

Section 10

Allegations of child abuse made against a member of the clergy or someone holding the Bishop's Licence

This section outlines the House of Bishops' (2004) Policy on responding to such allegations.

It is especially relevant to the Diocesan Bishop, his senior staff and all clergy.

It provides a process to be followed which manages the Diocese's response to such allegations in ways that address the needs of all concerned.

It provides clarity about individual roles and responsibilities.

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10.1 Introduction

An allegation of child abuse by a member of the clergy will not only have serious implications for the individual, their family and the parish, but also the Diocese and the community.

The Diocese affirms its commitment to the protection of children and young people, and seeks to promote this by working in a spirit of partnership and co-operation with the statutory agencies. It recognizes that both alleged victims and their alleged abusers have human rights (e.g. Articles 3,6,8,9 of the Human Rights Act 1998). Upholding these individual rights often involves competing interests. The right of the child to be protected from harm is paramount – see the Children Act 1989, as well as the Human Rights Act 1998.

These procedures provide a structure to ensure good practice is adopted in managing such a situation, and to address the inevitable conflicting needs of all involved. They are based on recommendations from the House of Bishops' Policy 2004.

The relevant parts of these procedures will also apply to diocesan personnel holding the Bishop's Licence.

The responsibility for communication between the Diocese and the statutory authorities is delegated to the Bishop's Child Protection Adviser.

The responsibility for communication with the media is delegated to the Diocesan Director of Communications.

10.2 House of Bishops' Policy 2004 - relates to both ordained and lay staff and volunteers

Suspension

In all circumstances where an allegation is made relating to beneficed or licensed clergy, licensed or accredited lay workers, paid lay staff or volunteers, consideration must be given to whether a person should be suspended from their duties whilst the statutory agencies undertake any investigation. Suspension should be seen as a neutral act.¹

Suspension allows for an individual to stand down or stand aside while matters of concern are considered. The suspension is primarily for the protection of children, but the needs of the person themselves and their family should also be considered, particularly in the light of media attention. In order to decide whether or not to suspend the person, the Bishop (or employer or manager) should seek legal advice and consult with the DCPA, who will have taken advice from the statutory agencies involved in the investigation. This guidance will assist in determining whether it is possible and appropriate to suspend the person temporarily or ask them to take leave of absence, or have their duties curtailed to prevent contact with children.² Decisions should always err on the side of caution. A person should always be suspended if he or she is charged with a criminal offence against a child or young person.

¹ The term 'suspension' is also used in matters regarding clergy discipline for a penalty imposed after a finding of guilt under the Ecclesiastical Jurisdiction Measure 1963 (to be replaced by the Clergy Discipline Measure 2003).

² Particular law of suspension of clergy – see Section 10.3

Pastoral support

During the investigation, the child or young person and their family will need support. Another person will need to support the alleged offender. People involved in support should be uninvolved with the investigation or disciplinary proceedings, and may be chosen from outside the diocese to ensure neutrality. The Police advise that it is important that these parties should not communicate with each other about the allegation, so that evidence is not contaminated. In the case of allegations against a priest, the Archdeacon will need to manage the impact of the investigation on the parish.

Matters to be considered following an investigation

An investigation may result in various actions. It may be shown that the person has no case to answer, or they may be charged with an offence and the Crown Prosecution Service (CPS) asked to consider prosecution. The person may concur with the truth of the allegation and accept a police caution.

In order for the CPS to sanction a prosecution, they have to believe that there is more than a 50% chance of gaining a conviction and also that it is in the public interest to prosecute.

The agencies undertaking the investigation should be asked to provide a report which can be used in disciplinary proceedings, for other decision making or for future reference. The report, which should be agreed with their legal advisers, should include any statements which parties have agreed can be used for this purpose, a factual account of the investigation, and an assessment of any continuing risk. It is helpful if the DCPA can agree the terms of the report at the beginning of the investigation.

