

Partial transcript from the General Synod

Tuesday, 10 February 2026 — Clergy Conduct Measure

Item 500: ‘That the Synod do take note of this Report.’

The Chair (Mr Sam Wilson):

Good morning, Synod. We now come to item 500, a take-note debate on the report from the Legislative Committee. Members will need the report, GS2311W, the Clergy Conduct Measure itself, GS2311B, and I also bring your attention to Notice Paper 6, the financial impact paper, particularly paragraphs 8 to 11.

It has been some time since the Synod has considered the reintroduction of a measure, and so I will briefly explain how the process will work. In a moment, I will call upon the Bishop of Chichester to speak to and move the motion, but the Synod do take note of the report from the Legislative Committee. Once he has spoken, the item will be open for debate.

Members will need to limit their contributions to matters that are contained in that report. Following a vote on the report, I will then call upon the Bishop of Chichester to move the motion that the measure entitled Clergy Conduct Measure be now reintroduced into the Synod. That item will then be open for debate. If the Synod does not vote in favour of the motion to reintroduce the measure, then the motions for the proposed amendment and the final approval cannot be moved and the business ends.

Should the Synod vote in favour of the motion, we will then proceed to consider the amendment at item 507. Once the amendment has been dealt with, the Bishop will then move the motion that the measure be given final approval. The usual rules in the debate on final approval will apply and motions for the closure, the speech limit or next business will not be in order and the approval must be carried in all three houses. I will remind the Synod what the procedure is at each stage.

So I begin by calling upon the Bishop of Chichester to move the motion at item 500, that the Synod do take note of this report. As I understand, he won't be using his full time on moving some of the later motions. He has 15 minutes to speak. Thank you.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

Thank you, Chair.

Dear Friends in Christ, good morning. I hope Synod will find it helpful if I first give a very brief historical outline of the constitutional settlement that has brought us to this point. I hope it will then become clear that members of the Ecclesiastical Committee of Parliament have sought to act in the best interest of the Church of England in building trust with survivors, the clergy, Parliament and the nation at large, and finally that a way forward is available to us.

So the history. The Church of England Assembly (Powers) Act 1919 was passed, and in the words of Archbishop Randall Davidson, passed to enable the church to do its work properly. It was needed because church reform had ground to a halt. But the passage of the bill was not without controversy. Some decried it as a blatant political manoeuvre, while others accused it of being a high church conspiracy. I wish. Nevertheless, there was unanimity that if the bill were to pass, then, in the words of the Lord Chancellor, Lord Birkenhead, no one would justify the delegation of powers so absolutely unlimited to an assembly unless you were able to justify and make good the safeguards that are contained in the latter part of the bill.

And the safeguards he was referring to are the powers of the Ecclesiastical Committee of Parliament. That body, a joint committee of both houses, has a duty to report to Parliament on the expediency of Church of England measures. and in the words of Section 3(3), especially with relation to the constitutional rights of all His Majesty's subjects. So before the Ecclesiastical Committee presents any such reports to Parliament, it communicates its draft report to the Synod's Legislative Committee. From time to time, the Ecclesiastical Committee may find a measure not expedient, on account of a concern about a particular provision. This is not a rejection of the measure, but a request to think again about a detail.

It will be helpful to recall the procedural history of the Clergy Conduct Measure. The Synod first considered it in July 2023, after which it was remitted to a revision committee. It then came back to Synod in July 2024 for full revision and was then considered for final drafting and final approval in February 2025. On that occasion, the motion for final approval passed with no votes against. The subsequent history is set out in GS2311W.

Following an informal meeting to discuss the measure, The Ecclesiastical Committee sat formally in public on the 10th of July to hear representatives of the Synod on the measure and then met in private on the 7th of July and the 21st of October 2025. On the 30th of October, the Clerk to the Ecclesiastical Committee wrote to the Secretary of the Legislative Committee with a draft report setting out the reasons why the measure was found not to be expedient.

The Ecclesiastical Committee's principal concern centres on the operation of Clause 31(3), which provides that a court or tribunal is to sit in private unless certain exemptions apply. Members may recall that during the revision stage, Synod considered an amendment from Clive Scowen, which would have replaced the presumption that the tribunal or court is to sit in private with a presumption that it would sit in public.

On that occasion, the chair of the standing committee resisted the amendment on the basis that if the default were that hearings were in public, then a real concern existed about the willingness of vulnerable witnesses to come forward and give evidence. The steering committee were of the view that the proportionate way forward was to maintain the presumption that hearings were held in private, but that the tribunal or court could order the hearing to be opened to the public where it considered that it was in the interests of justice to do so, or where the respondent requested that the hearing is in public. and thereby protecting all parties until such time as the outcome was made fully public. At that debate, the requisite 25 members did not stand to indicate that they wished the debate on the amendment to continue, and as a result, the Scowen amendment lapsed.

The Ecclesiastical Committee, however, considered that the clause should operate the other way round, so that the starting point is that hearings would be in public unless a specified exception applied. They considered that it is an important point of principle that the Church should be seen to be as transparent as possible and to regain the trust of the nation at large and that of Parliament.

Their decision was far from being hostile in intent. The Legislative Committee decided to withdraw the measure and seek Synod's approval of an amendment that would meet the concerns of the Ecclesiastical Committee and thus enable this important measure to come into operation.

If the Synod votes for the reintroduction of this measure, I will move that amendment which would provide that a tribunal or court would sit in public except in circumstances in which the tribunal or court were satisfied that it is in the interests of justice to sit in private, or in such circumstances as the rules may specify. This is a decision that judges are very familiar with making, in circumstances concerning a child, for example, or asking a vulnerable witness to give evidence.

After a meeting with the members of the Ecclesiastical Committee on the 8th of December last year, the Legislative Committee was reassured that its proposed amendment would meet the concerns raised by the Ecclesiastical Committee in full. It is the hope of the Legislative Committee, therefore, that Synod will agree to reintroduce the measure and then agree to the amendment to clause 31(3).

