

HOUSE OF LORDS
HOUSE OF COMMONS
MINUTES OF EVIDENCE
TAKEN BEFORE
THE ECCLESIASTICAL COMMITTEE

**SAFEGUARDING AND CLERGY DISCIPLINE MEASURE AND
DIOCESAN STIPENDS FUNDS (AMENDMENT) MEASURE**

TUESDAY 17 NOVEMBER 2015

3.40 pm

Rt Revd Paul Butler, Ven Annette Cooper, Geoffrey Tattersall QC, William Fittall
and Adrian Iles

John Booth, William Fittall and Saira Salimi

Oral Evidence

Taken before the Ecclesiastical Committee

on Tuesday 17 November 2015

Members present:

Baroness Butler-Sloss (Chairman)
 Baroness Berridge
 Lord Cormack
 Lord Griffiths of Burry Port
 Baroness Howarth of Breckland
 Lord Judd
 Lord Lisvane
 Baroness McIntosh of Hudnall
 Lord Plant of Highfield
 Lord Walpole
 Caroline Ansell
 Sir Peter Bottomley
 Fiona Bruce
 Oliver Colvile
 Frank Field
 Kevin Foster
 Sir Roger Gale
 Mr David Lammy
 Rachael Maskell
 John Pugh
 Gavin Robinson
 Mrs Caroline Spelman

**Examination of Witnesses: Deliberation of the Safeguarding and Clergy
 Discipline Measure**

Rt Revd Paul Butler, Lord Bishop of Durham, Lead Bishop for Safeguarding and Chair of the Steering Committee for the Measure, **Ven Annette Cooper, Archdeacon of Colchester**, Member of the Revision Committee for the Measure, **Geoffrey Tattersall QC**, Chair of the Revision Committee for the Measure, **William Fittall**, Secretary General of the Archbishops' Council, and **Adrian Iles**, Designated Officer under the Clergy Discipline Measure and Legal Adviser for the Measure

Q1 The Chairman: Bishop, may I thank you and your team very much for coming to our Committee? All members of our Committee are well aware that you have another part to play this afternoon and are speaking on the welfare Bill. Once we see that the Statement is almost at an end, we will urge you to leave us and leave the rest of your team to advise us. I

have been reminded, of course, that we need to make declarations of interest. First, I wrote a report on Chichester before the visitation of Chichester. Secondly, I am about to chair a visitation of the Cathedral of Exeter in the new year.

Baroness Berridge: I wish to declare that I worship in the diocese of London, particularly at St Michael's, Chester Square, which will be relevant to this, and occasionally within the diocese of Jersey.

Oliver Colvile: I own the living of a parish, St Peter's, Alvescot, in Oxfordshire. My sister is a vicar in Buckinghamshire. I also am a practising member of the Church of England, both in London and in Plymouth.

The Chairman: Quite a number of us are practising or semi-practising members of the Church of England, but not everyone, I know.

Lord Plant of Highfield: I am a lay canon of Winchester Cathedral and a member of the chapter of Winchester Cathedral.

Baroness Howarth of Breckland: In relation to these Measures, I have sat on the Archbishops' Advisory Council that looked at the Measures, so I have worked with the team on some of these issues. I also chair the Norwich diocesan safeguarding board. I think those are the only ones that are of relevance to this.

The Chairman: And you are a particular expert on this subject, with great expertise in social work.

Lord Lisvane: With reference to these Measures but also in terms of the Committee's more general remit, I am a governor of Hereford Cathedral Perpetual Trust. I am a church warden and a fee-earning organist. My wife is a Church of England priest and is chair of the Hereford diocesan board of finance.

Sir Peter Bottomley: I was the chairman of the Church of England Children's Society council. I am the parliamentary warden at St Margaret's, Westminster, and my constituency is within the diocese of Chichester.

The Chairman: I suppose I ought to say that I was chairman of the advisory council of St Paul's.

Lord Walpole: I had better say something. I am Church of England. I am on the Norwich FAC. I am a church warden and I have six benefices.

Oliver Colvile: I should also mention that I am a governor of St Andrew's primary school, which is a Church of England school.

Baroness Howarth of Breckland: I am a church warden. I did not realise you were supposed to say so.

The Chairman: A lot of us have interests, which are declared. Bishop, now we hand over to you.

Rt Revd Paul Butler: Thank you, and thank you for understanding about the complexities today. I will go and listen to Lord Freud's speech and I will come back, because I am not speaking until later. This is set in the context of our commitment to making the Church of England a safe church, and the legislation is only part and parcel of all the work that we are undertaking. The safeguarding Measure is before you because the church believes it needs to improve its arrangements: first, to prevent the abuse of children and vulnerable adults within the church community; and, secondly, to deal effectively with those in authority within the church who harm children and vulnerable adults.

The catalyst for the Measure was a visitation of the diocese of Chichester by commissaries appointed by the former Archbishop of Canterbury, Rowan Williams. The commissaries reported in August 2012 and April 2013, making a number of safeguarding recommendations, which were relevant not just to the diocese of Chichester but also to the church nationally. The Archbishops' Council responded to those recommendations by undertaking a wide consultation within the church. The outcome of that consultation was to confirm that two separate pieces of legislation were required: this Measure and an amending canon, which does not need parliamentary approval. The proposals in the legislation take into account not just the recommendations of the commissaries but also other submissions made in the course of the Archbishops' Council's consultation.

