

Executive Summary of Interim Report of ELS Working Party on Clergy Discipline Measure 2003

We acknowledge the widespread recognition that the CDM is not working well and is in need of replacement

The main criticisms of it are:

- No early filter to distinguish
 - i. frivolous, vexatious and unsubstantial claims which should be dismissed quickly
 - ii. grievances which require resolution
 - iii. the difference between serious misconduct offences and less serious offences each of which could be dealt with more economically and efficiently than through the current system
- Some complainants (particularly those raising matters of safeguarding) have felt that the control of the complaint has been taken out of their hands once the CDM inquiry has begun, compounding feelings of injustice and of the Church placing its own reputation and processes above the concerns of the faithful.
- Long delays before cases are completed
- Distress caused to many who have been unnecessarily and unjustly caused to fear loss of home and livelihood

We have identified a need for an early assessment of the complaint to identify

- Cases that are frivolous, vexatious or unsubstantial and their speedy dismissal
- Cases that are capable of local resolution with attempts being made to resolve them
- Cases of misconduct of a less serious nature that will be dealt with by the bishop choosing to apply lower level penalties and/or provide assistance where needed
- Cases of serious misconduct that require being investigated on behalf of the Church and adjudicated on by an independent tribunal

We have also identified that, with regard to the disciplinary aspect of safeguarding cases, the current system for imposing penalties under the CDM has worked quite well (paras. 84-85). We will continue to investigate ways in which any new disciplinary regime works alongside the Church of England's safeguarding procedures to ensure justice and fairness for all involved (para. 140). In this, we have been careful to approach safeguarding as but one aspect of the Church's life which engages matters of clergy discipline, even as the oversight and implementation of safeguarding operates within its own legal and administrative framework

The procedure for complaints identified as being capable of local resolution would seek to quickly identify the issues on both sides and any remedy sought by the complainant, and would actively promote reconciliation between the parties. Where allegations of

misconduct came to light during this process then we believe the Church should be able to instigate disciplinary proceedings in parallel to seeking resolution of the complaint.

Cases that go before the tribunal would be managed in ways now common in the criminal and civil justice systems so that they proceed quickly to a focussed final hearing

If there is broad agreement that we need one track for “serious misconduct” (that being the Statement of Offence in all cases) and another track for all other allegations of misconduct with the bishop playing a key role in the disciplinary process, then we would anticipate designing a system to deliver that

We hope that it could be possible, whilst waiting for the necessary legislation to introduce these proposed reforms, for all dioceses immediately to adopt the same system for identifying and steering into an informal process the cases that are essentially grievances without a disciplinary element

Key decisions to be made hereafter include:

- Who should carry out the early assessment – lay people or archdeacons or both being available?
- What should the priority and procedure be for disciplinary matters when criminal behaviour or safeguarding breaches are identified or are already being investigated?
- Are we right to exclude lawyers from “disciplinary meetings” with the bishop?
- Should the bishop be able to impose penalties other than prohibition or removal from office without consent, and should such penalties so imposed be entered on the Archbishops’ List?
- What should be the role and size of any central administrative structure for dealing with serious misconduct cases? Who should advise on framing charges of serious misconduct? Who should gather additional evidence and witness statements prior to the tribunal hearing? Who should act as the prosecuting advocate?
- Should the bishop sentence in serious misconduct cases where the misconduct is admitted?
- What should be done about other related Measures?
 - Incumbents (Vacation of Benefices) Measure 1977
 - Ecclesiastical Offices (ToS) Measure and Regs 2009 (‘common tenure’ and capability procedures)
 - Cases concerning doctrine, ritual or ceremony
- What Review/Appeals processes should be put in place?
- And many other fine details (see para 140 of the interim report)