Synod will note from the text of the Legislative Committee's report that three further concerns were raised by the Ecclesiastical Committee. These were secondary to the Committee's concern on Clause 31, but again, following the 8th of December meeting, the Legislative Committee is satisfied that no other amendments are required, and we are confident that the Ecclesiastical Committee would deem the measure as we proposed and amended it to be expedient.

Members will also note that the report from the Legislative Committee mentions the National Church Governance Measure. While the Synod is not considering that measure at this group of sessions, it is only right that I update the Synod on the current state of play.

On the 2nd of December last year, the Legislative Committee was sent the draft report which indicated that the Ecclesiastical Committee were of the view that the National Church Governance Measure was not expedient. The reasons for that are set out in GS2311W. Members will note that paragraph 38 of the Legislative Committee's report records that we are seeking further discussions with the Ecclesiastical Committee and I'm pleased to report to the Synod that this took place on the 26th of February and was very fruitful.

The Legislative Committee will now meet again to consider its recommendation to Synod on how to proceed and intends to bring that recommendation to the July 2026 group of sessions. After this very detailed explanation to the Synod, I propose to move the other options in my name very briefly. So in items 501, 507 and 502, I will ask you to reintroduce the measure, to accept the amendment and to give final approval once again to the Clergy Conduct Measure. But now I ask Synod to take note of the report.

Thank you.

The Chair (Mr Sam Wilson):

This item is now open for debate. The speech limit will begin at five minutes. I want to remind you that your contributions should be directed to the matters in the report. And also I'd like to ask you, all Synod members, to project your voice when you come and speak at the podium. Sometimes the microphones don't pick you up very well. So talk as if the microphones aren't there and then we can make sure that everyone can hear you very well.

I'll begin by calling the Dean and the third Church Estates Commissioner.

Morag Ellis KC (Dean of the Arches):

Thank you very much, Chair, for calling me.

Synod, I speak in support of the motion that the Clergy Conduct measure be reintroduced with the amendment proposed, and then that the measure be given final approval. I have three points to make.

The first point, the measure is of great importance for the Church's flourishing internally and externally. And by externally I mean in the sense of the Church's public standing. Clause 1 of the measure captures this. It imposes a duty to have regard to the purpose of the system at all stages and it identifies that as purpose A, to maintain the collective good standing of clergy and to hold to account those clergy who fall below the standards required of them; and B, the role of bishops and archbishops in administering discipline, if you like, the external and the internal.

Synod has made it clear that it wants the new arrangements for our own flourishing. And Synod has clearly expressed its recognition of the need for this new measure on more than one occasion. And as I have said, the measure itself properly reflects the public interest in the Church's regulation of the conduct of its clergy.

Point 2, The Ecclesiastical Committee of Parliament have a proper and important role in our established church. We have the power to make the legislation that the church needs, but there's a partnership with Parliament, and they represent the people of this country as a whole, and we are fortunate enough to live in a democracy.

Thank you, God, for that. And we must respect and preserve that democracy. As I've pointed out, Section 1 of the Measure recognises the importance of Parliament's role of the public interest. It's therefore right for Synod to pay careful attention to what the Ecclesiastical Committee have said. They've raised a point which goes to the public acceptance of both the Measure and the Church's handling of clergy discipline.

Open justice is a fundamental principle of our unwritten constitution. Hallelujah. And this is what is on the mind of the committee. I attended a very useful, relatively informal discussion with them a few weeks ago.

Number 3, case management powers. The proposed amendment affects the starting point, a starting presumption in favour of a hearing in public, as is the case in most other forms of proceeding in this country. But, and this is a big and important but, the measure and the rules under it will retain case management powers for the tribunal chair or for the judge of the Vicar General's Court or for my courts on appeal. So the person presiding at the relevant hearing will be able to order that some or all of it be heard in private for good reason. And an obvious good reason would be to take the evidence of vulnerable witnesses on either or both sides.

I explained this point carefully and in some detail to the Ecclesiastical Committee. I took their questions about it at the meeting, and they understood and were sympathetic to the point. I'm therefore confident, although I can't bind them, that they will find the measure expedient as proposed to be amended, and I ask you, Synod, to approve that.

Thank you.

The Chair (Mr Sam Wilson):

After the Third Church Estates Commissioner, I will call the Archbishop.

Sir Robert Buckland (Third Church Estates Commissioner):

Thank you, Chair.

I speak in similar support of the motion that the measure be reintroduced and then approved, and I endorse the remarks by the Lord Bishop of Chichester and the Dean of the Arches about the important balance that has to be maintained between the devolved powers that General Synod enjoys and exercises vigorously and the need for there to be the scrutiny and surveillance, if you like, by the democratically elected Parliament.

It would be far worse, Chair, if powers had been devolved and then this institution was simply forgotten. And therefore, it is perhaps a welcome reminder that in the public arena, parliamentarians are taking a very keen interest in the life and reputation of our church. And the important word trust has to be at the heart of all of this.

As has already been said, the use of public procedures and open justice is a core part of our system of the rule of law. And the exceptions that will be used by way of this amendment are entirely ones that are familiar to the system and indeed will protect vulnerable people.

Can I speak briefly to one of the concerns raised by the committee about disappointment, in their words, that a full set of rules had not been provided for them prior to the production of their report? It's not right to say that nothing was provided. An indicative set of rules was indeed supplied, which was about 75 per cent complete.

Now there are several key matters that arise from this. First of all, the rules are made by way of secondary legislation. That is always done after the passage of primary legislation itself. And the production of a full and authoritative set of rules risks being entirely premature if presented in that way before the full shape of primary legislation is known.

And secondly, the making of rules in this instance is of course a task for General Synod. We have the primary jurisdiction to make them. Presenting a full set of rules to the Ecclesiastical Committee of Parliament risks usurping the vital role of this body in receiving, scrutinising and amending those rules before they go to Parliament. which would then consider them by way of negative resolution passed before both House, before then they would become law.

So the rules themselves can only ever be in draft as a matter of law, because the power to make them does not come into force until Royal Assent is given to the primary legislation themselves. And strictly speaking, the consideration of rules and other secondary legislation is not actually within the function of the Ecclesiastical Committee in any event.

