



# Safeguarding and Clergy Discipline Measure 2016

2016 No. 1

*Safeguarding children and vulnerable adults*

## **1 Clergy: suspension**

- (1) In section 36 of the Clergy Discipline Measure 2003 (the title to which becomes “Suspension of priest or deacon”), in subsection (1), after paragraph (d) insert “or
  - (e) the bishop of the diocese is satisfied, on the basis of information provided by a local authority or the police, that a priest or deacon holding any preferment in the diocese presents a significant risk of harm,”.
- (2) After subsection (2) of that section insert—
  - “(2A) For the purposes of subsection (1)(e), a person presents a significant risk of harm if there is a significant risk that the person may—
    - (a) harm a child or vulnerable adult,
    - (b) cause a child or vulnerable adult to be harmed,
    - (c) put a child or vulnerable adult at risk of harm,
    - (d) attempt to harm a child or vulnerable adult, or
    - (e) incite another person to harm a child or vulnerable adult.”
- (3) After subsection (2A) of that section (inserted by subsection (2)) insert—
  - “(2B) Before serving a notice under subsection (1)(e) or revoking a notice served under subsection (1)(e), the bishop must consult—
    - (a) the diocesan safeguarding advisor, and
    - (b) such other persons as the bishop considers appropriate.”
- (4) After subsection (3A) of that section insert—
  - “(3B) Where a notice of suspension is served under subsection (1)(e) and it has not been revoked under subsection (2), the suspension shall continue until the

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expiry of the period of three months following service of the notice; and a further notice of suspension under subsection (1)(e) may be served, and this subsection shall apply to the further suspension as it applied to the earlier suspension or suspensions.”

(5) In section 37 of the Clergy Discipline Measure 2003 (the title to which becomes “Suspension of bishop or archbishop”), in subsection (1), after paragraph (d) insert “or

(e) the archbishop of the province in which a bishop holds office or, in the case of an archbishop, the other archbishop, is satisfied, on the basis of information provided by a local authority or the police, that the bishop or archbishop presents a significant risk of harm,”.

(6) After subsection (2) of that section insert—

“(2A) The reference in subsection (1)(e) to presenting a significant risk of harm is to be construed in accordance with section 36(2A).”

(7) In subsection (6) of that section, for “(3), (3A)” substitute “(2A) to (3B)”.

(8) In section 43 of the Clergy Discipline Measure 2003 (interpretation)—

(a) in subsection (1), insert each of the following at the appropriate place—

““child” means a person aged under 18;”,

““diocesan safeguarding advisor” means the person appointed as such for the diocese in question in accordance with provision made by Canon;”, and

““vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016.”, and

(b) after subsection (1) insert—

“(1A) A reference in this Measure to being arrested for an offence includes a reference to being charged with an offence without being arrested.”

(9) In Schedule 1 to the Church of England (Legal Aid) Measure 1994 (proceedings for which legal aid may be given) at the end insert—

“7. Proceedings on an appeal under section 36(6) or The appellant.”  
by virtue of section 37(6) of the Clergy Discipline Measure 2003 against a suspension made in reliance on section 36(1)(e) or 37(1)(e) of that Measure.

#### **Commencement Information**

**II** S. 1 in force at 1.1.2017 by S.I. 2016/1213, art. 2

## **2 Churchwardens: disqualification and suspension**

(1) In section 2 of the Churchwardens Measure 2001 (general disqualifications), after subsection (1) insert—

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“(1A) A person shall be disqualified from being chosen for the office of churchwarden if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).”

(2) In subsection (2) of that section, omit paragraph (b).

(3) After subsection (3) of that section insert—

“(3A) A person's disqualification under subsection (2)(a) may be waived by the bishop serving written notice on the person; and the notice must specify the bishop's reasons for giving the waiver.

(3B) A waiver under subsection (3A)—

- (a) is of unlimited duration, and
- (b) has effect in every diocese.

(3C) Before giving a waiver under subsection (3A), the bishop must consult—

- (a) the diocesan safeguarding advisor, and
- (b) such other persons as the bishop considers appropriate.

(3D) On serving a notice under subsection (3A), the bishop shall give a copy of the notice to the registrar of the diocese; and the registrar shall file the copy in the diocesan registry.”

