on the bishop's staff speaking to the member of the clergy concerned, so that the matter is dealt with and rectified informally.
3. Only when the problem is more serious and may amount to misconduct which warrants disciplinary action, will the provisions of the Clergy Discipline Measure be required. The Measure provides a procedure for handling such complaints of misconduct.

It is this form of complaint alone to which the rest of this leaflet relates. All other concerns should be addressed in the way described at 1. or 2. above.

But at whatever level you are concerned, please be assured that your complaint will be taken seriously.

A HOW DO YOU MAKE A FORMAL COMPLAINT?

It must be in writing to the Diocesan Bishop on the prescribed form. This will require:

- your personal details (name, address, telephone number, e-mail, etc.),
- a clear statement of what your complaint is,
- details about the complaint (when, where, what happened, etc.),
- the evidence you provide to justify the complaint (this may be statements, letters, etc.),
- a declaration that what you state is the truth.

The form leads you through the necessary information in an easy way. You may obtain a copy from the Bishop's Office or Church of England website.

If you have difficulty with forms or written material, the Bishop's Office can provide the names of people who can assist you.

B WHO CAN COMPLAIN?

A formal complaint can only be made by someone with a 'proper interest'. Those who have a 'proper interest' are:-

- any person (church member or not) who has a proper interest in making the complaint e.g. someone who has witnessed the behaviour which has led to the complaint,
- a Churchwarden in the relevant parish,
- a person who is appointed by the Parochial Church Council of the relevant parish to make the complaint,
- the Archdeacon.

Please note: It is the responsibility of the person complaining to justify the complaint, and to provide the evidence in support of the complaint.

C WHAT HAPPENS WHEN A COMPLAINT IS MADE?

At each stage of the process you will be advised of what is happening.

Once the Bishop receives your written complaint, he will pass it to his Registrar (a legally qualified officer). The Registrar will examine your complaint and the evidence you provide, and then advise the Bishop as to whether:-

- you have a proper right to make a complaint (see Section B),
- your complaint would be a disciplinary matter if found to be true.

The Registrar will contact you if the information you submit is not clear.

On receiving the Registrar's report, the Bishop will decide whether to deal with your complaint formally or to dismiss it.

If the Bishop's decision is to deal with your complaint formally, he will invite the clergy person concerned to put in a written answer to the complaint. The Bishop will then follow one of five courses of action, including conciliation and formal investigation which would both require your co-operation. You will be advised of how he intends to proceed. If, following a formal investigation, the complaint goes to a tribunal hearing you may be required to attend and give evidence.

If the Bishop decides to dismiss your complaint you may appeal against that decision.

The Bishop will not proceed if any one or more of the following is the case:-

- you have no 'proper interest' (see Section B above),
- your complaint, even if valid, is not a disciplinary matter,
- there is no adequate evidence to support the complaint,
- your complaint is considered to be trivial or mischievous.

Please note: The decision can only be made on the evidence provided in writing, so you must give all your evidence straightaway.

USEFUL ADDRESSES

Diocesan Bishop's Office

The Bishop of St Edmundsbury & Ipswich, Bishop's House, 4 Park Road, Ipswich, IP1 3ST

01473 252829

Contact by e mail should be addressed to the Bishop's Chaplain:

Deirdre@stedmundsbury.anglican.org

Church of England website

www.cofe.anglican.org/about/churchlawlegis/clergydiscipline