Now, having said all that, I do think it's vital that the legal office here works closely with the Committee in their deliberations and that all appropriate assistance is given as has been the case here. But it is vital that we all understand the constitutional parameters and use this experience to inform ourselves as to the respective roles of Synod and the Ecclesiastical Committee, which clearly will become relevant when it comes to ongoing consideration of the church governance measure.

I commend the Bishop's report to Synod. Thank you.

The Most Revd Sarah Mullally (Archbishop of Canterbury):

Synod, I welcome this report from the Legislative Committee. I will support the motion to reintroduce the Clergy Conduct Measure and the amendment proposed by the Committee so that we may give the Measure full approval, all of which I hope will take us a step closer to the Clergy Conduct Measure being implemented.

I'm grateful for the work of Synod over the last few years as it has been given careful attention to the measure as it has gone through each stage of the process. I'm also grateful to the Legislative Committee and the previous steering and revision committees and the work of the Legal Office for all that they have done to enable us to get to this stage. Finally, I welcome the proper scrutiny that has been brought to this and all measures by the Ecclesiastical Committee and the proper exercise of their role to ask us to think again when they consider it appropriate. Proper scrutiny is an appropriate part of the process, just as it is as part of our disciplinary process.

Synod, the road to this point has been long and involved contributions from so many interested parties. It is right that we seek to move towards the new system that this measure will give us and I welcome the way in which these proposals will work, not least the way in which serious allegations about bishops and archbishops will go directly to the President of Tribunals. I welcome that additional clarity and the fact that they have been long part of these proposals.

Having read the report of the Ecclesiastical Committee, I understand why those in Parliament charged with scrutiny of our work have reached a different conclusion to the one that Synod originally favoured. Being asked to think again has been a helpful check and balance and is a sign that the system is working.

In light of the report from the Ecclesiastical Committee, embedding into the immersion a presumption that tribunals will sit in public does seem to me an appropriate way to proceed. It follows the practice in other professions and brings further transparency to enable justice to be seen to be done.

This amendment, the amendment we will, I hope, consider, introduces appropriate safeguardings that it will enable a tribunal to sit in private in cases involving children in particular, and so strike the right balance between handling complex and sensitive matters alongside public confidence in the system.

The Clergy Conduct Measure, of course, is not the only important piece of work in this area of our life. It sits alongside other work which addresses broader issues of greater accountability for all clergy and those involved in public ministry. This work recognises also the need to pay attention to clergy wellbeing and the need for robust processes that deal not only with misconduct but with other HR issues as well.

Such steps towards accountability and assurance that clergy are fit for their ministry and are supported in that ministry is vital in order that those who minister in the name of Jesus Christ can do so confidently and boldly. Synod has already shown overwhelming support for this measure. I trust that we will now be able to deal with the matters of the matters the Legislative Committee bring to us this morning and once again support the motion that is before us.

The Chair (Mr Sam Wilson):

I call the Chair of the House of Laity.

Jamie Harrison (Chair of the House of Laity) (Durham):

Even I don't go back to 1919, but I do go back to 1996 when Canon L Hawker brought the report "Under Authority" (GS 1217) to the Synod. At that stage, I was quite involved in the regulation of doctors through the GMC, and it seemed appropriate to engage with the work that led, of course, in 2003 to the Clergy Discipline Measure.

The difficulty there, of course, was that before that we only had what's called the 1963 Ecclesiastical Jurisdiction Measure, which was hardly ever used, incredibly expensive and very inflexible. So we are on a journey, we always say that, don't we, are on a journey, but this is a significant journey that we're making from 1919 through 1963, 96 and so on.

I also attended the meeting on the 26th of January, the informal meeting with the Ecclesiastical Committee, my first time with that grouping and I was impressed by the commitment of parliamentarians both across party and in both houses of Lords and Commons. And I'm very grateful to the Bishop of Chichester and his leadership of this work. I'm a member of the Legislative Committee as well as a member of the Clergy Discipline Commission, so this work is very much going in the right direction and I think it was a pity we didn't manage to debate Clive Scowen's proposal some time ago when if more of us had stood we would at least had a chance to talk it through and debate it and vote on it.

But I think what I want to say is that I'm very grateful for the Ecclesiastical Committee, their commitment, their interest, their desire for the best for the church and for the nation. They are good people who want the right outcome. So when they say something's not expedient, they're giving us a message. They are not allowed to amend our work. They can only send it back, but they send it back with advice and direction.

So I do hope we can go forward with this with confidence and again remain grateful for the work that our parliamentary colleagues bring to this.

The Chair (Mr Sam Wilson):

I call Neil Robbie and Ian Johnson.

The Revd Neil Robbie (Lichfield):

Thank you, Chair, for calling me.

I was invited to participate in the early CCM consultation as a respondent who'd been, had, CDMs dismissed, and I was suggested that those consultations that hearings should be heard in public. So I support the proposed amendment that's going to come to us. I also support the reintroduction of the measure to Synod. But I do wish to raise a note of caution about one CCM clause which perpetuates one of the most damaging CDM practices.

Clause 23 outlines the process for handling a grievance by the delegated person appointed by a Diocesan Bishop or the President of tribunals. Delegated. Designated person according to the clause 23(2) who must wear two hats, the first of the investigator, who is to dig deeper and find more evidence, and a second hat as a mediator charged with resolving a grievance. This dual role creates a conflict of outcome, which will create uncertainty, lack of clarity and conflict in the clergy respondent.

The threat of having any evidence returned up or escalated back up towards misconduct or serious misconduct leaves the clergy respondent in a tensioned place. When asked to engage in conversations, do I go with my defence lawyer or do I open into a reconciliation process? That ambiguity needs to be resolved.

The effect of the clause before us happened to me during my CDM. I was called to an extra-judicial meeting for, I quote, "a free-flowing conversation to magnify my barrister's rebuttal of the dust and registrar's charges against me". My barrister advised me not to attend the meeting. I felt pressured to go because I didn't want to appear uncooperative.