(4) In section 4 of that Measure (time and manner of choosing churchwardens), in subsection (3), after “section 2(1),” insert “ (1A), ”.

(5) In section 6 of that Measure (admission to office of churchwarden), in subsection (1) (b), after “section 2(1),” insert “ (1A), ”.

(6) After section 6 of that Measure insert—

#### **“6A Suspension**

(1) This section applies where—

- (a) a churchwarden is arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 or is charged with such an offence without being arrested, or
- (b) the bishop is satisfied, on the basis of information provided by a local authority or the police, that a churchwarden presents a significant risk of harm.

(2) The bishop may suspend the person from the office of churchwarden by serving written notice on the person; and the notice must specify the bishop's reasons for imposing the suspension.

(3) The bishop may at any time revoke a suspension under this section by serving written notice on the person.

(4) For the purposes of subsection (1)(b), a person presents a significant risk of harm if there is a significant risk that the person may—

- (a) harm a child or vulnerable adult,
- (b) cause a child or vulnerable adult to be harmed,
- (c) put a child or vulnerable adult at risk of harm,

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- (d) attempt to harm a child or vulnerable adult, or
  - (e) incite another person to harm a child or vulnerable adult.
- (5) Before suspending a person in reliance on subsection (1)(b) or revoking a suspension made in reliance on subsection (1)(b), the bishop must consult—
- (a) the diocesan safeguarding advisor, and
  - (b) such other persons as the bishop considers appropriate.
- (6) Where, in reliance on subsection (1)(a), a notice of suspension is served under subsection (2) and the suspension has not been revoked under subsection (3), the suspension continues until the earlier of—
- (a) the expiry of three months beginning with the day on which the notice is served, and
  - (b) the conclusion of the matter.
- (7) If, in the case of a suspension made in reliance on subsection (1)(a), the matter is not concluded before the expiry of the period referred to in subsection (6) (a), a further notice of suspension under subsection (2) may be served on the person; and subsection (6) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.
- (8) Where, in reliance on subsection (1)(b), a notice of suspension is served under subsection (2) and the suspension has not been revoked under subsection (3), the suspension continues until the expiry of three months beginning with the day on which the notice is served.
- (9) In the case of a suspension made in reliance on subsection (1)(b), a further notice of suspension under subsection (2) may be served on the person; and subsection (8) and this subsection apply to the further suspension as they applied to the earlier suspension or suspensions.
- (10) Having served a notice of suspension or revocation under this section, the bishop shall give each of the following written notification—
- (a) the archdeacon of each archdeaconry in the diocese,
  - (b) the rural dean or the area dean of the deanery in which the parish in question is situated,
  - (c) the clergy who hold office in the parish,
  - (d) the other churchwarden or churchwardens of the parish,
  - (e) each suffragan bishop of the diocese,
  - (f) the registrar of the diocese,
  - (g) the diocesan safeguarding advisor, and
  - (h) such other persons as the bishop considers appropriate.
- (11) The registrar shall file the notification given under subsection (10)(f) in the diocesan registry.
- (12) For the purposes of this section, a matter is concluded when—
- (a) a decision is taken not to charge the person with the offence in question, or
  - (b) where the person is charged with the offence, the proceedings for the offence are concluded.
- (13) In this section—

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“child” means a person aged under 18;  
“vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016.

## **6B Appeal against suspension under section 6A**

- (1) A person on whom a notice of suspension is served under section 6A(2) may appeal against the suspension to the president of tribunals.
- (2) On an appeal under this section, the president of tribunals may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension.”
- (7) In section 8 of that Measure (vacation of office), in subsection (1)(c), after “section 2(1),” insert “ (1A), ”.
- (8) After subsection (1) of that section insert—

“(1A) Where the office of churchwarden is vacated under subsection (1)(c) on a person being disqualified under section 2(2)(a), the person may resume the office if the disqualification is waived under section 2(3A) and if the office has remained vacant.”
- (9) In section 13 of that Measure (interpretation), in subsection (1), at the appropriate place insert—