The Church's safeguarding policies in relation to children and vulnerable adults are determined by the House of Bishops. The policies provide guidance and aim to highlight good practice and standards. There has so far been no duty on office holders in the church to have due regard to that guidance. Section 5 of the Measure will now impose such a duty.

This provision is aimed at reducing the risk of abuse within the church. There will be a requirement for all relevant persons to have due regard to the House of Bishops' guidance on matters relating to the safeguarding of children and vulnerable adults. This will include all clerks in holy orders who are authorised to officiate and it will expressly be a matter of misconduct for such clergy to fail to comply with that duty.

Church wardens and PCCs are included in the list of those who are relevant persons for this purpose. This is because, in accordance with the House of Bishops' guidance, the responsibility

at parish level of implementing the house's safeguarding policies lies jointly with the incumbent and the PCC. PCCs will, in future, be required to include in their annual report a statement as to whether the PCC has complied with its duty to have due regard to the House of Bishops' guidance.

Other provisions designed to reduce the risk of abuse include the disqualification of a person from serving as church warden, or as a member or officer of the PCC, if that person is included in a barred list within the meaning of the Safeguarding Vulnerable Groups Act. Ordained clergy who are barred under the Safeguarding Vulnerable Groups Act are already liable to be prohibited from holding office under the Clergy Discipline Measure, and provisions in the amending canon, which is part of the overall safeguarding package, will disqualify barred persons from being licensed as readers or lay workers.

The Measure will make provision for dealing more satisfactorily with cases where there has been abuse of children or vulnerable adults. Where sexual misconduct is committed by ordained clergy against children and adults, the removal of the limitation period of one year will make it easier for disciplinary complaints to be made under the Clergy Discipline Measure. At the moment, such complaints can be made after one year only with the permission of the President of Tribunals. That limitation has been criticised as hindering survivors of abuse from coming forward to make complaints. On average, it is 20 years after the abuse took place.

The bishop will be able to suspend church wardens and PCC members and officers if they are arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933, or if charged with such an offence. Furthermore, the bishop will have powers of suspension in respect of clergy, church wardens and PCC members and officers where the bishop is satisfied, on the basis of information provided by the local authority or the police, that the person concerned presents a significant risk of harm to children or vulnerable adults. The bishop will have similar powers of suspension in respect of licensed readers and lay workers under the amending canon. You will see this is very comprehensive. We stand ready, now, to answer your questions.

Q2 The Chairman: Well, thank you very much. I think we are all well aware of the importance of this Measure and the importance of this Measure becoming law as soon as possible, but, naturally, we have some questions. I hope that none of those questions would require you to go away and redraft, but I have two. One is that the supposition on this Safeguarding Measure seems to be that it will be the dioceses which are the safeguarding teams. I happen to know from Exeter that, until now, Exeter Cathedral has had its own safeguarding

team, and there may be other cathedrals that do that quite separately from the diocese. Will you make sure that the cathedrals are embraced in the way in which you proceed?

Rt Revd Paul Butler: Others may chip in. All clergy are covered by the Measure, so the dean and the residentiary canons will be required to behave according to the Measure and will be subject to all its disciplines. The other thing is, in my understanding, there is no body corporate for a cathedral, other than its entire body, except the chapter. Since the chapter is headed by the dean and the residentiary canons, they will be required effectively to do so. I can add, though, that, under this, a range of practice guidance has to be produced, which is obviously a matter for us to produce. I can assure the Committee that the deans have already said, “Can you please ensure the practice guidance specifically names cathedrals to ensure that they conform?”.

The Chairman: My second question is: under the guidance, you have not included the advisory councils of cathedrals. I am not sure that you need to do it formally in legislation.

Rt Revd Paul Butler: I do not think we need to do it because they have no powers, as such.

The Chairman: It would be advisable, it would seem to me, that they should be included as a matter of practice.

Rt Revd Paul Butler: They will be under the practice guidance, absolutely.

Adrian Iles: The clergy of the cathedral will be bound to have regard to the House of Bishops’ policies, because all clergy who hold office are covered by the Measure. Cathedral councils are different from PCCs, inasmuch as every member of a PCC is a trustee. The same cannot be said for cathedral councils. They are different.

The Chairman: I follow.

Q3 Mr Lammy: I have two questions. There is a suggestion that it is on the advice of the police or the local authority that the bishop has the power to suspend a priest or a dean who presents a significant risk to children. Because we know that many of these cases come to light many, many years later, children have often become adults. On a point of clarification, can the suspension be made without the police or local authority, because it may well be that it has come to the attention of the church through its auspices before it has got to that stage? That is my first question.

My second question is this. I have seen these sorts of cases; you will understand my constituency had Baby P and Victoria Climbié. The trappings of power are sometimes perceived to be an issue. Just for clarification, presumably it is suspension with pay and it is suspension with home, house, palace or whatever the office is that you hold.