The experience was very horrendous. And when I was asked to expand my responses, I decided to tell my bishop that everything that had been said in my barrister's report was all I wanted to say. The respondent and the complainant need the truth to be known, for what has happened to be brought into the light, and only then can responsibility be owned, apologies made, and the forgiveness of Jesus Christ offered and received.

If the clergy are going to engage without fear in a process to resolve a grievance, then the delegated person cannot have conflicting goals. Either the investigation is required and the respondent has a legal representation during that, or the legal case is dismissed and the designated person becomes a mediator of a grievance. The diocesan staff will know whether they have sufficient information to proceed towards mediation or whether to investigate and dig up more information, but that goal needs to be made clear at that stage and the ambiguity of clause 23(2) removed.

The delegated person should choose, tell the complainant and respondent which course of action will be adopted, which goal is being sought, and this, I think, can be made clear in the rules and the code of practice, but I think we need to acknowledge today that there is a serious ambiguity in clause 23(2), and we may choose to accept the CCM legislation as it stands, and I think we should do that. But also note that the code of practice and rules need to take into account the ambiguity.

Thank you.

Dr Ian Johnson (Portsmouth):

Thank you, Chair, for calling me.

The various comments that we've heard this morning on the importance of the Ecclesiastical Committee are very welcome. Very welcome. And in the case of the national Church Governance Measure, which I'm going to talk to, absolutely essential.

Paragraphs 35 to 39 of this report refer indeed to the national Church Governance Measure. And the Ecclesiastical Committee's response to Synod's proposals. I don't know how many of Synod listened or saw the open meeting of the 12th of November in which this proposal, having got its third consideration from Synod, was considered by the Ecclesiastical Committee. And I think it's fair to say that the Committee's response was not far short of scathing.

Its many points of objection had a common theme, and this was the lack of independent oversight in the proposed sense. So looking forward, and I do emphasise, let's not look back, I would make a plea for our legislative committee to build on the third consideration and to respond positively to these criticisms and not, as might happen, to still try to reject independent oversight.

I have long been a critic of our lack of independent oversight. I make no excuse for repeating the phrase again and again of our NCIs, of Archbishop's Council and what is intended to be the Church of England National Services — CENS. I wrote a very short paper giving three ways how to provide commensurate, commensurate independent oversight and it might be achieved. I will briefly go through them.

Firstly, it could adapt the system being proposed for safeguarding following Synod's vote in February last year in GS2378. GS2422, the safeguarding code of practice, safer recruitment and people management, still deemed, I have to say, unfortunately, refers to the Safeguarding (Clergy Discipline) Measure of 2016. And in that measure, there is a duty to comply would be placed on CENS in the same way that the measure imposes a duty to comply on independent charities such as PCCs and DBFs.

While GS2429, the latest incarnation of the safeguarding oversight proposals, does not mention comply or the measure, I presume that its new charity, the Independent Safeguarding Authority, will have to have some power very similar to this. It's a model that could be used without great difficulty for CENS and our other NCIs.

Alternatively, option two, I've been told by our law office that anything can be legislated. Good news. This being so, we could define a church charity, one specific to our church, that has all the characteristics of a secular one, with the additional one being subject to external oversight.

And finally, and I suspect even more controversially, because I've tried to get an opinion from our law office on this and completely failed, the NCIs were created by Parliament and exercise delegated authority from Parliament. Parliament does not enact self-regulating legislation. And this point was made very clear indeed at the Ecclesiastical Committee. They could not have been clearer. There was shock and horror at some of the proposals that were considered in the third consideration. Parliament does not enact self-regulating legislation. So the NCIs cannot legitimately oversee themselves, as happens at the moment with our committees on Archbishop's Council.

And in this sense, the church charity, though, already exists, because if our NCIs are subject to parliamentary rules before they are to charity law rules, then it's a done deal. So there are three ways forward for independent oversight if we really want to do it. Our church has been paying the bills, and so some kind of insight I suggest Synod should have. That's a further discussion that we need to have. But in the meanwhile, let me encourage please Synod and the legislative committee to consider very seriously independent oversight for settings.

Thank you.

The Chair (Mr Sam Wilson):

I call the lady in the grey. And the speech limit is three minutes.

Karen Czapiewski (Gloucester):

Thank you for calling me.

I will not need three minutes. Taking us back to the Clergy Conduct Measure, I merely wanted to make the point that we are the established church in a democracy that works with the principle of open justice, and that should be commended.

The Chair (Mr Sam Wilson):

I call the person there, and Lisa.

The Revd Dr Catherine Shelley (Leeds):

First of all, I just wanted to absolutely commend the reintroduction and the amendment. I did a little bit of research into other professional bodies. My own was the Law Society, like the General Medical Council, like the General Dental Council, like many others. Their default is to hold tribunals in public.

So in accepting this amendment, we would be effectively going with standard practice across many professional bodies.

But my other point, and it's just a quick question really, is looking at the amendment itself, 31(3)(a) seems to give quite a wide discretion to the tribunal about exercising a private sitting if it's in the interest of justice. And then in 3(b), there are separate circumstances which the rules may apply or specify. My reading of that is that there is that wide non-rule-based discretion and then the discretion or the rules set out as a secret set of circumstances.

It just might be helpful before we vote on the amendment to have clarification as to exactly how that will work and the breadth of that discretion.

The Revd Canon Lisa Battye (Manchester):

I don't want to speak for long, but thank you that I may.

I want to endorse what Neil Robbie said and also use this opportunity that has been provided by this coming back to us to make the simple, obvious point that the CCM as produced is not yet perfect. Therefore, the guidance document is going to have to do a lot more work and people cannot sit back thinking this is safe.

There were things in the Revision Committee's experience where individuals such as myself had to bring one or two things in order to achieve some small changes. And there were things we had to let go in the process of the difficulty of creating those changes.

And one of those was clause 30. Other things have been mentioned. And so would the chamber please also bear in mind there are hundreds of people who were respondents under the CDM who are still hoping that there will be redress in some way for the suffering that they went through that was because that measure was flawed.