Situations where there is no conviction

There are many reasons why a particular case may not come to court, but this does not necessarily mean there is no remaining concern, and indeed it may mean that the person is innocent. Even following an acquittal there may remain evidence of inappropriate or misguided behaviour which needs to be addressed. The advice of the statutory agencies should be sought about any continuing risk to children. It may still be appropriate in some circumstances, and in accordance with legal advice, to continue disciplinary action. If there remain unresolved matters of concern, either untested complaints of serious harm to a child or evidence of inappropriate behaviour by the adult, a professional risk assessment³ should be carried out to try to ascertain whether it is safe for the person to continue work which brings them into contact with children. Depending on the outcome of the assessment, and ideally as a result of consensual dialogue, it may be necessary or appropriate to introduce a regime of training and supervision or to re-deploy the person in another post.

Consideration should be given as to whether information should be passed to the Department of Health, so that they can decide whether the person should be placed on the Protection of Children Act List (POCALs) and the person banned from working with children. In the case of clergy, consideration should be given as to whether the person should be referred for inclusion on the Archbishops' Caution list⁴.

Re-deployment following conviction or caution

Careful consideration should be given to the future employment or volunteering role of the person involved. They may be banned from working with children. Even if not, it will only be in extremely exceptional circumstances, and following a professional risk assessment that a person who has a conviction or caution for harming a child in a **non-sexual manner** should be allowed to work or be a volunteer where there is the opportunity for contact with children.

Because of the compulsive nature of child **sexual** abuse, a person convicted or cautioned for any sexual offences against children should not work with or be a volunteer where he or she could come into contact with children.

³ More advice regarding risk assessments will be found in the accompanying House of Bishops Handbook of Good Practice (not yet published)

⁴ See Clergy Discipline Measure 2003 Section 38 for details of the Archbishops' List

This would include being an adult member of mixed-age activities. An agreement should be drawn up to define the relationship between the convicted person and the church community. (Section 5.9)

For people involved in pastoral or other authorized ministry, whether ordained or not, it may not be possible to provide the level of supervision required even if a particular post does not involve specific contact with children. People with such a representational ministry are regarded as trustworthy and as people of integrity, and this perception can be and has been used by offenders to target victims. Rehabilitation to any kind of representational ministry should be approached with extreme caution, should follow a professional risk assessment and any recommended treatment programme, and should be with the agreement of the local child protection agencies.

Completing the process

At the end of an investigation, court case or disciplinary procedure, all those affected will need to be informed of the result and arrangements made, where appropriate, for continued support, counselling or treatment. The effects of child abuse can be felt for many years after the abuse itself has ended.

The Diocesan Child Protection Management Group [in this diocese the Bishop's Child Protection Management Group] should meet and agree what lessons can be learned from the incident, and ensure that any changes to procedures or good practice are implemented both at diocesan and parish level.

In serious cases, or where someone makes a complaint about the process, it may be appropriate for the Bishop to ask for an independent review of the situation. This could be undertaken by an independent social worker, a neighbouring BCPA or the National Child Protection Adviser. Any recommendations regarding good practice should be disseminated nationally.

10.3 Powers of suspension in clergy discipline cases (House of Bishops' 2004)

Ecclesiastical Jurisdiction Measure 1963

This measure remains operative until superseded by the Clergy Discipline Measure 2003, described below. Under the Ecclesiastical Jurisdiction Measure 1963:

- Where a member of the clergy is either accused of a disciplinary offence under the Measure or accused of a criminal offence, the bishop has a discretionary power [in certain circumstances] to serve notice suspending that person from performing any duties within the diocese until the proceedings are concluded (or at any earlier time if the bishop serves notice revoking the suspension)⁵. If the accused is the incumbent of a benefice, [they] have the right to nominate a person to perform [their] duties while the suspension is in place (though the bishop is not bound to accept the nomination)⁶.
- Suspension from some or all clerical duties for a specified time is also one of the penalties that can be ordered by the ecclesiastical court if a member of the clergy is convicted of a disciplinary offence. In such cases an incumbent is not permitted to live in the parsonage house while [they] are under suspension (unless the Bishop agrees otherwise in exceptional circumstances)⁷. The suspension may not be lifted unless the bishop is satisfied of the cleric's good conduct during the period of suspension⁸. During the period of suspension the bishop may appoint another person to perform the suspended cleric's duties, and may require that person to live in the parsonage house⁹.