Rt Revd Paul Butler: In regard to the second question, yes, it is suspension with pay and with house, although it is recognised that, in certain circumstances, for the safety of the person and their family, we may need to find alternative accommodation, but that would be found. In relation to the first, of course, most cases of child abuse that come to us are when people are adults and it was a long time ago. We would consult with the police or the local authority designated officer.

Adrian Iles: The sharing of information goes both ways. The police may share information with the bishop and, likewise, the bishop will share information with the police, if the bishop is told about matters that the police ought to know about.

Mr Lammy: My point was: if it has not got to the stage of the police or the local authority but it is brought to the attention of the church, is there a power to suspend? Do you see what I mean?

Adrian Iles: At the moment, there is not. In the future, there are two things. If a complaint is made under the CDM, then the bishop will have power. If no complaint is made, the bishop, if it relates to criminal matters, is going to pass on the information to the police. There is always co-operation between the police and the diocese in matters relating to this. No steps are taken by the diocese without full consultation with the police and the local authority, so that one body does not take a step that the other body wishes had not been taken.

Rt Revd Paul Butler: All our policies require that, if it is of a criminal nature, it must be reported to the statutory authorities.

Q4 Gavin Robinson: I wanted to explore, just briefly, subsections (1) and (2) of the suspension provision. Bishop, you confirmed some of my concerns around suspension following information provided by the local authority or the police should somebody present a significant risk of harm. Subsection (2), I think fairly, incorporates the word “may”, but, if somebody is suspended under Section 1(1), there is no provision of the word “may”. It comes laterally, and I accept that, but you said yourself somebody would be suspended because they present a significant risk of harm before the conclusion of any investigation or any finding of fact. I just wondered: should there be provision made for the word “may” in that initial subsection (1)(e)?

Geoffrey Tattersall: There is a requirement on the bishop to consult with others, in particular the safeguarding officer, and anybody else he thinks is appropriate, before he suspends. There is no automatic suspension. The bishop has to evaluate the situation and decide whether to

suspend, but he has the power to suspend. Along that line, the suspension lasts only for three months, but can be renewed. It can be revoked too, but it can be renewed.

Thirdly, it is important to stress—this is protection of the priest, I think—that there is a power to appeal to the President of Tribunals. The President of Tribunals at the moment is Lord Justice McFarlane, Sir Andrew McFarlane, a senior judge who acts independently of the diocese and would decide whether or not, if this were to become law, it was appropriate to suspend. We believe there is a good balance between the need to act in an appropriate case and the need to have some check on that.

The Chairman: I happen to know Andrew McFarlane extremely well. He was a colleague of mine in the past, when I was President of the Family Division. He is a Court of Appeal judge and he was a judge of the Family Division. He has tried a very large number of these sorts of cases, so he will be particularly well able to deal with this issue.

Gavin Robinson: With respect, Madam Chair, my fear is that, if you suspend someone under Section 1(1)(e), that is a declaration that that person presents a significant risk of harm. That follows even from what you said, Bishop. I know that is not the intention. I know the subsequent provisions insert the word “may”, and that is most appropriate. I am asking whether the word “may”, which leaves it open to full investigation and the finding of fact, should be provided for in subsection (1)(e).

Rt Revd Paul Butler: Our intention certainly is that suspension is not seen as admonition.

Adrian Iles: Section 1, subsection (1) inserts paragraph (e) into Section 36 of the Clergy Discipline Measure. Section 36 makes it clear that the bishop of the diocese may, by notice in writing, suspend the cleric, so the word “may” is already in the substantive provision.

Gavin Robinson: I think that misses the point again. It is “may present a significant risk of harm”.

William Fittall: What you are suggesting would weaken the safeguard for the person concerned, because it would potentially lower the threshold that the bishop has to be satisfied on the basis of this information that the person concerned presents significant risk. If you insert “may” in front of that, you would be widening the net. Obviously, there are judgments about quite where you strike the balance, but the view that was taken in the discussion was that, at this stage of matters, where there may have been no arrest or charge made, the right trigger was that the bishop was satisfied the person posed a risk.

The Chairman: I have the 2003 Measure in front of me. What is happening here is carrying on with the language that is already in the Measure, which has the word “may”. It would be a significant change to the 2003 Measure if another word came in.

Q5 Sir Peter Bottomley: Who can suspend a bishop or an incumbent in a Royal Peculiar?

Rt Revd Paul Butler: For a bishop, it is the relevant archbishop. Royal Peculiars are not covered by this Measure. Royal Peculiars are a matter for the Royal Household, and we have no jurisdiction over them. I can assure the Committee that we have had extensive discussions with the Royal Household and Royal Peculiars, and they have agreed that they will follow the Church of England policy as closely as they possibly can; and, at every revision of the Royal Household policy, they will look at ours to ensure it matches as closely as it can. But we cannot instruct Royal Peculiars.

Q6 Lord Cormack: First of all, apologies for being a few moments late. I would just like to raise two points, if I may—one specific, one general. We have had a question on the Floor of the House of Lords this afternoon about preserving the anonymity of those who are investigated because of some suspected or alleged offence, and the case of our former colleague Lord Brittan—Leon Brittan—was raised specifically in that context. I am one of those who feel very strongly that, until a man or woman is specifically charged, as much as possible should be done to preserve that person, because the reputational and personal damage that is done is incalculable. I would like to link that with a particular example, and I can do so because it was public knowledge. A friend of mine is the former Bishop of Gloucester. His last year was made incredibly difficult because accusations were made and publicised.