““diocesan safeguarding advisor” means the person appointed as such for the diocese in question in accordance with provision made by Canon;”.
- (10) After subsection (1) of that section insert—

“(1A) A reference in this Measure to an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 is a reference to an offence which is—

  - (a) mentioned in that Schedule as amended, extended or applied from time to time, or
  - (b) treated by an enactment (whenever passed or made) as if it were mentioned in that Schedule.”
  - (11) In Part 6 of the Church Representation Rules (disqualifications etc.), in rule 46A, the text of which becomes paragraph (1) of that rule—
    - (a) in sub-paragraph (a), omit “a churchwarden,”
    - (b) in sub-paragraph (b), omit “churchwarden or”, and
    - (c) after paragraph (1) insert—

“(2) For provision about disqualification from being chosen for the office of churchwarden, see section 2 of the Churchwardens Measure 2001; and for provision about vacation of office as such on becoming disqualified under that section, see section 8 of that Measure.”

### **Commencement Information**

**I2** S. 2 in force at 1.1.2017 by [S.I. 2016/1213](#), [art. 2](#)

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### 3 Parochial church council members etc: disqualification and suspension

(1) In Part 6 of the Church Representation Rules (disqualifications etc.), in rule 46A (before which is inserted a cross-heading “Disqualification”), in paragraph (1), after sub-paragraph (a) insert—

- “(aa) A person shall be disqualified from being nominated, chosen or elected or from serving as a member of a parochial church council, a district church council or any synod under these rules if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).
- (ab) A person shall be disqualified from being nominated, chosen or elected or from serving as a member of a parochial church council, a district church council or any synod under these rules if the person has been convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933.
- (ac) A person shall be disqualified from being appointed to act or from acting as secretary or treasurer of a parochial church council if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).
- (ad) A person shall be disqualified from being appointed to act or from acting as secretary or treasurer of a parochial church council if the person has been convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933.”

(2) In rule 46(1) of the Rules (vacation of seat by member of synod)—

- (a) in sub-paragraph (e), for “46A(c)” substitute “ 46A(1)(c) ”, and
- (b) in sub-paragraph (f), for “46A(a)” substitute “ 46A(1)(a), (aa) or (ab) ”.

(3) After rule 46A of the Rules insert—

“46B

- (1) A person's disqualification under rule 46A(1)(ab) or (ad) may be waived by the bishop of the diocese in question giving the person notice in writing; and the notice must specify the bishop's reasons for giving the waiver.
- (2) A waiver under paragraph (1)—
  - (a) is of unlimited duration, and
  - (b) has effect in every diocese.
- (3) Before giving a waiver under paragraph (1), the bishop must consult—
  - (a) the diocesan safeguarding advisor, and
  - (b) such other persons as the bishop considers appropriate.
- (4) On giving a notice under paragraph (1), the bishop shall send a copy of the notice to the registrar of the diocese; and the registrar shall file the copy in the diocesan registry.
- (5) Where a person's seat is vacated under rule 46(1) on a person being disqualified under rule 46A(1)(ab), the person may resume the seat if the disqualification is waived under paragraph (1) of this rule and if the seat has remained vacant.”