⁵ Ecclesiastical Jurisdiction Measure 1963 Section 77 (1)

⁶ Ibid Section 77 (2)

⁷ Ibid Section 49 (1)

⁸ Ibid Section 49 (2)

⁹ Ibid Sections 71 (4) and 72

Clergy Discipline Measure 2003

At the time of writing, this Measure is not yet fully in force. It is being brought into force gradually, and is expected to be fully in force by the end of 2005. For details of the current status of the Measure, please contact the Legal Office of the Church of England (email: legal@c-of-e.org.uk).

- The bishop has a discretionary power to serve notice suspending a cleric while a complaint under the Measure is being investigated, or where the cleric has been arrested on suspicion of committing a criminal offence¹⁰.
- The Notice stays in force for a period of three months or until the conclusion of the disciplinary or criminal proceedings (whichever is the earlier). If the proceedings are not concluded within three months, the notice may be renewed for successive periods of three months until such time as they are concluded¹¹.
- On each occasion that a notice of suspension is served, the cleric has a right of appeal to the president of tribunals, who has to confirm or revoke the suspension within 28 days¹².
- The bishop may, after consultation with the cleric and the churchwardens, make such arrangements as he thinks fit for the performance of clerical duties during the suspension¹³.
- Suspension remains a penalty that can be imposed by the disciplinary tribunal (it is described in the Measure as 'limited prohibition').¹⁴

10.4 Procedure

There are 4 stages to be considered in the light of an allegation:

- Stage 1 Initial reaction to allegation**
- Stage 2 Process of investigation**
- Stage 3 Outcomes**
- Stage 4 Follow up**

These procedures are to be followed:

STAGE 1: INITIAL REACTION TO ALLEGATION

It is the responsibility of the person to whom the allegation is made to report this to Social Services or the Police, as outlined in Section 3. However, in such a circumstance, if necessary, this person may seek support in making this referral and should contact the BCPA.

- Following the incident being reported to Social Services and/or the Police, it must immediately be reported to the Diocesan Bishop and the BCPA (if not already involved). (see Appendices B and C)
- When Police or Social Services receive a referral from outside the Diocesan structure, they should ensure that both the Diocesan Bishop and the BCPA are informed.

It is essential that informed communication between the statutory agencies and the Diocese is established at this point.

¹⁰ Clergy Discipline Measure 36 (1)

¹¹ Ibid Section 36 (3)

¹² Ibid Section 36 (6)

¹³ Ibid Section 36 (4)

¹⁴ Ibid Section 24 (1) (b)

- The BCPA will attend the Multi-Agency Strategy Meeting convened by Social Services, accompanied by an Archdeacon. The roles to be played by the church at diocesan and parish levels will be clarified at this meeting and guidance given. **It is the responsibility of Social Services and/or the Police to make the initial contact with the priest who is being accused and to decide whether there are grounds to conduct an investigation.**
- The Bishop, after taking advice, being satisfied there may be a case to answer, subject to the Ecclesiastical Jurisdiction / Clergy Discipline Measure (see 10.3), will initiate the appropriate procedure to suspend the priest with pay pending the outcome of the investigation, unless the priest voluntarily relinquishes his/her duties.
- The priest will remain suspended with pay until the outcome of the investigation.
- An Archdeacon will advise the Area Dean of the position to ensure adequate management of the parish.

A Core Group will be set up within the Diocese to manage the process.

This will include:

- The Bishop or his nominee
- An Archdeacon
- The Area Dean
- Two Church Wardens
- The Bishop's Child Protection Adviser (BCPA)

The Diocesan Registrar will be briefed by the Archdeacon, and guidance sought.

The Bishop's Director of Communications will be briefed, and in the event of media interest at any stage of the process, a statement will be drafted and advice given to the Core Group.

An initial meeting of the Core group members will be set up and members briefed on:

- the nature of the allegation
- the process of the investigation
- the way the process will be managed by diocesan officers, i.e. their specific roles and responsibilities.

Issues for the parish will be identified and support and pastoral care agreed for:

- the alleged victim and his/her family
- the priest and his/her family
- handling the repercussion for the rest of the parish and the deanery.