The Chairman: May I stop you? I am very sorry. We are not quorate, because all the Members of the House of Commons have to go and vote. I am afraid we will all have to sit and wait until the House of Commons comes back.

Sitting suspended for a Division in the House.

On resuming—

Lord Cormack: I was starting to talk about the former Bishop of Gloucester, declaring that he is a friend of mine. I was deeply distressed by knowing of his distress during this very long, protracted period. At the end, he was able to go back and have a delayed farewell service. Sadly, I could not go to it, because the notice was pretty short. The whole episode was very unsatisfactory and his name was in the public eye for so long. I would just be grateful for your comments on both the points that I have raised.

Rt Revd Paul Butler: I am very happy to do so. The first thing to say is that Michael Perham, of course, voluntarily stepped down from duties. He was not suspended, because there were no powers of suspension. He voluntarily stepped aside after a conversation with the archbishop. The second thing to say would be that his name was not released into the public realm by the church. It was done by others. We know who, but I will not name them here. We could do no other, really, than confirm that.

The Chairman: Bishop, I think you should go. Baroness Stowell is speaking.

Rt Revd Paul Butler: Right. Thirdly, yes, there are lessons to be learned. It was the first time that we had found ourselves in this position with a serving bishop. We are conducting a review of how we handled it. We know there are lessons to be learned. We are very sorry for the length of time it took. That was not our fault, I have to say, but we are examining what lessons we learned from it.

Lord Cormack: I am glad to hear that. There was a long delay between the police saying they had nothing else to pursue and the church—

The Chairman: Lord Cormack, I think that the Bishop must go, because he is speaking in the debate. Others might answer it for the Bishop.

Rt Revd Paul Butler: Thank you, Madam Chair.

The Chairman: Did you want to ask any more on that, Lord Cormack?

Lord Cormack: I would be grateful for a complete answer, but no.

Q7 Baroness Howarth of Breckland: This is really going back to the point David Lammy made: power structures and the way that bishops made decisions or did not make decisions. Then I think it was Mr Tattersall who mentioned the role of the diocesan advisers. I thought it would be useful for someone to say a little more about their role, because they now have quite strong powers to question their bishop and they also have their own committee, which they can turn to for support if they need to. It was just trying to emphasise those extra independent roles that are around all this in relation to when the bishop makes a decision, and that it will be an independent decision.

Geoffrey Tattersall: Indeed. Of course, his decision, if it is a decision to suspend, as I have already indicated, is subject to appeal to the President of Tribunals. We mentioned the president himself; there is a deputy president, who is also a retired High Court judge, Sir Mark Hedley, whom Lady Butler-Sloss will know too.

Baroness Howarth of Breckland: I was really getting at the role of the diocesan advisers.

William Fittall: Our whole approach rests on the fact that responsibility needs to lie with the bishop in the diocese. You cannot take it away to a national level. Therefore, it is right that the diocesan bishop has a diocesan safeguarding adviser, just as they have a diocesan director of education, a diocesan director of ministry and so on. One of the issues that, in fact, the House of Bishops Standing Committee was discussing only yesterday morning was whether, in the guidance that will be issued under here, there should be certain minimum requirements in relation to the diocesan safeguarding advisers.

We are also, having until recently had a shared national resource on safeguarding with the Methodist Church, having to create quite a significant national team, as you will be aware, in the Church of England. Indeed, the Methodists have themselves had to increase their own resource, for their own reasons. There is an issue we are still working through on the relationship between the diocesan advisers and the national team. There is not a line-management relationship, but there are some potentially quite delicate issues. There is one previous case, which was the subject of an inquiry, as the Cahill report shows, of a diocesan safeguarding adviser feeling that the bishop is not following policy as should be done, and how one then engages with the national team and potentially with the lead bishop who holds the brief of the House of Bishops. That is all quite important work, which we are still working on in the light of this legislation.

Lord Cormack: I have not had an answer to the general question I asked, which is: under this Measure, is everything possible going to be done to protect the anonymity of those who are being investigated—not charged, as that becomes public property then? What is going to be done to safeguard their anonymity?

Adrian Iles: This will make no difference to the existing practice under the Clergy Discipline Measure. When complaints are made, they are made confidentially. There is no obligation to publicise the fact of the complaint. Under the Clergy Discipline Measure, the point at which complaints are published is when a tribunal has determined the complaint and published its decision in writing. Then, at that point, it is made public. That is after there has been the hearing and the findings of fact have been made by the tribunal. That is not going to change.

Lord Cormack: The notes for guidance on this will make that plain.

Adrian Iles: There is a code of practice, which the Clergy Discipline Commission produces. That deals with publicity and media relations within it. The commission is working now towards updating the code and making clear when matters can and cannot be published.