This one is a lot better. It's great, but it is not yet perfect. So please, can I give every endorsement to those dear people who are continuing to work on the guidelines as to how it can be used? And can we not be complacent?

The Chair (Mr Sam Wilson):

I now wish to test the mind of Synods on whether item 500 has been sufficiently debated. I therefore put the motion for closure on item 500. Those in favour of the motion for the closure on item 500, please show. Those against the motion for closure, please show all red crosses on Zoom. That has carried. I now invite the Bishop of Chichester to respond to the debate. He has up to five minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

Thank you, Chair, and thank you for everybody who's contributed.

I'd like just to draw out one or two very important comments, I think. First of all, the Dean of Arches raised the question of open justice, a really important principle for us to be seen to be practicing. I was really very grateful to Robert Buckland, the Third Estates Commissioner, for reference clarification on the rules. and the point at which it's possible to draft rules, and the fact that the rules will come to the July Synod, and it's a vital role of this body then to scrutinise them and to agree them.

I'm grateful to the Archbishop of Canterbury for the comments on proper scrutiny, and I do believe that what is before us now is congruent with the issues about safeguarding and transparency, which were in her powerful presidential address.

To Ian Robbie, thank you very much. You pointed out code of practice and rules, and that is where your concerns, I think, will be raised and clarified and discussed, of course. And also to Ian Johnson, your point about independent oversight is well made. There is further work being done between the Ecclesiastical Committee and the Legislative Committee, and discussion of that will be brought forward to the July sessions of the General Synod.

Finally, Catherine Shelley, a very important point about the breadth of provision, which seems to be in 3(a). First of all, judges are very familiar with this. Secondly, there is an important word in that, in the draft that we have before us, the statement, sorry, of the amendment, and it's the word satisfied. So it isn't just, I think, perhaps this is what we'll do. It is that this has to be very carefully considered and that the judge or whoever is in charge of the court is, or tribunal, is satisfied that the decision follows to be heard in private. So I think, I hope that addresses the concerns there. Thank you.

The Chair (Mr Sam Wilson):

I now put item 500 to a vote that the Synod do take note of this report. Voting be by a show of hands or green ticks and red crosses on Zoom. Those in favour, please show. And those against. That motion is carried.

Item 501: ‘That the Measure entitled “Clergy Conduct Measure” be now reintroduced into the Synod.’

The Chair (Mr Sam Wilson):

We now move to item 501, the motion that the measure entitled Clergy Conduct Measure be now reintroduced into the Synod. If the Synod votes for the reintroduction of the measure, we will then move to the amendment at item 507. If the Synod does not vote to reintroduce the measure, then the amendment will not be taken and the measure will remain remitted to the Legislative Committee in its current form.

I call upon the Bishop of Chichester to move the motion. He may speak for up to 10 minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

I shall need 10 minutes. For the reasons I’ve already stated, I invite the Synod to agree to the reintroduction of the measure so that we can then consider the proposed amendment.

The Chair (Mr Sam Wilson):

This item is now open for debate. I call upon Luke Miller.

The Ven Luke Miller (Prolocutor of the Convocation of Canterbury and co-Chair of the House of Clergy) (London):

We do need to reintroduce this measure and to pass the amendment and then to take it forward in its revised form. We have, as we’ve just heard many times, rehearsed the failings of the existing CDM and we mustn’t lose that work and we should remember, as has been said, how important that work has been.

The Church of England is in every community of the land and we’ve heard how important and welcome it is that we receive the scrutiny of the body from which we receive our delegated authority to legislate. And the rules that we have are not club rules but the law of the land and therefore we take them seriously and must abide by them.

I’m sorry to say that the misbehaviour of my predecessor as Prolocutor of the southern province, Francis Atterbury, at the beginning of the 18th century, and of his Convocation, led to nearly the fall of the Government, the winding up of Convocation for more than a century, and the taking into Parliament of the process of legislating for the church.

The process which the Bishop of Chichester has described for us gave to the church again its own ability to look at its own life and therefore to be able to do the work that's necessary to forward our mission and to proclaim the Gospel in our land, but within the framework of law and as the church established, embedded in the polity of our country and enabled therefore to have that part of our mission, which is the influence that we have through that role, continued.

Proper scrutiny of our measures in Parliament gives us appropriate, helpful and wise external scrutiny while leaving the main decision-making with the Convocations meeting in General Synod with the House of Laity. We have a proper external peer review, in some cases review by peers. We need to make sure that the rules and the guidelines on which we will depend for the actual working of this legislation are well and properly brought forward.

And I can report to the House of Laity that the Convocations yesterday took forward the work of the guidelines and that there seems to be wide agreement that we're in the right direction, that we have them in approximately the right place and that we need to do some more work on the specifics of the drafting, but that we have something there which enables us to get clear that which clergy must do, and I think this will help those who have been caught up in the wheels of the existing CDM, what we must do as compared with what we should do. That clarity between that which is set out in law, which is not established by the guidelines but by the laws that are passed, and that which is an aspiration.

And we don't set the aspirations low in some kind of legal Pelagianism at a level that we might just about manage to reach. But what we do is to state what is perfect, as our Lord does in the Sermon on the Mount, in order that we might know what is good and recognise that we all fall from it and need to be helped to do better.

For good conduct and the trust that it builds is the door that helps us to enable our mission and to proclaim the gospel. Without that trust, the gospel is inhibited and that is why this is of such crucial importance to the mission and work that we have.

And this is a gift not simply for the clergy, but for the whole church. As in the draft of the preface to the guidelines, the prologue characters write, the guidelines for the professional conduct of the clergy, and indeed the law on which they rely, as well as the aspirations to which they point, cannot be simply about the clergy.

Although not a lay conduct document, they contain much that is applicable to all the baptised. We hope that they can be read with profit by all the faithful, for all are called to look to follow the commandments of Christ, the shepherd and keeper of our souls.

The Chair (Mr Sam Wilson):

As I see no one indicating a wish to speak, I call upon the Bishop of Chichester to reply to the debate. He has up to five minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

May I thank the Prolocutor for his speech and ask that we move to a vote.