(4) After rule 46B of the Rules (inserted by subsection (3)) insert—

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#### 46C “Suspension

- (1) This Rule applies where a member of a parochial church council, district church council or synod, or the secretary or treasurer of a parochial church council, is arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 or is charged with such an offence without being arrested.
- (2) This Rule also applies where the bishop is satisfied, on the basis of information provided by a local authority or the police, that a person of a description referred to in paragraph (1) presents a significant risk of harm.
- (3) The bishop may suspend the person from the position in question by giving the person notice in writing; and the notice must specify the bishop's reasons for imposing the suspension.
- (4) The bishop may at any time revoke the suspension by giving the person notice in writing.
- (5) For the purposes of paragraph (2), a person presents a significant risk of harm if there is a significant risk that the person may—
  - (a) harm a child or vulnerable adult,
  - (b) cause a child or vulnerable adult to be harmed,
  - (c) put a child or vulnerable adult at risk of harm,
  - (d) attempt to harm a child or vulnerable adult, or
  - (e) incite another person to harm a child or vulnerable adult.
- (6) Before suspending a person in reliance on paragraph (2), or revoking a suspension made in reliance on that paragraph, the bishop must consult—
  - (a) the diocesan safeguarding advisor, and
  - (b) such other persons as the bishop considers appropriate.
- (7) Where, in reliance on paragraph (1), a notice of suspension is given under paragraph (3) and the suspension has not been revoked under paragraph (4), the suspension continues until the earlier of—
  - (a) the expiry of three months beginning with the day on which the notice is given, and
  - (b) the conclusion of the matter.
- (8) If, in the case of a suspension made in reliance on paragraph (1), the matter is not concluded before the expiry of the period referred to in paragraph (7)
  - (a), a further notice of suspension may be given under paragraph (3); andparagraph (7) and this paragraph apply to the further suspension as they applied to the earlier suspension or suspensions.
- (9) Where, in reliance on paragraph (2), a notice of suspension is given under paragraph (3) and the suspension has not been revoked under paragraph (4), the suspension continues until the expiry of three months beginning with the day on which the notice is given.
- (10) In the case of a suspension made in reliance on paragraph (2), a further notice of suspension may be given under paragraph (3); and paragraph (9) and

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this paragraph apply to the further suspension as they applied to the earlier suspension or suspensions.

(11) Having given a notice of suspension or revocation under this rule, the bishop shall give each of the following written notification—

- (a) the clergy who hold office in the parish,
- (b) the churchwardens of the parish,
- (c) the registrar of the diocese,
- (d) the diocesan safeguarding advisor, and
- (e) such other persons as the bishop considers appropriate.

(12) The registrar shall file the notification given under paragraph (11)(c) in the diocesan registry.

(13) For the purposes of this Rule, a matter is concluded when—

- (a) a decision is taken not to charge the person with the offence in question, or
- (b) where the person is charged with the offence, the proceedings for the offence are concluded.

(14) In this Rule—

“child” means a person aged under 18, and

“vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016.

46D(1) A person to whom a notice of suspension is given under Rule 46C(3) may appeal against the suspension to the president of tribunals.

(2) On an appeal under this Rule, the president of tribunals may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension.”

(5) In rule 54 of the Rules (interpretation), in paragraph (1), at the appropriate place insert —

““diocesan safeguarding advisor” means the person appointed as such for the diocese in question in accordance with provision made by Canon;”.

(6) In that rule, after paragraph (8) insert—

“(9) A reference in these Rules to an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 is a reference to an offence which is—

- (a) mentioned in that Schedule as amended, extended or applied from time to time, or
- (b) treated by an enactment (whenever passed or made) as if it were mentioned in that Schedule.”

(7) In Section 4 of Appendix 1 to the Rules (notice of annual parochial church council meeting), in note 3, after paragraph (a) insert—

“(aa) A person shall be disqualified from being nominated, chosen or elected or from serving as a churchwarden or member of a parochial church council, a district church council or any synod under these rules if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).



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- (ab) A person shall be disqualified from being nominated, chosen or elected or from serving as a churchwarden or member of a parochial church council, a district church council or any synod under these rules if the person has been convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933.
  - (ac) A person's disqualification under paragraph (ab) may be waived by the bishop of the diocese in question giving the person notice in writing.”
- (8) In section 6 of Appendix 1 to the Rules (nomination to the House of Clergy or House of Laity of the Diocesan Synod), in the notes, at the end insert—
- “A person is disqualified from being nominated for membership of any Synod if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).
- A person is disqualified from being nominated for membership of any Synod if the person has been convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933; but the disqualification may be waived by the bishop of the diocese giving the person notice in writing.”
- (9) In that section of Appendix 1 to the Rules, in the note beginning “A person is disqualified”, for “he” substitute “ the person ”.

