

---

STATUTORY INSTRUMENTS

---

**2005 No. 2022**

**The Clergy Discipline Rules 2005**

**PART IV**

**Consideration of the courses available to the bishop**

**Respondent's answer**

**17.**—(1) If the complaint is not dismissed under section 11(3) of the Measure, or if the President reverses such a dismissal, the bishop shall—

- (a) notify the complainant and the respondent in writing that the complaint has not been dismissed,
- (b) provide the complainant and the respondent with a copy of the registrar's written report unless previously provided under rule 15(1),
- (c) send to the respondent a copy of form 2 in the Schedule, and
- (d) request the respondent to submit a written answer to the complaint within 21 days using form 2.

(2) The respondent's answer shall be in form 2 in the Schedule, or in a document which is substantially to the like effect containing the information required for completion of form 2, and shall—

- (a) provide the full name, contact address including postcode, and telephone number of the respondent,
- (b) state which, if any, matters are admitted and which are contested,
- (c) subject to sub-rule (5), be accompanied by any written evidence in support upon which the respondent wishes to rely, plus a copy of any such evidence,
- (d) where the respondent admits any misconduct, give details of any matters relied upon by way of mitigation,
- (e) contain a declaration that the respondent believes the facts of the answer to be true, and
- (f) be signed and dated by the respondent, and be sent or delivered to the bishop, together with a copy.

(3) The maker of any statement submitted as evidence in support of an answer shall indicate which matters in it are within the maker's own knowledge and which are matters of information and belief, and shall identify the source of any matters of information and belief.

(4) Any such statement in support shall be made in form 3 in the Schedule or in a document which is substantially to the like effect, and shall contain a declaration that the maker of the statement believes the facts in it are true.

(5) The respondent may be granted a further 7 days by the bishop within which to submit any evidence in support.

(6) The bishop on receipt shall by way of notification send to the complainant a copy of the respondent's answer and evidence in support.

(7) Whether or not an answer is received in accordance with this rule the bishop may proceed to make a determination under section 12(1) of the Measure.

### **Extension of period for bishop to consider complaint under section 12 of the Measure**

**18.**—(1) Where the bishop proposes to extend by such longer period as the bishop considers to be justified in the particular circumstances of the case the period of 28 days for determining which course under section 12 of the Measure to pursue, the bishop shall consult the complainant and the respondent, stating the reasons for the proposed extension and the period of time proposed.

(2) The bishop may from time to time extend the period for determining which course to pursue for such period as appears necessary in the interests of justice, provided the complainant and the respondent are consulted as required by sub-rule (1) each time the bishop proposes to extend the period.

(3) Where the bishop decides to extend the period for determining which course to pursue the bishop shall notify the complainant and the respondent promptly in writing of the extension.

### **Other proceedings**

**19.**—(1) Where a respondent against whom a complaint is made in accordance with rule 4—

- (a) is, or is likely to be, subject to disciplinary proceedings in respect of any alleged misconduct during the course of any employment, or
- (b) serves in Her Majesty’s armed forces and is, or is likely to be, subject to any proceedings in respect of any alleged misconduct during his or her service in the armed forces, or
- (c) has been arrested on suspicion of committing a criminal offence, and is, or is likely to be, subject to criminal proceedings in connection with the arrest, or
- (d) is respondent to proceedings for divorce or judicial separation alleging adultery, behaviour such that the petitioner cannot reasonably be expected to live with the respondent, or desertion,

the registrar may, in accordance with rule 13, extend the period for submission of the written report until 28 days after being notified of the final outcome of those other proceedings or that such other proceedings will not be pursued.

(2) Where the registrar does not extend the period of 28 days under rule 13, the bishop may, in accordance with rule 18, extend the period for determining which course to pursue until 28 days after being notified of the final outcome of those other proceedings or that such other proceedings will not be pursued.

### **No further action**

**20.** Where the bishop under section 13(1) of the Measure determines there is to be no further action, the determination shall be in writing, and the bishop shall—

- (a) state reasons for taking no further action,
- (b) notify the complainant and the respondent that the complainant may refer the complaint to the President for consideration of the bishop’s determination,
- (c) send a copy of the determination to the complainant and the respondent.