Q8 Baroness Berridge: I have a few queries in relation to this, rather than questions. We have talked about the word “may”, and I would now like to talk about the word “victim”, which, because this is a professional standards regulation framework, does not naturally appear in the amendment I have seen. There is a long list of people who have to be served, for good reason, with a notice of suspension, including the archdeacon. There is a whole list in subsection (10). There can often be, in these situations, a complainant or a victim. I want to ask why the victim is not in that list and the circumstances you can envision, maybe from the guidance, in which they would receive notice of suspension of the clergy.

Adrian Iles: All the provisions relating to suspension give the bishop additional power to serve a notice on such other person as the bishop considers appropriate. Now, if the bishop considered it appropriate for the survivor to receive a copy of the notice or the fact that the notice had been served, then the bishop would notify the survivor.

Baroness Berridge: I am sorry; I am a lawyer by background. The survivor cannot necessarily challenge that. They are not included as a specified person in that list. I am sure there is good reason why there were not, and I recognise there is discretion under paragraph (h), but, were I a survivor or complainant, if I was not served with that notice, I would wonder why I was not put in that list. It is a confidential process; I recognise that.

Adrian Iles: The list that we have lists those within the diocese who need to know because they have working relationships with the person being suspended. The survivor is not in that category. I dare say that, as a matter of practice, the survivor is going to be kept informed about what is happening in any particular case.

Q9 Baroness Berridge: I have a second question and then I will pause, because the Chair knows I have some other questions. In relation to the notice of suspension and the decision to do that, as I have read it—and I may be incorrect here—there is not a duty to consult the registrar, who is the retained legal adviser for the diocese, before you actually suspend. Is there a duty to consult the legal adviser before the bishop makes the decision to suspend the clergy from office?

Adrian Iles: As a matter of practice, the bishop will always consult the diocesan registrar.

Baroness Berridge: Just to clarify, it is a matter of good practice but it is not in the amendment.

Geoffrey Tattersall: It is actually in the Measure. It says that he must consult the diocesan safeguarding adviser and such other persons as the bishop considers appropriate. We would find it difficult to believe that, in most cases, the bishop would not ordinarily consult his legal

adviser, because he is doing something that is suspending somebody's rights. That is what we understand.

Q10 Oliver Colvile: First of all, thank you very much indeed for coming to see us and helping us with our inquiries, as they say. I have two questions. First, I hope there is going to be a significant amount of training given once this legislation is in place, so that everybody knows exactly where they stand. As I indicated earlier, I am a governor of a church primary school, and you have a number of schools as well, so I very much hope that it is also going to apply to some of those people who are school governors, teachers or whatever, because this is about making sure there is total transparency, in my opinion. Would you like to consider that?

Adrian Iles: In relation to training, the amending canon provides that the bishop is under a duty to ensure that clergy, licensed readers and lay workers will receive appropriate training. It is more difficult to train PCCs and church wardens. It would be difficult to have training before they are appointed or elected to a PCC, because often you do not know who is going to be on a PCC until they are on it. But dioceses will be aware that PCCs and church wardens will need to be trained and will need to know the duties that are upon them, and, of course, the incumbent will be working with the PCCs in any particular parish.

In relation to staff of church schools, it is a much more complicated picture. This Measure is concerned with clergy, church wardens and PCCs. The amending canon is concerned, again, with clergy, licensed readers and lay workers. We cannot legislate in the same way for teachers in Church of England schools and whomever else you mentioned, governors and so on. That is outside what we can do.

The Chairman: But governors have to have training anyway, and have to be what used to be called CRB checked.

Oliver Colvile: Absolutely, they have to be CRB checked.

Ven Annette Cooper: If I may add to the training issue, one thing we have heard is developing alongside this is the strengthening of our national team, bringing in really good and well-founded professional expertise. Part of that work is training. What we are trying to get going—it is almost there; it is going to the House of Bishops currently—is graduated training. Clearly, training for bishops is not the same as training for PCC members, so we are trying to recognise common core training for each part of the system that needs it, to enable us to safeguard better and to make the place better.

Oliver Colvile: I would encourage you to encourage the dioceses also, therefore, to have a training strategy of some sort.

Ven Annette Cooper: Absolutely. It will be nationally recognised and dioceses will be part of that.

Oliver Colvile: Excellent, thank you very much.

Q11 Baroness McIntosh of Hudnall: Forgive me, if I may be allowed, for momentarily going back to the question Lord Cormack asked, because it has a bearing on what has just been said. The Bishop, before he left—and I am sorry he is not here to answer for himself—made the observation that, in the case of the Bishop of Gloucester, when the name came out, “We could do no other than confirm it”. I think I quote him. While I agree very much with what other people have said in relation to Lord Cormack’s question, that the principal duty is to protect vulnerable children and adults, none the less, in relation to somebody who is under investigation, I wonder whether it is in fact necessary always to confirm when pressed. This was an issue, as Lord Cormack will know, which came up in relation to the way the police have behaved in respect of people who are under investigation, where they have confirmed, in circumstances where perhaps it would have been better if they had not. I wonder, therefore, whether the team has anything to say about how that might be incorporated into training.

Geoffrey Tattersall: I was not party to any decision to confirm whether the Bishop of Gloucester was under investigation or not.