#### Commencement Information

**I3** S. 3 in force at 1.1.2017 by [S.I. 2016/1213](#), **art. 2**

## 4 Rules for appeals against suspensions

- (1) Rules made under section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 may make provision for carrying into effect—
- (a) section 6B of the Churchwardens Measure 2001 (appeal against suspension of churchwarden in safeguarding case);
  - (b) Rule 46D of the Church Representation Rules (appeal against suspension of PCC member etc. in safeguarding case);
  - (c) provision made by Canon to confer a right of appeal against the suspension of a licence to exercise the office of reader or of a licence to serve as a lay worker.
- (2) In section 26(1) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, after the second paragraph (f) insert—
- “(g) the provisions referred to in section 4(1) of the Safeguarding and Clergy Discipline Measure 2016;”.
- (3) In section 25(2) of that Measure (members of Rule Committee), in paragraph (c), after “the Clergy Discipline Measure 2003” insert “ or proceedings under any of the provisions referred to in section 4(1) of the Safeguarding and Clergy Discipline Measure 2016 ”.

#### Commencement Information

**I4** S. 4 in force at 16.5.2016 by [S.I. 2016/552](#), **art. 2**

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## 5 Guidance

- (1) A relevant person must have due regard to guidance issued by the House of Bishops on matters relating to the safeguarding of children and vulnerable adults.
- (2) Each of the following is a relevant person—
  - (a) a clerk in Holy Orders who is authorised to officiate in accordance with the Canons of the Church of England;
  - (b) a diocesan, suffragan or assistant bishop;
  - (c) an archdeacon;
  - (d) a person who is licensed to exercise the office of reader or serve as a lay worker;
  - (e) a churchwarden;
  - (f) a parochial church council.
- (3) In section 8(1) of the Clergy Discipline Measure 2003 (acts or omissions constituting misconduct)—
  - (a) after paragraph (a) insert—
    - “(aa) failing to comply with the duty under section 5 of the Safeguarding and Clergy Discipline Measure 2016 (duty to have due regard to House of Bishops' guidance on safeguarding children and vulnerable adults);”, and
  - (b) in paragraph (b), after “failing to do any” insert “ other ”.
- (4) In Part 2 of the Church Representation Rules (parochial church meetings and councils), in rule 9 (business), after paragraph (2) insert—
  - “(2A) The annual report referred to in paragraph (1)(b) shall include a statement as to whether the council has complied with the duty under section 5 of the Safeguarding and Clergy Discipline Measure 2016 (duty to have due regard to House of Bishops' guidance on safeguarding children and vulnerable adults).”

### Commencement Information

**I5** [S. 5](#) in force at 1.10.2016 by [S.I. 2016/938](#), [art. 2](#)

## 6 Meaning of “child” and “vulnerable adult”

- (1) In this Measure, “child” means a person aged under 18.
- (2) In this Measure, “vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from violence, abuse, neglect or exploitation is significantly impaired through physical or mental disability or illness, old age, emotional fragility or distress, or otherwise; and for that purpose, the reference to being impaired is to being temporarily or indefinitely impaired.
- (3) The Archbishops' Council may by order amend this section so as to amend the definition of “vulnerable adult”.
- (4) An order under this section may not be made unless—
  - (a) a draft of the order has been laid before the General Synod and approved by it with or without amendment, and
  - (b) the draft so approved has been referred to the Archbishops' Council.

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- (5) On referral of the draft, the Council must—
- (a) if the draft was approved without amendment, make the order by applying its seal, or
  - (b) if the draft was approved with amendment—
    - (i) make the order by applying its seal, or
    - (ii) withdraw the draft for further consideration.
- (6) An order under this section [<sup>F1</sup>may not come into force unless] it is sealed by the Council.
- (7) If the Business Committee of the General Synod determines that a draft of an order under this section does not need to be debated by the General Synod, the draft is to be treated as approved for the purposes of this section unless a member of the General Synod gives notice in accordance with its standing orders that the member—
- (a) wishes the draft order to be debated, or
  - (b) wishes to move an amendment to it.
- (8) The power to make an order under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies as if the order had been made by a Minister of the Crown and as if this Measure were an Act of Parliament providing for the instrument containing the order to be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Textual Amendments**

**F1** Words in s. 6(6) substituted (retrospectively) by [Church of England \(Miscellaneous Provisions\) Measure 2018 \(No. 7\)](#), **ss. 8(9)**, 11(8)(d), 17(2)(b)

#### **Commencement Information**

**I6** S. 6 in force at 1.10.2016 by [S.I. 2016/938](#), **art. 2**

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