### **No further action: referral by complainant to the President**

**21.**—(1) The complainant may refer the complaint to the President within 14 days of receiving the bishop’s determination that there is to be no further action.

- (2) Any such referral by the complainant to the President shall—
  - (a) be in writing in form 5 in the Schedule or in a document which is substantially to the like effect,
  - (b) state the grounds for requesting the President to consider the bishop's determination, and
  - (c) be accompanied by a copy of the complaint and of the respondent's answer with the written evidence in support of each, the registrar's report, and the bishop's determination.
- (3) Within 7 days the President shall notify the bishop and the respondent that the written referral has been received and send each of them a copy.
- (4) No new or further evidence may be submitted to the President for the purposes of consideration of the bishop's determination.

**No further action: President's decision**

22. Within 28 days of receipt of the complainant's referral, the President's decision shall be given in writing with reasons and sent to the complainant, the respondent and the bishop, and if the President decides that the bishop's determination was plainly wrong the President may direct the bishop to pursue such of the courses specified in section 12(1)(b) to (e) as the President considers appropriate.

**Consent to conditional deferment**

23. Consent by the respondent, given under section 14(1) of the Measure, to a conditional deferment of the complaint shall—
- (a) be in writing and be given in form 6 in the Schedule or in a document which is substantially to the like effect, and
  - (b) be signed and dated by the respondent.

**Written determination imposing conditional deferment**

24. The written determination to impose a conditional deferment shall contain the bishop's reasons and set out—
- (a) the period of deferment, and
  - (b) that the complaint and the conditional deferment will be notified to the archbishop and remain on a record maintained by the diocesan registrar for the period of deferment, and
  - (c) that, if during the period of deferment another complaint in accordance with rule 4 is made against the respondent and is dealt with by attempting to bring about conciliation, or by the imposition of a penalty by consent, or by means of a formal investigation, the recorded complaint may likewise be so dealt with together with the later complaint.

**Record of conditional deferment**

- 25.—(1) Within 21 days of obtaining the respondent's written consent to a conditional deferment the bishop must send—
- (a) to the complainant and the respondent a copy of the bishop's written determination, and
  - (b) to the archbishop a copy of the bishop's written determination, the complaint, and the respondent's answer, if any, whereupon the provincial registrar shall note the conditional deferment, and
  - (c) to the diocesan registrar a copy of the bishop's written determination, the complaint with evidence in support, and the respondent's answer, if any, with evidence in support, and the

diocesan registrar shall maintain a record of the conditional deferment for such period not exceeding five years as the bishop may determine.

(2) The registrar's record of the conditional deferment shall not be open to public inspection but shall be made available to diocesan bishops and registrars.

### **Conciliation**

**26.**—(1) Where the bishop directs under section 15 of the Measure that an attempt at conciliation should be made, the bishop shall notify the complainant and the respondent accordingly and invite them to agree to the appointment of the conciliator within 21 days.

(2) Subject to the agreement of the complainant and the respondent under sub-rule (1), the bishop shall propose in writing the name or names of potential conciliators with details of their suitability, experience and qualifications for appointment, and shall invite the complainant and the respondent to indicate within 14 days which names, if any, they would each agree to be appointed. Provided the complainant and the respondent agree on a person to be appointed and the bishop has no reason to question that person's impartiality, the bishop shall appoint that person as conciliator.

(3) At the time of appointment of the conciliator the bishop shall supply the conciliator with a copy of the complaint and the respondent's answer, together with the evidence in support of each.

(4) The conciliator may use such conciliation procedures as he or she thinks fit.

(5) The conciliator shall use his or her best endeavours to bring about a conciliation within 3 months, or within any further period he or she allows with the agreement of the complainant and the respondent.

Where the period for bringing about a conciliation is extended, the conciliator shall notify the bishop.

(6) Where a conciliation has been brought about—

(a) The conciliator shall—

(i) reduce the agreed points into writing and obtain the signatures of the complainant and the respondent, and

(ii) submit to the bishop the signed points of agreement and a written report signed by the complainant and the respondent with such recommendations as the conciliator may wish to make.