Baroness McIntosh of Hudnall: Sorry, I really did not want to talk about a particular instance.

Geoffrey Tattersall: For my part, I do not think that there was an obligation on the church to confirm. The church could have said nothing. There are consequences of saying nothing and, if this name is out in the public domain and—I do not want to be personal about this—the bishop is not doing his episcopal duties, the rumour probably gathers more momentum. Whether, in the end, it is far simpler to just confirm is a judgment call, I have to say. I do not think there is an obligation to confirm, but, in practice and in reality, we may think that there is a need to be open about these things, because otherwise they get more momentum.

The Chairman: Could I just say to members of the Committee that we have taken very nearly an hour on this and there are three more people who would like to speak? I am wondering whether people could keep their points very short. Otherwise we are going to run very late. I know how important this is, but, none the less, we have already taken quite a lot of time.

Q12 Sir Roger Gale: At the risk of labouring this point, we exist in a fairly febrile climate. I do not suppose there is anybody around this table who does not want to do their utmost to protect young and vulnerable people, but I do want to pursue Lord Cormack's point. In tabloid terms, there is a danger of the "Jimmy Savile in a dog collar" syndrome. It seems to me that, if notification is scattered around like confetti, which it appears to be in terms of the number of people who need to know, then containing the identity of somebody who may well be innocent is going to be very difficult indeed, particularly in the day of electronic communication.

I am not a little concerned, under the comments and explanations notes at paragraph 22, by the statement, "The right to appeal will protect clerics from being suspended unfairly or wrongfully". Well, will it? Will it prevent the exposure of the names of those people up to the point where they are charged with something or, preferably, even found guilty of something, if that is what happens? I am sorry, but this disturbs me a lot. We have a duty to protect young people. We have a duty to protect the vulnerable. Some of those vulnerable might be clerics who are wrongfully accused.

Adrian Iles: We have to find a balance between protecting those who need to be protected and having regard to the interests of those who are being accused or suspended. The right of appeal against suspension is an appeal to an independent judge, the President of Tribunals. He reconsiders the matter. It is not a review of the bishop's decision. He can overturn the bishop's decision and unsuspend when the bishop has imposed a suspension. It is a completely independent assessment of whether the bishop was right in suspending in the first place.

In terms of those who are notified of the suspension, those who are notified have to know because they are people who would be working with the suspended person. Whoever it is—if it is clergy, a church warden or a PCC member—they will work within quite a group of people. They are part of the structure within the church, and others in the church with authority and who work with them need to know that that person is suspended. There is no other way of doing it.

We have to rely on the integrity of those who are notified that they will not go running off to the press, notify and make headlines where really there are not headlines. But if you notice the wording—I am looking now at page 4 of the Measure, under the provision relating to disqualification of church wardens, and it will be the new Section 6A(10)—what these people are receiving is notification of the suspension. They are not being given all the details of what

the case might involve. That is something quite different. They are being notified that the person in question is suspended.

The Chairman: I think we have to move on.

Q13 Rachael Maskell: I want to follow up on this issue of suspension. Nowhere could I find in the Measure's wording that suspension is not seen as punitive and, while in the public court suspension is always viewed as a punitive measure, I could not see that within the wording of this Measure. Clearly, we know that the reputational damage incurred by clergy as a result of suspension often means that they cannot return to their parish. There is no mention within the Measure about the support given to clergy who are experiencing suspension, particularly in the situation where there has been a miscarriage of justice. There could be an accusation made, but that may not be apparent.

Adrian Iles: It is the code of practice that makes it clear that a suspension is neutral. On the notice of suspension itself, it provides that this does not mean that the bishop has made up his mind that you have committed whatever it is you are alleged to have committed. We are in the same position as other professions: when someone is suspended, immediately others might think, "Well, he must have done it, must he not?". There is no way around that. Clergy are no different from teachers, from doctors, but steps have to be taken sometimes to suspend them while the matters are investigated.

Rachael Maskell: I was highlighting the absence of the support mechanism around that and what happens as a next stage, should that suspension be lifted.

Adrian Iles: I will let the Archdeacon answer that.

Ven Annette Cooper: The Bishop is, in law, bound to provide pastoral support for all those involved and to name somebody independently to support the person who is suspended.

Rachael Maskell: I recognise that from the CDM in other parts of the Measure, but the aftercare, for instance if an individual is not able to return to their parish, is a significant issue, and I know it to be. Yet there is no mention of the support that will be given, which is particularly pertinent around sexual predators.

Ven Annette Cooper: In my own experience, that is ongoing. Maybe it would reassure the Committee to remember that, when this was placed before the synod, there was not a clergy person who voted against it and there was not a clergy person present who abstained. They thought that this would be workable for them. If I may be so bold, when I look at paragraph 10, I think it is a very limited list of people. If we go to the bottom, at (f) and (g), the registrar and the diocesan safeguarding adviser would already be aware and giving advice to the bishop.

You have the church warden and the clergy in the parish, if there are clergy in the parish, and there may not be clergy colleagues to inform. The rural dean is the person who, locally, if there was an issue where a wedding could not be taken or services could not be covered, would have the responsibility for providing that cover from somewhere. Then you have the archdeacon, like myself, and the other suffragan bishop. We are the people who are most likely to be asked for references for a move of post and are there to support the parish or wherever it is in the crisis. It is really important that, although at some level all of those people may not have the information, they need to be aware of the suspension. I do not know whether that helps at all.