The Chair (Mr Sam Wilson):

Item 501 is put to a vote. Voting is by show of hands or indicating with green ticks and crosses on Zoom. Those in favour, please show. And those against. That item is clearly carried.

Item 507 – Amendment

Clause 31, page 19, line 35, leave out subsection (3) and insert—

“(3) The tribunal or court is to sit in public except—

(a) in circumstances in which the tribunal or court is satisfied that it is in the interests of justice to sit in private, or

(b) in such circumstances as the rules may specify.”

We now come to the amendment on item 507. I call upon the Bishop of Chichester to speak to the amendment in his name. He has up to 5 minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

The amendment in my name. which we might call the Clive Scowen Amendment, perhaps, reverses the current position in clause 31(3), so that a tribunal or court would sit in public except in circumstances in which the tribunal court was satisfied that it is in the interests of justice to sit in private or such circumstances as the rules may specify.

As I’ve already said, those circumstances could include a child or vulnerable adult giving evidence.

I invite the Synod to approve the amendment.

The Chair (Mr Sam Wilson):

Debate on this item is now open. I call upon...

The Revd Kate Wharton (Prolocutor of the Convocation of York and co-Chair of the House of Clergy) (Liverpool):

Thank you, Chair.

Over the past few years, I have said an awful lot in this chamber about the Clergy Conduct Measure. I stood before you just over there exactly a year ago and invited you to give final approval to this measure. and I was delighted when you did just that with overwhelming support.

I felt very daunted when I was first asked to take on the role of chairing the Steering Committee. I was very aware of the weight of responsibility that we all carried as we sought to replace the no longer fit for purpose CDM with something more appropriate to our current context.

It was a privilege to be part of that Committee and with others to take the CCM as approved by this Synod to the Ecclesiastical Committee. That committee asked important and necessary questions about the measure, and in particular, as we have heard, there was one issue of concern to them. This was the question of whether tribunals should be held in public or in private.

As a steering committee, we had discussed this at great length, very concerned that we should make the right decision. We had tried to weigh up and balance the needs of all involved and to ensure that this part of the disciplinary process should be robust where it needed to be robust and safe where it needed to be safe. Our considered decision was to recommend that the default position for tribunals was to be held in private.

As you know, as we've heard, an amendment was brought at the time to reverse that default position, and I resisted it because of the Steering Committee's decision. And you can see in GS2311W the speech that my friend Clive brought in support of his amendment and the response which I gave. I have apologised to Clive.

The Legislative Committee now returned to us with a request to do what that original amendment proposed and to change the default position to public. I wanted to stand and speak early in the debate on the amendment so that I could express publicly my own support for this change.

We as a steering committee made the recommendation that we believed on balance to be right. That has now been challenged and further consideration must therefore be given to this very important question. We have been in close conversation with the Ecclesiastical Committee throughout the process and we all hope that we can get this right and get on with it.

The key factor for me in being able to support this amendment today is that from the beginning we have been clear that whatever default position was stated in the measure, there would be an opportunity before every tribunal for a decision to be taken to do the opposite in that particular case. So it will still be possible to ensure safety for all those involved, because if a particular case merits it, as we've heard, then it can be held in private.

Synod, I want to urge you to support this amendment today. We all know that the CDM needs to be replaced. The CCM is, I believe, a far better measure. Fairer, firmer, kinder, more robust. It is what we need and it is what we need now.

By supporting this amendment and then going on once more to support the final Measure as amended, we can ensure that the Measure continues quickly on its journey towards becoming law. Thank you.

The Chair (Mr Sam Wilson):

The speech limit will be three minutes. I'll call Carl and Clive.

Carl Fender (Lincoln):

Just, I'm in support of this amendment, but I just want to answer briefly a question posed by Catherine Shelley a few minutes ago, where she posed a question about 3(b) and about the rules.

Now, I think the answer to this is just going back to what the Dean of the Arches said in the first speech about case management. Now, I know that courts and tribunals now have a whole raft of arrangements available to them to mitigate the impact of a victim having to face eyeball to eyeball their alleged abuser.

So I'm thinking, for example, screens in court, If, for example, a respondent is unrepresented, there might be a special advocate appointed to conduct a cross-examination. I'm thinking also of separate rooms, waiting rooms of the court building. I'm thinking also of maybe anonymity orders to control the reporting of the names of the principal witnesses who participated in the process.

So there's a toolkit available to manage the environment in which those who are coming to a tribunal process can participate and to mitigate and make a more encouraging environment for them. So I think those are the kind of things that we might see in the rules so that it better manages the difficulties posed by victims wanting to come to a tribunal and give their evidence but still maintain the public nature of them.

I would expect that the public nature of the proceedings is something that would be jealously guarded and to go wholly into a private process would be pretty exceptional.

So I hope those remarks help. Thank you.

Clive Scowen (London):

I thought I ought to say something since I keep being mentioned. And what I need to say is that things are being attributed to me which sadly aren't quite true.

The truth of the matter was that the amendment that I tried on the revision committee to no avail and then in the Synod was actually far too timid, because what I sought to do was, yes, to reverse the presumption, but my amendment would have kept a right in the respondent to insist on a private hearing. So it's entirely possible, I don't know, that if that amendment had carried, the Ecclesiastical Committee may still have found fault because it didn't go far enough in requiring a hearing in public, whatever the respondent wanted.

So, you know, it, one thinks Joseph who said, you know, you meant it for harm, but actually God intended it for good. Don't imagine anybody intended any harm, but the fact is that these things do sometimes work out in a way that results in something rather better emerging at the end of it. So I do invite Synod, as everybody else does, to support this amendment, which is better than the one I tried to bring before. Thank you.

The Chair (Mr Sam Wilson):

I'll call Ian and Laurie.

Ian Boothroyd (Southwell and Nottingham):

Thank you, Chair.