(b) Within 21 days of receipt the bishop shall notify the complainant and the respondent in writing that the bishop—

(i) accepts the signed points of agreement, and

(ii) that the bishop will pursue any agreed course, provided the bishop could have pursued that course under section 12 of the Measure had the bishop not instead directed an attempt be made to bring about conciliation.

(7) If a conciliation is not brought about but the complainant and the respondent agree that another conciliator should be appointed, the bishop may appoint that other conciliator.

(8) If a conciliation is not brought about, and the complainant and the respondent do not agree to a further period of time under sub-rule (5) or to the appointment of another conciliator under sub-rule (7), the matter shall be referred back to the bishop.

(9) If the complainant and the respondent do not agree to the appointment of a conciliator or to any of the proposed names to be appointed, or if the matter is referred back to the bishop by the conciliator under sub-rule (8), the bishop shall deal with the complaint under section 12(1)(a), (b), (d) or (e) of the Measure.

### **Penalty by consent**

27.—(1) A penalty by consent under section 16 of the Measure may only be imposed in respect of such misconduct alleged in the complaint as the respondent admits.

(2) In addition to resignation by consent under section 16 of the Measure, any of the penalties that may be imposed under section 24 of the Measure upon a finding of misconduct may be imposed by consent under section 16 of the Measure.

(3) Where the bishop considers that the imposition of a penalty might be appropriate, the bishop shall invite the complainant and the respondent to make written representations if they so wish upon the proposed penalty within 14 days.

(4) The respondent's consent to the proposed penalty must be given in writing in form 7 in the Schedule or in a document which is substantially to the like effect. Subject to sub-rule (5) below, the bishop shall send the respondent written confirmation of the agreed penalty within 7 days of receiving the respondent's consent.

(5) Where the bishop and the respondent agree that prohibition for life or resignation is appropriate and agree upon a date for it to take effect—

- (a) The bishop shall give the respondent written notice that either of them may withdraw from the agreement by notifying the other in writing of the withdrawal within 7 days following the date of the agreement.
- (b) At the end of the 7 day period, if neither the bishop nor the respondent has given written notice withdrawing from the agreement the bishop shall send the respondent written confirmation of the penalty of prohibition for life or resignation, as the case may be.
- (c) In the case of resignation, no deed or letter of resignation from the respondent shall be required to implement the penalty.
- (d) The agreed date for the prohibition or resignation to take effect shall be not later than 3 months after the bishop's written confirmation.

(6) The bishop shall notify the complainant in writing of any penalty by consent within 14 days of sending the written confirmation to the respondent.

(7) The bishop shall notify the archbishop and the registrar of the diocese in writing of the penalty imposed by consent within 14 days of sending the written confirmation to the respondent.

(8) If the respondent does not consent to the imposition of a penalty or does not agree with the bishop as to the nature of the penalty, the bishop shall direct that the complaint is to be formally investigated in accordance with rule 28.

### **Reference to the Designated Officer for formal investigation**

28.—(1) Where the bishop directs under section 12(1)(e) of the Measure that the complaint is to be formally investigated, the bishop shall refer it to the Designated Officer, and shall supply the Designated Officer with a copy of the complaint and the respondent's answer together with all written evidence in support of each of them, and the registrar's written report.

(2) Within 14 days of referring the complaint to the Designated Officer the bishop shall give written notice of the referral to the complainant and the respondent.

(3) The complainant and the respondent shall co-operate with the Designated Officer during the investigation, in particular by responding in writing within 14 days (or such extended period as the Designated Officer may allow) to any questions asked by the Designated Officer for the purpose of clarification of the complaint or the respondent's answer or of the evidence in support of each.

(4) If any new material information is disclosed to the Designated Officer by or on behalf of the complainant or the respondent in the course of the investigation, the Designated Officer shall pass it on to the party who did not disclose it and invite that party to comment within a stated period of time.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

(5) The Designated Officer shall investigate the complaint and shall send or deliver a written report to the President within 3 months of the date of the receipt of the documents specified in sub-rule (1).

The time within which the Designated Officer is required to report to the President may be extended for such period as the President deems to be justified in the particular circumstances of the case. Any application for an extension of time shall be made by the Designated Officer in writing to the President.