The Chairman: Could we move on, then, to Lord Judd, because I am getting very concerned about time?

Q14 Lord Judd: I am one of those who feels that all this is long overdue. This is a festering sore, about which a lot of people have been worried for a long time and, therefore, I am glad action is being taken. It is always a difficult area, because it demonstrates how legal requirements, formal administrative action and the rest have to be seen within the context of the fact that this is a church, with a faith and a philosophy, and that solutions will not necessarily be found in formal arrangements. It requires a lot of leadership and in some circumstances a lot of courage on the part of a bishop and the rest, to knock heads together, talk about realities and see things in perspective.

I could go on for a long time, but I respect the Chair. However, I simply must ask about situations in which vindictiveness or maliciousness get the upper hand. If a priest, for example, becomes a victim of this, there could be damage to the psychology and the personality of the priest concerned. I am not saying it has to be in this document, but where is the issue being addressed of the counselling and the support for the priest, particularly if accusations become unsubstantiated?

Adrian Iles: The House of Bishops is aware of this and has issued its own papers to itself and to the bishops as to what they must do, the steps they must take and the people they must appoint to give pastoral support to those who are on the receiving end of complaints, whether they are malicious complaints or complaints that are well founded. Clergy in both circumstances need pastoral care and support, and it is the duty of the diocesan bishop to provide it. They are well aware of that.

Q15 Lord Lisvane: My point is about form rather than content. When I was, thanks to legislation.gov.uk, doing my prep for this, I was able to read the various texts in parallel with

the Measure. It did increasingly strike me that, when one is seeking to legislate, by reference and amendment, a Keeling schedule would be extremely useful. Obviously, it is too late for this, but I wonder if that could be borne in mind for the future.

Geoffrey Tattersall: We understand that. Obviously, if this were to become law, the provision of the Clergy Discipline Measure as amended would appear on the website in proper form.

Lord Lisvane: I am talking about scrutiny now rather than construction.

Geoffrey Tattersall: I can well understand, to the average member of synod, let alone here, it might have been more understandable if there had been such a schedule, which had a clean copy of the various Measures as amended.

Lord Lisvane: I am not suggesting it in every case, but where you have a forest of amendments it is an extremely useful tool.

Adrian Iles: Part of the difficulty is that this Measure amends four different instruments. If there were a schedule, it would be exceedingly thick.

Lord Lisvane: I am not suggesting that the whole text of every Measure to be amended should be included, but simply to give the legislative context for the particular individual amendment that is proposed to be made, so it might be a little shorter than a worst case might suggest.

The Chairman: Lady Berridge is going to have a second go. Could I suggest that that is the last of the questions, unless somebody is burning who has not yet asked one? Oh, I did not have you down on the list, Lord Griffiths—I am so sorry. You are being too polite.

Lord Griffiths of Burry Port: Well, that is the first time I have ever been accused of that. It is simply to say that I agree with Lord Judd entirely. The convoluted way in which you have to deal with these things in the Church of England makes me rather glad that I am where I am. But we train at all levels. I am one of the senior members of the Methodist clergy and I am not only trained, twice, but am subject to continuous training every year for what is left of my ministry, and so are all others, at appropriate levels and with discrete attention given to each level.

As for anonymity and all the rest of it, what you have to manage is not the procedures within which you work but the perception once things are in the public domain. Perception is what has to be managed. Once again, I do not see why any church person should be treated any differently from anybody in any other walk of life, if it is judged by others that there is a public interest in the case. You may disagree with me on that point, but I think that is what you are

going to have to deal with. I just wish there could be a way that you lovely people, who have been around for centuries, could get some of these things through to everybody's satisfaction a bit more quickly than you do.

The Chairman: The team has already pointed out that it is not just, of course, the clergy to whom this happens. It happens to teachers, university lecturers, doctors and many other people.

Q16 Baroness Berridge: The internal dynamic of the system I want you to think about now is where there has been a clergy suspension; it has gone through you, I believe, Adrian, at Church House; it goes up to McFarlane, and he says something like, "Oh my goodness. It is still all confidential but someone has been suspended now for a few weeks. They are not in church. The bishop misunderstood this whole thing, should never have suspended you in the first place and the process has been entirely wrong". The suffragan may have had to step up to the mark in the interregnum. Is there a duty of candour? You are the clergy. In that situation, you see the McFarlane reasoning, I presume. You are in an unenviable position; in order to restore your reputation, you are faced with having to say, "None of this should have happened. Unfortunately, mistakes get made—the bishop should never have been suspended me". Is there a duty of candour on the bishop to make that public or is McFarlane entitled, in those circumstances, to take it out of everybody's hands as a neutral judge and say, "In order to clear that person's name, I need to put this into the public domain"? That is where these things get very difficult: when you have the vested interest of the institution standing differently from the interests of the clergy who has been suspended. That clergy person can feel quite powerless in that situation. You need someone neutral or to have a duty of candour to clear everything up. Is that being considered?