Boundaries regarding confidentiality will be established and the relevant people informed.

The BCPA will be responsible for ensuring minutes are kept of this and subsequent meetings which clarify the decisions made and which actions are to be taken by whom and when.

The priest will be advised by the Bishop or his nominee, within 7 days, on:

- the legal position, insurance cover, and employment issues
- the accommodation position

- when and how s/he will receive pastoral and spiritual support
- information re the investigative process
- the role of diocesan authorities in co-operating with the statutory authorities
- how and where the information will be shared in the parish, and assurance given that the needs of other family members will be identified and support given as appropriate

The parish will be visited by the Archdeacon or another senior member of staff - this visit should be made the first Sunday following the onset of the investigative process.

The purpose of this visit is:

- to communicate the position to the congregation within the boundaries of confidentiality established by the Core group and adhering to the guidance received at the Strategy Meeting
- to advise who will be responsible for carrying out the priest's duties (probably the Area Dean and Churchwardens)

The Core Group will use their discretion if there is public knowledge, as to how much should be shared with the congregation. Their work will be informed by the guiding principle of managing the shock reaction and attempting to contain anxieties.

Following liaison with Social Services, the alleged victim and his/her family may be visited by a member of the senior staff and the BCPA in order to:

- give assurance that the Diocese is taking the allegation seriously and is working with the statutory agencies
- listen to what the family needs and wants, and respond to this
- clarify how information will be shared in the parish, emphasizing that all efforts will be made to maintain confidentiality
- communicate that support structures are being set up for all affected, which include the alleged perpetrator and his/her family, and provide information about the availability of people from the Diocese.

Role of the Bishop's Child Protection Adviser

- The BCPA will be responsible for ensuring appropriate support is provided for all those affected:
 - the alleged victim (and his/her family)
 - the alleged perpetrator (and his/her family)
 - and others as identified by the Core group. The BCPA will liaise with those providing support to ensure they have the information and advice they need to fulfil their roles.
- Throughout, the BCPA will communicate with named persons within the statutory agencies. The BCPA will ensure Social Services is informed of how the pastoral support role of the church has been established, and the measures being taken which do not blur the investigative process.
- The BCPA will meet with the senior diocesan staff to share information, and provide advice, guidance and support.

STAGE 2 PROCESS OF INVESTIGATION

- The BCPA will remain in regular contact with named personnel in Social Services, the Police and any other agencies.
- The BCPA and the Archdeacon will attend the inter-agency meetings and Child Protection Conferences (if appropriate) convened by Social Services.
- The BCPA will liaise regularly with the Core Group.
- The BCPA will provide support and information to those key people directly involved in handling the issues.

STAGE 3 OUTCOMES

1. The priest is prosecuted and is convicted

In the event of a conviction (or caution) for any sexual offences against children, the priest will not be reinstated. While the new 'Clergy Discipline Measure' does away with "deposition", the House of Bishop's 2004 policy (see 10.3) makes it clear that "Because of the compulsive nature of child sexual abuse, a person convicted or cautioned for any sexual offence against children should not work with or be a volunteer where he or she could come into contact with children".

2. The priest is prosecuted and acquitted

The reasons for the finding of not guilty may vary – for example, there may be insufficient evidence, or the jury may have accepted the evidence for the defence rather than that for the prosecution – the reasons may not be known with certainty. The Bishop will consult the BCPA about whether, and to what extent, special precautions ought to be taken. The BCPA will consult the Police or Social Services about these circumstances.

3. The case does not proceed to court because:

- there is insufficient evidence
- the child retracts their statement

This should not be automatically interpreted as meaning that abuse has not happened. An acquittal is not a finding of innocence as some abusers would have you believe.

4. The priest admits liability and receives a caution.

The BCPA will consult with the Police or Social Services about these circumstances.

5. The investigation reveals the allegation is unfounded.

This could be because it reveals the child is being abused by an adult who is not the priest or the story is false.

In this instance, the priest should be re-installed to his/her parish/position in a way which publicly conveys that the allegation was unfounded.

6. The investigation reveals that there is significant substance to the allegation which, nevertheless, is insufficient to found a prosecution.