I'm not a lawyer and I am not clergy, so what's my interest in this? In a previous career, I had the misfortune of far too many disciplinary hearings where I saw the fear and pain that both sides, the accused and the accuser, can sometimes bring and the distress that can lead to.

Open justice is a very good principle, but like divine justice, the Church's justice needs to be exercised with compassion and mercy as well. And we should be careful because this is an inevitable change and I will support it, but it is quite blunt.

If people are told in future that the principle is hearings should be in public, and we need to be careful not to focus too much on saying that, but to ensure that participants receive and know that they will receive the necessary support to deal with that, and when it's possible, protection from public scrutiny of their suffering.

Thank you, Chair.

The Chair (Mr Sam Wilson):

After Morag Ellis, I'll call Simon Eyre. Speech limit is three minutes.

Morag Ellis KC (Dean of the Arches):

Thank you very much for calling me. I wanted to say a tiny bit about the training which we are undergoing as judges and to assure Synod that we have already had a whole and very good session on helping vulnerable witnesses and others to carry out their duties when they have to, of giving evidence in ways which are tailored to them.

One of our deputy chancellors is a very senior criminal judge and she has done years of work on this and she gave us a very good training session and led discussion and deliberation on that.

So The judges are already being trained up for thinking in these terms, and I hope that gives reassurance to Synod.

Thank you, Mr. Chair.

The Chair (Mr Sam Wilson):

After Simon, I'll call Sean.

Dr Simon Eyre (Chichester):

Thank you for calling me, Chair, and I hope this is an appropriate point at which to introduce the matter that I wanted to raise. I'm fully supportive of the measure overall, and particularly this amendment. I think it's right and proper these things should be heard in public, and I appreciate that it does place an extra strain on the respondents in the case, maybe, and also the witnesses.

But it's a good opportunity, too, to perhaps consider a much neglected area, which, although it's not part of the Measure, it's important to see its fair and proper enactment.

Currently, it's my understanding there's no automatic formal provision of legal advice or legal representation for clergy who are facing conduct proceedings. While a union Unite can provide some legal advice through their membership, it's not membership that's held by all clergy. There's legal aid, but that will only provide very basic and limited resource and also the insurance ...

The Chair (Mr Sam Wilson):

Simon, thank you. We're particularly debating the amendment at this current point.

Dr Simon Eyre (Chichester):

Well, I'm going to raise it because I think it's important in terms of this being now in public.

The Chair (Mr Sam Wilson):

I'm sure that the Bishop has heard what you've got to say. I'm sure he'll be happy to speak to you as well. Thank you. After Sean, I call Aidan Hargrove-Smith.

The Revd Dr Sean Doherty (Universities and TElS):

Thank you, Chair.

I'm against this amendment, but I'm going to vote for it anyway. We're sort of all queuing up to say how much we support the principle of open justice. And of course, don't get me wrong, I do support the principle of open justice this morning. But let's not forget why the Steering and Revision Committee kept the, or had the provision as it originally was.

Because Clive's amendment wasn't debated, in a sense, maybe, with the benefit of hindsight, it would have been good to do so, because we'd have been able to kind of test that out and kind of log and have a reasoned kind of consideration about why it was originally provided for private hearings.

At the time, I was glad it wasn't debated because I so strongly supported the default for private hearings. But now that we do have a chance to debate this, I thought, well, it was worth at least making sure it was on record as to why that was originally thought to be an important principle.

Let's not forget why we need the CCM in terms of the traumatic impact on so many clergy of the CDM. Clergy, of course, are not the only people to experience trauma, and we mustn't forget, it's not a zero-sum game, we mustn't forget the many victims and survivors who experience trauma as well in this situation. But one of the aims of the CCM was to introduce the possibility of more processes being like HR processes than criminal proceedings against clergy, which is part of the reason why it had such a traumatic impact on so many.

We think straight away about safeguarding and those kinds of matters, whereas actually there are many matters where I don't think it is automatic in the public interest for the proceedings to be in public and to treat clergy as if they are almost being tried for something of a criminal matter.

However, I still think that the CCM is a substantial improvement even with this change, because this change, if we pass this amendment, just keeps us where we already are in relation to the CDM, namely default hearings in public. And therefore, even though it's with regret, I will be supporting this amendment and voting for the measure to be concluded again. Thank you.

Aiden Hargreaves-Smith (London):

Chair, I fully support these proposals and had not intended to speak in this debate, but I do think it's important that we do not complete this business without carefully acknowledging the consequential impact of it.

Transparency of process is a laudable principle and one we're happy to support. But we must be mindful of the effect on all those involved, both directly and indirectly in the tribunal process. The media isn't generally so interested in the misdemeanours of solicitors, of accountants, and many others; but it is very quick, so very quick, to shine a spotlight onto any hint of a story involving clergy.

And that impact is, of course, felt not just by complainants and respondents, but by their families, by colleagues, by parishes, and many more widely. If media reporting and social media comment were contained to factual reporting of the final outcome of proceedings, that will be one thing. But the reality is so very different, as many in this chamber know to their cost.

So I support this proposal, But we must prepare carefully for the practical consequences, because I fear they will be considerable for many people. Thank you.

The Chair (Mr Sam Wilson):

As I see no one indicating a wish to speak, I call upon the Bishop to respond to the debate. He has up to three minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

Thank you, Chair.

I want to begin by commending and saying thank you to Kate Wharton for the extraordinary amount of detailed work which she and the Steering Committee put into this very important piece of legislation in front of us. Can I also say to Clive Scowen, I've never thought of you as timid, Clive, but brave, and thank you for all that you have done in this chamber and elsewhere. Concerns. Thank you, Ian Boothroyd and Carl Fender for your comments. First of all, case management and a toolkit, yes, excellent — but remember, the business of moving in and out of public and private can occur throughout a case. It doesn't start at the beginning and have to stay that way.

And I think coming on to the point that Morag Ellis made, the training which judges are receiving and those who will chair tribunals, will be that they are skilled in recognising when you move from one context to another, from public to private or private back to public. So I think those are very important things to remember.