Adrian Iles: The president would not publish the result of the appeal. It would be for the diocese and the cleric concerned to work out what should be released. Now, it may well be that the cleric would want some details published, to prove that the allegations were baseless. Some might not want it published and might want as little said as possible. Each case would have to be judged on its own particular circumstances, but I am fairly confident that the diocese would work with the cleric in coming to a solution that the cleric was comfortable with and wanted, so that he or she would be re-established back into the parish.

The Chairman: Could I, perhaps, bring this to an end? I am very grateful to you for your patience over what has now been an hour and a quarter of investigation by the Committee. I would just like to say that I very much support what Lord Griffiths and Lord Judd have said.

We have to bear in mind that the church has moved, and rightly moved, from a period of gross inaction, if I may put it like that, to wanting to do something practical to help the victims who will come, from time to time, to the attention of the bishop and the diocese. Thank you all very much indeed. Now we will hear the next Measure and then deliberate on both, if you are prepared to be patient a little longer. Thank you all very much indeed.

**Examination of Witnesses: Diocesan Stipends Funds (Amendment)
Measure**

John Booth, Chair of the Steering Committee for the Measure, **William Fittall**, Secretary General of the Archbishops' Council, and **Saira Salimi**, Deputy Official Solicitor to the Church Commissioners and Legal Adviser for the Measure

Q17 The Chairman: We have the new team for what I hope will not take quite so long. We are very grateful to you for coming. I take it, Mr Booth, that you are going to address us on this Diocesan Stipends Funds (Amendment) Measure. Thank you very much. Would you like to do that?

John Booth: Thank you. I was responsible for chairing the steering committee that took the Diocesan Stipends Funds (Amendment) Measure through the General Synod. I have also, for 11 years, been on the Archbishops' Council finance committee and currently chair the diocesan board of finance in the diocese of Chichester. My colleagues are William Fittall, Secretary General to the Synod, and Saira Salimi, Deputy Solicitor to the Church Commissioners, who provided legal advice to the steering committee.

You will, I hope, be pleased to hear that this a very short and technical draft Measure, which updates the Diocesan Stipends Funds Measure of 1953, to ensure that diocesan boards of finance have the same powers to make decisions about the investments of their diocesan stipends fund that they have in relation to their other charitable property. If passed, it will enable DBFs to pass resolutions under the Charities Act of 2011 to invest their diocesan stipends fund on a total return basis.

As a general rule, permanently endowed charities may make such a resolution if they consider it to be in the best interest of the charity, but, because of the current statutory restrictions on the uses to which the capital account of a stipends fund may be put, DBFs could not do so in respect of their stipends funds without this legislative amendment.

The draft Measure would not alter the purposes for which diocesan stipends funds could be used, but it would permit DBFs, like any other charity, to pass a total return resolution and allocate returns to the income fund and to the capital fund at their discretion. This would free the DBF to invest more flexibly and potentially for higher overall returns over the long term. A total return resolution is not a licence to spend money now at the expense of future generations. The DBF would continue to be under the obligation to maintain intergenerational equity by being even-handed between current expenditure and the preservation of the fund

for the benefit of future generations. That is clear from the Charity Commission's general guidance on total return investment and will also be made clear in guidance that the Archbishops' Council intends to give on the exercise of this new power.

The amendment that would be made by this Measure does not compel any DBF to alter its investment policy relating to its stipends fund. If a DBF feels that its present arrangements are satisfactory, it will be at liberty to continue investing its stipends fund exactly as it does at the present. The new provision is purely permissive, enabling a DBF that wishes to do so to invest and to allocate returns more flexibly than at present. All those who spoke on the Measure in synod spoke in its favour and only one person voted against it at final approval. I hope that it finds favour with the Committee.

The Chairman: Thank you very much. Am I right in thinking, Mr Booth, that this is really intended to provide a degree of flexibility? That is the purpose of it.

John Booth: Yes, absolutely.

Q18 Sir Peter Bottomley: This allows them to decide what their base level is, which seems to me eminently practical. Can I ask a question? Is there a restriction presently on the Royal Peculiars?

John Booth: I think that this does not apply to Royal Peculiars, but I am not sure of the answer to that.

Sir Peter Bottomley: Presumably they are not covered by the other legislation anyway, so they can do what they want, with the guidance they might get from their boss.

John Booth: I think that is the case.

William Fittall: The general point is that what we are doing here is removing an unfortunate kink in the present legislation. Charities in general now have this ability, and therefore I suspect that the Royal Peculiars would not have a problem because they would be bound by general charity legislation. It is precisely because our diocesan boards of finance are regulated by this statute going back to the 1950s that we have had to legislate to deal with the matter. It may seem rather a sledgehammer to crack a nut, but at the moment diocesan stipends funds are somewhere around about £1.2 billion, so we are not talking about a trivial sum of money here in terms of the overall assets of the church.

Sir Peter Bottomley: I am satisfied, although, going back 20 years, it did save the church from the dot-bomb disaster.

The Chairman: Who else would like to ask a question? It looks as though this one is really very simple. Thank you very much indeed for coming. We will now go into a private session and deliberate on both Measures.