



# Safeguarding and Clergy Discipline Measure 2016

2016 No. 1

*Safeguarding children and vulnerable adults*

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

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

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

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

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

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

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“46B

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

**46C “Suspension**

- (1) This Rule applies where a member of a parochial church council, district church council or synod, or the secretary or treasurer of a parochial church council, is arrested on suspicion of committing an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933 or is charged with such an offence without being arrested.
- (2) This Rule also applies where the bishop is satisfied, on the basis of information provided by a local authority or the police, that a person of a description referred to in paragraph (1) presents a significant risk of harm.
- (3) The bishop may suspend the person from the position in question by giving the person notice in writing; and the notice must specify the bishop's reasons for imposing the suspension.
- (4) The bishop may at any time revoke the suspension by giving the person notice in writing.
- (5) For the purposes of paragraph (2), a person presents a significant risk of harm if there is a significant risk that the person may—
  - (a) harm a child or vulnerable adult,
  - (b) cause a child or vulnerable adult to be harmed,
  - (c) put a child or vulnerable adult at risk of harm,
  - (d) attempt to harm a child or vulnerable adult, or
  - (e) incite another person to harm a child or vulnerable adult.
- (6) Before suspending a person in reliance on paragraph (2), or revoking a suspension made in reliance on that paragraph, the bishop must consult—

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- (a) the diocesan safeguarding advisor, and
    - (b) such other persons as the bishop considers appropriate.
  - (7) Where, in reliance on paragraph (1), a notice of suspension is given under paragraph (3) and the suspension has not been revoked under paragraph (4), the suspension continues until the earlier of—
    - (a) the expiry of three months beginning with the day on which the notice is given, and
    - (b) the conclusion of the matter.
  - (8) If, in the case of a suspension made in reliance on paragraph (1), the matter is not concluded before the expiry of the period referred to in paragraph (7) (a), a further notice of suspension may be given under paragraph (3); and paragraph (7) and this paragraph apply to the further suspension as they applied to the earlier suspension or suspensions.
  - (9) Where, in reliance on paragraph (2), a notice of suspension is given under paragraph (3) and the suspension has not been revoked under paragraph (4), the suspension continues until the expiry of three months beginning with the day on which the notice is given.
  - (10) In the case of a suspension made in reliance on paragraph (2), a further notice of suspension may be given under paragraph (3); and paragraph (9) and this paragraph apply to the further suspension as they applied to the earlier suspension or suspensions.
  - (11) Having given a notice of suspension or revocation under this rule, the bishop shall give each of the following written notification—
    - (a) the clergy who hold office in the parish,
    - (b) the churchwardens of the parish,
    - (c) the registrar of the diocese,
    - (d) the diocesan safeguarding advisor, and
    - (e) such other persons as the bishop considers appropriate.
  - (12) The registrar shall file the notification given under paragraph (11)(c) in the diocesan registry.
  - (13) For the purposes of this Rule, a matter is concluded when—
    - (a) a decision is taken not to charge the person with the offence in question, or
    - (b) where the person is charged with the offence, the proceedings for the offence are concluded.
  - (14) In this Rule—
    - “child” means a person aged under 18, and
    - “vulnerable adult” has the same meaning as in the Safeguarding and Clergy Discipline Measure 2016.
- 46D(1) A person to whom a notice of suspension is given under Rule 46C(3) may appeal against the suspension to the president of tribunals.
- (2) On an appeal under this Rule, the president of tribunals may, within 28 days following the lodging of the appeal, either confirm or revoke the suspension.”

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

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

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

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

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

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

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

(ab) A person shall be disqualified from being nominated, chosen or elected or from serving as a churchwarden or member of a parochial church council, a district church council or any synod under these rules if the person has been convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933.

(ac) A person's disqualification under paragraph (ab) may be waived by the bishop of the diocese in question giving the person notice in writing.”

(8) In section 6 of Appendix 1 to the Rules (nomination to the House of Clergy or House of Laity of the Diocesan Synod), in the notes, at the end insert—

“A person is disqualified from being nominated for membership of any Synod if the person is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006).

A person is disqualified from being nominated for membership of any Synod if the person has been convicted of an offence mentioned in Schedule 1 to the Children and Young Persons Act 1933; but the disqualification may be waived by the bishop of the diocese giving the person notice in writing.”

(9) In that section of Appendix 1 to the Rules, in the note beginning “A person is disqualified”, for “he” substitute “the person”.

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**Commencement Information**

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

**Changes to legislation:**

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