And of course, how our language is shaped. So again, Ian Boothroyd, compassion and mercy, yes, absolutely, but we should remember we don't, we must never say all hearings must be in public. That isn't the case. And we should not misrepresent our provision.

Finally, can I say thank you, a very heartfelt thank you to both Sean Doherty and Aidan Hargreaves-Smith for reminding us about the impact that this process can have on clergy. I think it's very helpful that there is now recognition of vexatious complaints and the ways in which clergy can very often be bullied in that regard.

I look forward to hearing more about the rules as they will perhaps help us navigate our way through that. And I think the consequence of pastoral care for all those who are caught up in a process of discipline is of enormous importance, and we should not overlook that for the clergy, especially given the fact that they, of course, being resident in a place, this can often affect their homes and families very seriously indeed.

So thank you for drawing our attention to those important points. And therefore, I beg now to move the amendment.

The Chair (Mr Sam Wilson):

Thank you. Item 507 is now up for the vote. This is the amendment. Voting will be by a show of hands or otherwise indicating with green ticks and red crosses on Zoom. All those in favour of item 507, please show. And all those against. That item is carried.

Item 502: 'That the Measure entitled "Clergy Conduct Measure" be finally approved.'

We now come to the final approval stage for the measure. I call upon the Bishop of Chichester to move item 502, that the Measure entitled Clergy Conduct Measure be finally approved. He may speak for up to 10 minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

Thank you, Chair.

I don't intend to make another speech on this. As I've already said, we are confident that this will meet the concerns now amended, as the measure is, the Ecclesiastical Committee And so on this basis, I invite Synod once again to give it final approval.

The Chair (Mr Sam Wilson):

This item is now open for debate. I just want to remind members, sorry, that motions for the closure, the speech limit, or next business are not in order in this debate. I call upon the Archbishop of Canterbury.

The Most the Revd Sarah Mullally (Archbishop of Canterbury):

Synod, earlier I said that complaints against bishops and archbishops will go to the President of Tribunals. Those listening carefully, of which you all were, will have spotted the mistake and it's only complaints against archbishops that will be handled in that way.

I wanted to correct that and my apologies for the error. Nevertheless, my point remains and I welcome this measure and ask that you give it final approval.

The Chair (Mr Sam Wilson):

As I see no one ... I call upon Simon Eyre. The speech limit is three minutes.

The Chair (Mr Sam Wilson):

Thank you for calling me, Chair.

I do apologise for putting that in my previous speech and perhaps in the wrong place, but I did want to come back to you again about this matter of clergy representation and legal representation. I think it is something to do with the fairness of how the CCM will be conducted.

In many other professions, mine included in the medical profession, it's absolutely mandatory to have some kind of insurance cover, legal insurance cover, to cover legal costs, but also any settlement coming out of the hearings. So I do wonder if there is a time now for this to be introduced for the clergy and not just relied on people's decision to join a union or to opt into having insurance, but rather it be a mandatory provision.

So I welcome the CCM, but I do want it to be seen to be just and fair for all, particularly the clergy, and I think we need to look after the welfare of our clergy in this way.

Thank you.

Ruth Abernethy (Channel Islands):

My point is to please beg this House to be mindful of the language you use in this debate and in relation to the CCM.

It is quite right that we are mindful of clergy, of the impact of those who are accused of wrong on their families, on their livelihoods. It's quite right that we're mindful of that and sensitive to it. But on the other side of these complaints are people whose lives are affected too.

The clergy live in their community, but very often so does the person making the complaint against them. The clergy might well be able to be represented by a lawyer provided by an insurance company or a union. The same is not necessarily true of the person making the complaint.

And so please, When you think of these things, think of them through a safeguarding lens and the impact it has on people when they make these complaints. And please just be mindful of your language in these kind of conversations. Thank you.

The Chair (Mr Sam Wilson):

As I see no one else indicating a wish to speak, I call upon the Bishop of Chichester to respond to the debate. He has up to five minutes.

The Deputy Chair of the Legislative Committee (The Bishop of Chichester, the Rt Revd Dr Martin Warner):

Thank you, Chair.

To Simon Eyre — Simon, thank you. Ecclesiastical Legal Aid is available for clergy, and I'm sure in every diocese, bishops and archdeacons will want to ensure that good advice and support goes with that. And this may be something in terms of the ongoing concerns and reflections on clergy well-being that all of us will be aware of.

Ruth Abernathy, thank you so much for reminding us of the complexity and the intensity of the issues that we are dealing with here, especially those who feel alone, distanced from the Church, whose lives have been devastated in any number of ways which we refer to as abuse, and its many, many dark facets.

We heard twice, I think, from the Archbishop this morning about a trauma-informed approach, not only to safeguarding, actually, but to all aspects of our lives. And this seems to me to come back to the heart of God revealed in Christ, a heart of compassion and of healing.

So thank you for reminding us that actually that is the foundation in which we look at these legislative measures, it is to put into practice in some ordered way that heart of divine compassion. And thank you for reminding us of that.

I now move that this be given final approval.

The Chair (Mr Sam Wilson):

I now put item 502 to a vote. The question is that the measure entitled the Clergy Conduct Measure be finally approved.

In accordance with Standing Order 37, I order a counted vote by Houses. The bell will now be rung to warn members that a counting vote by houses is to take place. Two minutes after it ceases ringing, the vote will begin.

The Revd Alexander McGregor (Registrar):

This is a counted vote by Houses on item 502. Those present in the hall using the voting handsets and who wish to vote in favour should press 1, those against should press 2, and those who wish to record an abstention should press 3. Those participating remotely should use the online voting platform and vote or register an abstention using the buttons on the screen. The voting period is now open and will end in one minute.

The voting period will end in 15 seconds.

The voting period has ended.

The Chair (Mr Sam Wilson):

In the House of Bishops, 21 in favour, no against, 0 recorded abstentions.

In the House of Clergy, 142 in favour, 0 against and three recorded abstentions.

In the House of Laity, 149 in favour, 0 against and 0 recorded abstentions.

The motion was carried in all three houses.

The motion for final approval has been carried and the measure now stands committed to the Legislative Committee.