In this case the Core Group (see STAGE 1 above) should report its findings to the PCC of the church in question who would take such appropriate steps, if any, thought to be appropriate. The sole focus of any measure is to ensure that children in the parish are protected from any behaviour giving cause for concern. That the member of the clergy has not been prosecuted, should not be taken as a sign of innocence of the alleged

perpetrator. Indeed the PCC should bear in mind the different burdens of proof in civil (balance of probabilities) and criminal (beyond reasonable doubt) proceedings. The implementation of the recommendations of the Core Group should be reported back to the BCPA.

Risk Assessment:

- The BCPA will obtain as full information as possible relating to the investigation.
- The BCPA will clarify with the statutory agencies how judgements have been reached, with the view to establishing their professional opinion re the risks to child(ren). Where possible, such opinion will be obtained in writing.
- The BCPA and a member of the Child Protection Management Group will interview the priest. A report and assessment of this interview will be made. They may conclude that a much fuller assessment by a specialist is required.
- The BCPA will produce the report and analysis for the Child Protection Management Group.
- Both reports will be circulated to the Child Protection Management Group set up to assess the degree of risk to children and young people in this situation. The Bishop's Child Protection Management Group may establish a sub-committee to carry out its functions in reporting to the Bishop in such cases.
- The BCMPMG will:
 - invite the priest and his/her representative to make a submission in person or in writing;
 - consider all the information and arrive at a recommendation about the degree of risk to children;
 - make recommendation(s) to the Diocesan Bishop.
- The Bishop will:
 - decide whether to discuss their findings and recommendations with the BCMPMG (The Group's findings and recommendations will remain on file);
 - decide whether to initiate Disciplinary Proceedings under the Ecclesiastical Jurisdiction Measure / Clergy Discipline Measure;
 - decide whether to notify the Department of Health with regard to the possible inclusion of the name on the Protection of Children Act (POCA) list;
 - communicate his decision in person to the priest and his/her representative;
 - advise the Panel of his decision and what should go on the priest's file;
- The BCPA will advise Social Services of the Bishop's decision and the actions to be taken.

STAGE 4 FOLLOW UP

This depends on the outcome of Stage 3

- The BCPA will convene a meeting with the Core Group to plan the strategy for managing the aftermath at all levels.
- The Bishop's Director of Communications (BDC) will be responsible for liaison with the media, and provide guidance to senior staff and the BCPA.

- In the event of an unfounded allegation, the re-introduction of the priest to the parish will require sensitivity and a recognition of the trauma the priest and his/her family will have experienced. The Bishop will convene a meeting with the Archdeacon, the BCPA, the BDC and the Diocesan Registrar, to plan how to manage this in ways which publicly affirm the priest, support the family, and address the potential negative reaction from some parts of the church and community to this outcome.

To the parish

The congregation will be advised of the outcome. How this is communicated will be decided by the Core Group and agreed by the Diocesan Bishop.

To the victim and his/her family

The Bishop's decision will be conveyed directly to the family by the Bishop or a senior staff member. The BCPA may be asked to attend this meeting. This will involve liaison and co-operation with Social Services.

This will also apply in the event of an unfounded allegation.

To the priest and his/her family

The Bishop will convey his decision regarding disciplinary proceedings to the priest, including the possible implications.

If married, the priests' spouse will be offered a separate follow-up meeting.

Ongoing support for the spouse and the family will be arranged.

In the event of an unfounded allegation, the Bishop will ensure that the priest and his/her family receive appropriate support for as long as required to enable them to move on from the trauma of the allegation.

The management of the aftermath

The BCPA will:

- prepare a full report for the Diocesan Bishop and the senior staff;
- meet with the Bishop and senior staff to monitor the arrangements, establish all appropriate actions have been taken, and identify ongoing issues for those involved within 6 weeks of the outcome. Action on ongoing issues will be agreed and designated to appropriate person(s);
- be advised of the outcome of the Disciplinary Proceedings, and Social Services will be informed;
- convene a final meeting with the Core Group and with the BCPMG to reflect on how the inter agency relationship worked, and provide feedback to the statutory agencies. The Core Group will then be disbanded.